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”.

THE WORLD BANK IBRD • IDA | IFC International Finance Corporation | MIGA Multilateral Investment Guarantee Agency

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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

First Name	CEPHAS AWEDAGA
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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?	Yes, they are.
Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?	BEE covers alot but I will add Building capacity of young change makers.
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 but can improve.
Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?	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?

First Name	Jean
Last Name	Kabongo Kabisekele
Title	Prisident
Organization Name	Solidarite Agissante pour le Developpement Familial { SADF}
Country	Democratic Republic of Congo
Email Address	sadfsurinfo@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?	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

Organization Name	China Council for the Promotion of International Trade(CCPIT)
Country	P.R.China
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 included in the BEE project are relevant for private sector development and the overal design is adequate in general.
Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?	No, it is very professional.

Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?	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.
Does the BEE project get the balance right between de jure and de facto indicators?	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.
Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?	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.
Do you have any other general feedback?	No

First Name	Richard
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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?	

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.

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

Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?	Yes, through interoperability, transparency and an efficient regulatory framework focused on commercial actions in a more equilibrated environment.
Does the BEE project get the balance right between de jure and de facto indicators?	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.
Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?	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. Business location* - Urban planning - It should promote companies concerned about their surroundings. Labor* - Ease of employing labor* - Analyze and describe subcontracting regimes to avoid the absence of labor benefits and tax obligations. Market competition* - Efficiency - Develop digitalization and innovation processes. -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. Finally, indicators not only coordinate actions, but also simplify processes, the time and cost of response.
Do you have any other general feedback?	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.

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

Organization Name	International Trade Union Confederation
Country	USA
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?	
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?	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. 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. 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

	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 muddied 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/EdI65KCtrMJJkBPw9sjdrTkB3xOXs7lWQU0t_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>. 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>. [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." [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>. [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/237121516384849082-0050022018/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>. [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
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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 ithings 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 machiisms - 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 interuption. 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 striked between inovations, a government digital service of information for it and it's regulatory framework. This, if created, would help a lot of countries i, and be a boost to private sectors and firms.

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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?	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. On p. 33, you should add a section a.(6) on data privacy: are there adequate regulations on protecting personal data.
Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?	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?	

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

Does the BEE project get the balance right between de jure and de facto indicators?	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.
Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?	Include finance as a cross cutting issue as it required at all stages 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 Have specific focus on gendered private sector development i.e. businesses owned and operated by women Consider novel business models including community owned localised businesses, in addition to large scale businesses. Examine ways to include informal businesses and entrepreneurs in the assessment. Examine the success and potential of alternative and online means of dispute resolution Consider robustness of public consultation, notice and comment period, and global benchmarks in ensuring evidence based policy development.
Do you have any other general feedback?	Have multiple rounds of discussions before finalising BEE approach and methodology.

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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?	Yes, the Bee project should base much on invention of science, technology and innovation for more improvement.
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 should continues the striking between the quality of regulations and the provision of public services
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 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.

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Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?	Please, refer to our general comments below.
Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?	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."

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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)?	Tax - see below.
Do you have any other general feedback?	The Tax Justice Network is disturbed to see this project being floated. 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. 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. 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

	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

	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. 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.

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 ITUC's Global Rights Index https://www.ituc-csi.org/2021-global-rights-index Civicus Civic Space Monitor https://monitor.civicus.org/

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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?

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 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?
- When is international trade and inclusion in global value chains beneficial to these processes and when is it harmful and should be limited and regulated?

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.

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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.

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?
When is international trade and inclusion in global value chains beneficial to these processes and when is it harmful and should be limited and regulated?

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 ights framework.

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Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?	ver abajo
Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?	ver abajo
Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?	ver abajo
Does the BEE project get the balance right between de jure and de facto indicators?	ver abajo
Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?	En relación al ranking de "Total Tax and Contribution Rate" (TTCR) realizo los siguientes comentarios: 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. 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. 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

	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

	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. 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. 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 cronicas. Tal es la descripción, en nuestra visión, del caso fiscal argentino.
Do you have any other general feedback?	El análisis del caso argentino, en nuestra opinión, demuestra en cuanto hace a la cuestión fiscal una realidad inconstratable, la que nos hace llegar las siguientes reflexiones y sugerencias en relación al TTCR: (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"; (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

	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 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.

ii. Private Sector Organizations

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Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?	Yes its pretty much adequate , especially the company registration process and upgrading info of companies
Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?	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
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)?	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

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Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?	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.
Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?	No problems have been identified at this stage.
Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?	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.
Does the BEE project get the balance right between de jure and de facto indicators?	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.

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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?	“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。

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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)?	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。

First Name	姝
Last Name	孙
Title	德勤中国 政府及公共事务服务经理
Organization Name	德勤中国
Country	中国
Email Address	susansun@deloitte.com.cn
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?	是的
Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?	否
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)?	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.

First Name	Vivian
Last Name	Jiang
Title	Deputy CEO
Organization Name	Deloitte China
Country	China
Email Address	vivjiang@deloitte.com.cn
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?	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.
Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?	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。

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?	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。

First Name	hyacintha
Last Name	makileo
Title	Consultant Quantity Surveyor; construction contract and Expert in construction Claims
Organization Name	ncc
Country	Tanzania
Email Address	makyasintha@gmail.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?	Yes
Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?	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

First Name	zuming
Last Name	xu
Title	德勤中国税务及商务咨询、客户与行业领导合伙人
Organization Name	Deloitte China
Country	China
Email Address	jexu@deloitte.com.cn
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?	yes
Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?	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.. 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.

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

Organization Name	MeliesArt
Country	Germany
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?	As a Kfw professional and freelancer, I have been using the Doing Business Report for 20 years, up to and including 3D printing of data sculpts and AR/VR use. (https://www.linkedin.com/pulse/wirtschaftsdaten-attraktiv-sichtbar-machen-eine-1-schweisfurth). 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.
Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?	See above
Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?	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

First Name	JOSE J
Last Name	GARCIA P
Title	Tax & Legal Partner
Organization Name	PwC Venezuela
Country	Venezuela
Email Address	jose.j.garcia@pwc.com
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 they are
Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?	I think it is covering all the important and necessary 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 there is a right balance
Does the BEE project get the balance right between de jure and de facto indicators?	yes tehre is a right balance
Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?	I do nit have any commnets

Do you have any other general feedback?	I do ot have more comments

Organization Name	Lifestorch Consulting
Country	Uganda
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 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.
Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?	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.
Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?	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、准确反映宜商环境水平。
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?	

irst Name	BEN ABDALLAH
Last Name	PARtNERS
Title	Chartered accoutant
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 ressources 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?	

First Name	ELYES
Last Name	CHAFTER
Title	MANAGING PARTNER
Organization Name	CHAFTER RAOUADI LAW FIRM
Country	TUNISIA
Email Address	elyes@chafterlegal.com
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?	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 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. 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.
Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?	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 doen'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 ressources and avoid execution acts on their real companies. I think that it is important to take that issue into account in the suveys. -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 mentiones 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 repres entative 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，如是否建立可再生额能源交易机制，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?	

First Name	Daniel
Last Name	Lago
Title	Mr
Organization Name	MAONI NETWORK
Country	Kenya
Email Address	maoni_scholar2002@yahoo.com
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?	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].
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 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

Organization Name	Claro & Cia.
Country	Chile
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?	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.
Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?	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.
Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?	In my opinion, yes specially through the indicators in the area of business entry.
Does the BEE project get the balance right between de jure and de facto indicators?	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.

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	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?	Architacture 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.

Organization Name	陕西国兴会计师事务所有限责任公司
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?	包含
Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?	基本已考虑到
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)?	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。

Organization Name	特斯拉公司
Country	美国
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?	“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。
Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?	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 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）； 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）； 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； 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。

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?	

First Name	Jinrong
Last Name	LIU
Title	Managing Partner
Organization Name	Global Law Office
Country	China
Email Address	liu@glo.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?	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 factor 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	Jinrong
Last Name	LIU
Title	Managing Partner
Organization Name	Global Law Office
Country	China
Email Address	liu@glo.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?	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 factor 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.

VIOrganization Name	Visa Inc.
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 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. 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. 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.
Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?	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) 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

	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.

	Better reflecting the current context and needs of Micro and Small Businesses 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. 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.
Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?	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. 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

	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.
Does the BEE project get the balance right between de jure and de facto indicators?	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.
Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?	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. 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. 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).
Do you have any other general feedback?	Thank you very much for the opportunity to share our feedback on the pre-concept note. 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

	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.

Organization Name	American Council of Life Insurers
Country	United States of America
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?	Yes, with detailed comments being sent directly to bee@worldbank.org,
Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?	Yes, with detailed comments being sent directly to bee@worldbank.org,
Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?	Partially, with detailed comments being sent directly to bee@worldbank.org,
Does the BEE project get the balance right between de jure and de facto indicators?	Partially, with detailed comments being sent directly to bee@worldbank.org,
Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?	Yes, detailed comments being sent directly to bee@worldbank.org,
Do you have any other general feedback?	Yes, detailed comments being sent directly to bee@worldbank.org,

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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?	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。 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，可能会增加某单个企业的经营负担，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。
Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?	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。
Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?	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。 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，

	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。
Does the BEE project get the balance right between de jure and de facto indicators?	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。
Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?	针对BEE所涵盖的主题： A.企业准入 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。 B.经营地点 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。 C.公用设施便利性 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

	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、疫情蔓延的环境背景下，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等跨领域主题的关注。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）。

	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。BEE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。 鉴于多元化纠纷解决机制对于商业争议的解决越来越来越重要，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。 I.市场竞争 BEE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。 J.企业破产 BEE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）。
Do you have any other general feedback?	BEE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，BEE评估体系相较于原DB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， BEE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BEE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。

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Organization Name	JunHe LLP
Country	China
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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?	emergency response
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)?	poverty reduction should be included as well as environmental protection efforts
Do you have any other general feedback?	no

Organization Name	Apex Law Chamber
Country	Nepal
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?	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.
Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?	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.
Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?	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.
Does the BEE project get the balance right between de jure and de facto indicators?	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.

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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 it is
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?	In its current form it does
Does the BEE project get the balance right between de jure and de facto indicators?	I am not sure
Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?	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 descried 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.

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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?

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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?

Organization Name	北京龙湖房地产开发公司
Country	中国
Organization Type	
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。
Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?	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。
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，建议在事实方面加大比重。
Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?	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。
Do you have any other general feedback?	无

iii. Think Tanks and Academic Institutions

First Name	Joachim
Last Name	Wagner
Title	Professor Dr.
Organization Name	Leuphana University Lueneburg
Country	Germany
Email Address	wagner@leuphana.de
Organization Type	Academic Institution
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?	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.
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?	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 shoud be recorded and fims surveyed should be asked which programs they 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 pocy.

Organization Name	II Business School
Country	Spain
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?	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. 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.

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.

First Name	Andre
Last Name	Sapir
Title	Professor
Organization Name	Université libre de Bruxelles (ULB)
Country	Belgium
Email Address	andre.sapir@ulb.ac.be
Organization Type	Academic Institution
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)?	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 firs-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?	

Organization Name	Kwame Nkrumah University of Science and Technology
Country	Ghana
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?	F. International Trade 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.
Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?	F. International Trade 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.
Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?	F. International Trade 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
Does the BEE project get the balance right between de jure and de facto indicators?	F. International Trade Adequate

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.

Organization Name	China University of Political Science and Law
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
Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?	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. 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. 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。 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。

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。而不同类企业对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。

First Name	世英
Last Name	王
Title	研究员
Organization Name	广州市社会科学院
Country	中华人民共和国
Email Address	ivanwshy@163.com
Organization Type	Academic Institution
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?	是的
Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?	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?	

First Name	Thorsten
Last Name	Beck
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Organization Name	EUI
Country	Italy
Email Address	thorsten.beck@eui.eu
Organization Type	Academic Institution
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?	Please note that these comments are joint by Thorsten Beck and Margherita Fabbri (both EUI) 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). 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. 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? For some indicators, some of the data will be collected through film 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

	for capitals or large cities.
Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?	see above
Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?	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.
Does the BEE project get the balance right between de jure and de facto indicators?	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.
Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?	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? 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. 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? 4. Labour The document states that BEE will consider aspects on

	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

	to encourage governments not to tax negative externalities? 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? 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) References: 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. 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.
Do you have any other general feedback?	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. 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. 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

	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.

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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?	Yes, the overall design of the BEE project is relevant for 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 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.
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 quite well at this point.
Does the BEE project get the balance right between de jure and de facto indicators?	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.

Organization Name	China Electric Power Research Institute, State Grid Corporation of China
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?	The issues included in the BEE project are relevant for private sector development, but the overall design needs some optimization.
Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?	Yes. For example, 'Access to electricity' is very important, but not mentioned.
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 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.

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Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?	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). 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. 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. THE OBJECTIVES AND EFFECTS OF LABOUR REGULATION 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. 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

	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). Sangheon Lee, Deirdre McCann and Nina Torm (2008) 'The World Bank's Employing Workers' Index: Findings and Critiques - A Review of Recent Evidence' 147(4) International Labour Review 416-432. McCann, Deirdre (2015) 'Labour Law on the Plateau: Towards Regulatory Policy for Endogenous Norms' in Alan Bogg, Ann Davies and Jeremiah Prassl (eds) The Autonomy of Labour Law (Oxford: Hart). McCann, Deirdre (2019) 'Informalisation in International Labour Regulation Policy: Profiles of an Unravelling' in Diamond Ashiagbor (ed) Imagining Labour Law for Development: Informal Work in the Global North and South (Oxford: Hart), 77-98.
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)?	The following comments relate to the Labor indicators (Pre-Concept Note, Section II.D, pp 22-25). 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). EMPLOYEE PROTECTIONS V EMPLOYMENT RESTRICTIONS 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). 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. THE WORKING TIME SUB-INDICES 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. On a technical level, the sub-indices for working hours are identified as 'working hours per day/week, restrictions,

	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.
Do you have any other general feedback?	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.

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Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?	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.
Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?	Sustainable and inclusive development in the private sector, as well as healthy elimination mechanisms, need to continue to be considered.
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 the BEE project has struck a balance in this regard.
Does the BEE project get the balance right between de jure and de facto indicators?	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.

Organization Name	Tsingyan Lingzhi Information Consulting (Beijing) Co., Ltd
Country	China
Organization Type	Think Tank
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?	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?

Organization Name	Guangzhou Nansha International Exchange And Promotion Center for Business Environment
Country	China
Organization Type	Think Tank
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 system has improved the limitations of the original DB system.In the DB system, even though the 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. 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.
Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?	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

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

	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. (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. (3) There is a certain degree of over-regulation involving enterprise-level data in financial service indicators, which makes information collection uncertain.
Does the BEE project get the balance right between de jure and de facto indicators?	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.
Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?	【B—Business location】 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

	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

	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) 【G—Taxation】 "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. 【I—Market competition】 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. 【J—Business insolvency】 "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.
Do you have any other general feedback?	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. (1) The weights of quantitative indicators and qualitative indicators in the BEE system, and how to avoid data fraud is not clear. (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

	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.

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

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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?

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Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?	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.
Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?	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.

Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?	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.
Does the BEE project get the balance right between de jure and de facto indicators?	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
Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?	En el caso del empleo, se debería considerar a la informalidad laboral como una variable vinculada al nivel de protección social de los trabajadores.
Do you have any other general feedback?	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.

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Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?	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。
Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?	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。

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Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?	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
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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?	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。
Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?	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

First Name	Maksym
Last Name	Libanov
Title	Commissioner
Organization Name	National securities and stock market commission
Country	Ukraine
Email Address	maksym.libanov@nssmc.gov.ua
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
Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?	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 be business.
Do you have any other general feedback?	

Organization Name	Department of Trade and Industry & Competition
Country	South Africa
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?	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.
Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?	I think the regulation and process around access to finance in particular for domestic companies should be looked it. This is an area of that SME's struggle with. 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.
Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?	It depends on the weighting allocated to each aspect. Developing economies may not fare as well as their developed counterparts against these measures.
Does the BEE project get the balance right between de jure and de facto indicators?	Yes I think this is an important element- information found in the difference between policy and implementation is where alot 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)?	Alot 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 its 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 co-incidence. 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. Il 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

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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

Organization Name	Business climate unit
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?	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
Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?	Le projet BEE ne tient pas compte des initiatives spécialisées telles que les zones économiques spéciales, pour promouvoir le développement du secteur privé.
Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?	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
Does the BEE project get the balance right between de jure and de facto indicators?	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 regional sont limités par le droit régional, malgré leur motivation à réformer.

Organization Name	Egyptian Tax authority
Country	Egypt
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?	I think it's 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?	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.
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 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.
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)?	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

Organization Name	Ministry of Economic Development and Poverty Reduction
Country	Republic of Uzbekistan
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?	Yes, we think the project questions are adequate and will help in the future for the development of the private sector.
Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?	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. 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.

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 overwiev 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	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?	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 indictor 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 indictor, 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.

Organization Name	General Authority for Investment and freezones
Country	Egypt
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?	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 indictor 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 indictor, 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.

Organization Name	General Authority for Investment and freezones
Country	Egypt
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?	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 indictor 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 indictor, 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.

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.

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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 project 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.

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Last Name	Kakhniashvili
Title	Ms
Organization Name	Ministry of Justice of Georgia
Country	Georgia
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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?	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.
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?	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
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?	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.

First Name	Giorgi
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Title	Chief Specialist at Regulation Improvement and Methodological Support Department
Organization Name	Georgian National Energy and Water Supply Regulatory Commission
Country	GEORGIA
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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?	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.
Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?	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. 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?

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 pf 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.

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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?	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?	

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Organization Type	Government
Identity Disclosure Authorization	
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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)?	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
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?	
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.

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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?

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 Publlic 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.

Organization Name	National Competitiveness Center - NCC
Country	Saudi Arabia
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?	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.
Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?	The report might consider adding some further dimensions to be measured as: - Government incentives/subsidies (which might show advantages to some countries). - 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). 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.

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 consolations 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
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)?	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.

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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?	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 públicas 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

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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, 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.
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 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.
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)?	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

Organization Name	Consejo Nacional de Competitividad (CNC)
Country	Dominican Republic
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?	We believe it covers every area related to the life cycle of the firm.
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?	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.

Organization Name	Poder Judicial dominicano
Country	República Dominicana
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?	Los temas son relevantes. Una vez se realice el primer estudio con esta metodología podríamos realizar una valoración más objetiva.
Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?	A priori, dentro de la propuesta, no tenemos observación.
Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?	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.
Does the BEE project get the balance right between de jure and de facto indicators?	Nos parece adecuado el equilibro 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')
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?	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
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?	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

First Name	Jacqueline
Last Name	Coolidge
Title	Lead Investment Policy Officer (retired)
Organization Name	World Bank Group
Country	USA
Email Address	jgcoolidge@outlook.com
Organization Type	Development Institution
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?	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

*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.

Organization Name	广东省省情调查研究中心
Country	中国
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?	无
Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?	无
Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?	无
Does the BEE project get the balance right between de jure and de facto indicators?	无
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。
Do you have any other general feedback?	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.

First Name	Sebastien
Last Name	Vauzelle
Title	Economist
Organization Name	United Nations
Country	Cabo Verde
Email Address	sebastien.vauzelle@un.org
Organization Type	UN Agency
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, and the overall design is adequate
Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?	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, a 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

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.

- 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.[1] 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

[1] 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).

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 is 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

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

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

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 overweigh 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)[1], 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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[1] 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.

URL : https://www.fatf-gafi.org/publications/fatfrecommendations/documents/fatf-recommendations.html

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.[2]

【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.

[2] URL: World Customs Organization (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[1]. 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?*

[1] 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

Liberté • Égalité • Fraternité
RÉPUBLIQUE FRANÇAISE
MINISTRY FOR THE ECONOMY, FINANCE AND RECOVERY

Contribution to the concept note on Business Enabling Environment

Comments by the Republic of France

March 15th, 2022

We thank the WBG management for its pre-concept note on Business Enabling Environment/BEE of February 4th.

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[1][2];
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[3] and (ii) **that alternatively management would find a more adequate and precise source of motivation to incentivize reforms**

[1] "*Doing Business covers a diverse array of indicators* ***that often have little meaning when aggregated with arbitrary weights****"* - 2021 External Panel Review/EPR

[2] *"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

[3] *"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[4], and the 2013 Independent Review[5].

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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[4] "*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

[5] *"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.

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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[6].

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 [7]. 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**

[6] 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.

[7] "*"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.

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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

15.03.2022

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-Conpect 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 advice 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
- 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).

- 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). 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 out 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**	**On the objective:** 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. 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. **On the approach and methodology:** 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? Even if the World Bank team presents the BEE as a new approach different from Doing Business, 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 Doing Business exercise?

		On data integrity and reliability: 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. 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. 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: 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). 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? 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. 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. 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

		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. 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. 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. **On themes and indicators:** 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. 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. 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

		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. 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. 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.). 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. 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”. **On cross-cutting themes:** 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. 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.

		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. **On ranking and scoring:** 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. 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. 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. **On the frequency:** 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.
2	**Iran**	**On the index computational defects:** 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.

		Rebuilding trust and restoration: 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. **On the enterprise survey:** 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. **On the expert consultations and the processes:** The exact meaning of expert consultations in the process of data collection needs to determine who they are and what the processes are. **On data collection and validation:** 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. **On the methodology:** 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. **Measuring efficiency and sustainability of private sector:** 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.

		Covering different aspects of the business environment: In order to cover the different aspects of the business environment, we suggest considering the "Country Licensing System Structure" as an indicator under the "BEE" index. **Avoiding irrational deregulation competition:** To prevent irrational deregulation competition between countries without taking into account factors such as environmental concerns, security, and health, we suggest giving more weight to transparency and the quality of the regulations instead of just elimination of regulations. **Ranking countries:** Due to the extensive differences between countries in terms of factors such as the size of the economy, geographical location, population, institutional and cultural factors, and sanctions, we suggest ranking of countries to be based on their group in these factors and the weights given to them.
3	**Morocco**	**Important issues that the BEE project is not considering which should be included within the context of private sector development:** 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. 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. **Feedback regarding the indicators included in each specific topic:** 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. 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.

		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.
4	**Tunisia**	**Overall comments:** 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. 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. 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. 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. 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? **Data collection approach: definition of representativeness** Management proposes that the BEE would tend to use a combination of expert consultation and firm-level surveys for some *de facto* 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.

		In this respect, we consider that the definition of representativeness is not explicitly specified in the BEE pre-concept note. *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?* 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. 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. **Case study: firm's location assumption** "BEE will not only collect *de jure* information but also *de facto* 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. **Utility connections: key types covered** 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. *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*. 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".

		Labor: perspective of employees 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. However, the set of *de facto* 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. 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. **Taxes: Avoid the designation of "Taxes Burden" so as not to guarantee points to tax havens** 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. **International Trade: Assessing via an appropriate approach** 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.

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 Goverments 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
A. Business Entry **2. Indicators in the area of business entry**	At the Business Entry stage, three indicators of digital public services and information transparency for business start-ups are mentioned: • Availability of online services for business incorporation and start-up, • Interoperability of services for business incorporation and start-up of operations, and • Online availability of corporate information and transparency of information. 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. *a. Quality of regulations for business entry* *(1) Good practices in the regulatory framework for business incorporation* (p. 10) 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. *(2) Restrictions in the regulatory framework for business entry* (p. 10-11) 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 aboutf the restriction of entry of local private companies, and a conducive environment. In this regard, we would also like to have answers to the following questions. • 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. • 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? • Will the indicator include the cost generated by the activities described, or if not, does it refer to the cost of compliance with

	the requirements and/or conditions that such activities demand for their fulfillment? 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.
B. Business Location **2. Indicators in the area of business location**	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: • The quality of regulations for real estate leasing, property ownership and urban planning, • The quality of public services and transparency of information, and • The efficiency of key services to obtain a business location. 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.
C. Utility Connections	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. 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.
D. Labor **1. Motivation**	**Argentina's Comments.** 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.

	Instead, in relation to labor policies, the Bank should continue the approach established in the *2013 WDR on Jobs* and the subsequent *2015 Balancing Regulations to Promote Jobs* 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 *Balancing Regulations* 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 simple impossible methodologically to attempt to create an indicator consistent with the “balancing regulations” approach. **Peru’s Comments.** 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. 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). 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. 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. Also, it will be important to clarify if the indicators will allow segmenting between outsourcing and non-outsourcing companies. 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 importan 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? 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.

D. Labor **2. Indicators in the area of Labor**	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.
E. Financial Services	**Quality of regulations for secured transactions, e-payments, and green financing** (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. **Quality of credit reporting framework** (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. **Ease of receiving financial services** (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.
F. International Trade	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". 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. • We believe it would be appropriate to include "Good regulatory practices enabling environmentally sustainable trade" as a criterion for determining the "**Quality of regulations for international trade in goods and e-commerce**" (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

	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, • In addition, it should be noted that the study proposes that the component "**Good regulatory practices enabling environmentally sustainable trade**" (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. • **Quality of public services for the facilitation of international trade in goods** (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. • **Efficiency of importing goods, exporting goods, and engaging in e-commerce** (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. Given the importance of **international trade in services** 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. 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)

G. Taxation	We believe it is extremely important to review the approach and methodology of the tax chapter. **An isolated analysis only from the tax pressure side leaves aside the use of these resources** 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. 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. **Tax burden and efficiency of tax systems**(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. 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. 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 services provided by the tax administration 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. **Addressing clarity of tax provisions**. 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?

	Transparency in the formulation of tax regulations. 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. **Electronic systems for tax filing, payment, and assessment**. 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. **Risk-based Audit**. 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.
H. Dispute Resolution	**Dispute resolution mechanisms**. 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. 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. 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. **Time to comply with tax regulations**. 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.

I. Market competition	The methodology through which the evaluation of market competition is incorporated must be the object of an in-depth analysis. **Effective implementation of the simplified merger review** (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. **Market dynamism and competitive behaviors** (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? 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. 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.

J. Business Insolvency	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. **Quality of regulation in insolvency cases**. 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. 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. **Quality of the institutional and operational infrastructure in the event of insolvency**. 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. **Other notes regarding implementation**: 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. **Ease to resolve an insolvency judicial proceeding** (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.

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 it 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.
- Seth, S., and McGillivray, M. (2018). Composite indices, alternative weights, and comparison robustness. Social Choice and Welfare, 51(4), 657-679.

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

وزارة التعاون الدولي
الـــوزيـــر

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
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 , 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 justificd.
In light of the previous comment, we would like the World Bank to clarify how the proposed report will deal will the paradigms of data privacy and confidentiality, taking into consideration the debates and discussions within the international fora on that regard
The further two pillars added public services and efficiency will as well entails the collection and assessment of wider scope of information. 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 regularity 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?
The BEE, given its wider scope, should include within the scope of its analysis the following: • outcomes on country development, investment in technologies (taking into consideration the green, regional, and global dimensions) • Regional integration and its impact on the business enabling environment • Localization of value chains

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?
16	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.
25	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).

بسم الله الرحمن الرحيم

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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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), 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?
    ii. Not all countries on 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)

c. Efficiency of key services in getting a business location	(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:

-
- 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 amendable 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 of 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

CONFIDENTIAL
EDS15-2022-01

March 15, 2022

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.

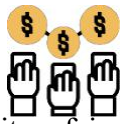
- Restricting the approach on the quality of dispute resolution to mechanisms in force in specific legal systems does not favor a fair analysis, nor does it contribute to the construction of legislative improvements.

- 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

Originally submitted on March 15, 2022
Updated on April 4, 2022

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	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. 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 **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** based on country-specific AML/CFT/Proliferation Financing risk situations. BEE should recognize this flexibility accorded by FATF itself into account. 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 **separate incorporation from the application of operational licenses**.

B. Business Location

Indicator	Corresponding Pages in Report	EDS16's Comments
Efficiency of key services in getting a business location	16, 62	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. 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 **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**.

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, **total cost of ownership should be taken into consideration under BEE**.

C. Utility Connections

Indicator	Corresponding Pages in Pre-Concept Note	EDS16's Comments
Quality of utility regulations	18-19, 62	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 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.
Utility performance and transparency of utility services	19-21, 62	We suggest that the new BEE report could align with the previous Getting Electricity indicators on utility performance and transparency utility services. For the new BEE report, the tariff transparency i.e. public availability of tariffs, notification to consumers, customer service (pertaining to online billing & payment of bills) could align with the previous Getting Electricity indicators.
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, **a clear distinction should be included for time taken to lay underground cables, and provides a higher score weightage in comparison to overhead cables**. 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 **such technologies only be considered for the BEE report once the technology is sufficiently mature and proven to aid judicial decision-making**, 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 **suggest that BEE take an outcome-based approach in assessing regulatory practices in integrating E&S considerations in public procurement**. 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 *actual implementation of E&S considerations*, 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 **weighted according to the basket to goods and services procured** 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	**A. Background** 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. **B. General comments on Methodology - Consideration of best practices as a matter of express legislation only** 2. At pg 54 of the pre-concept note, it is stated: *"This set of indicators falls under the regulatory pillar* ***as it relates only to de jure elements based on the reading of the law****. 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].* 3. WB proposes to recognise or give credit/award points only for best practices which are spelt out in ***express*** 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. 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. 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. **C. Comments on the sub-indicators for the broad "*Quality of regulations for insolvency proceedings*" indicator**

		6. "***Commencement of insolvency proceedings***": a. There appears to be some ambiguity/uncertainty as to the exact nature and scope of the "*early warning tools*" 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: *i.* This concept is used in an European Union Directive[1] 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.. *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.[2] We would suggest the BEE team **take reference from the UNCITRAL Legislative Guide** in constructing this indicator. 9. ***"Scope of liquidation and reorganization proceedings":*** 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: a. We note that the previous WB RIS recognized only *"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".* As a result, WB did not recognise **schemes of arrangement** as a valid mode of corporate reorganisation for the purposes of the WB RIS. b. We would suggest that WB, in the revised BEE, consider **broadening the definition of "*reorganisation*" to encompass more types of reorganisation regimes and systems**. 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.

[1] Directive 2019/1023 of the European Parliament and of the Council of2 0 June 2019.

[2] 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 "*address environmental issues and ensure compliance with environmental law*". We would **appreciate clarification on what this encompasses and how there is a nexus between environmental protection laws and insolvency laws**.
Ease to resolve an insolvency judicial proceeding	56,68	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 "*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*". We explain as follows: (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 ("judicial proceedings phase"). 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 (b) However, it may take years for the first distribution to creditors following an order of court initiating the insolvency ("insolvency administration phase"). 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. It may therefore be more practical to look at the ease of resolving an insolvency judicial proceeding with two parts in mind: judicial proceedings phase and insolvency administration phase.

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 *outcomes* for workers, without favoring specific approaches.
Adequacy of public	24, 63	

services for the labor market		

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) *could* 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.

J. Taxation

Indicator	Corresponding Pages in Pre-Concept Note	EDS16's Comments
Quality of tax regulations	38, 66	(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. (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. (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.

Services provided by the tax administration	38-39, 66	(1) Presence of effective and efficient dispute resolution mechanisms 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. 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.
Tax burden and efficiency of tax systems	39-41, 66	(1) Time to comply with tax regulations 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). 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: (i) perception of audit likelihood; and (ii) efficiency of refund 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).

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 inappropiate 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
A. Business entry			
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. Business location			
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".
C. Utility connections			
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.
D. Labor			

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.
F. International trade			
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 *Doing Business* report.
G. Taxation			
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.
I. Market competition			
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.
J. Business insolvency			
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 form 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 the 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[1], 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

[1] 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

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

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Office of the Executive Director
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. H*ow 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 qiven 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 the 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 effectively 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 int 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.[147] To attract investors, economies need to ensure that their judiciaries are not only fast, but also strong and reliable.[148] Limited enforceability of contracts leads to suboptimal distribution of resources, delayed arrival of new technologies, and greater macroeconomic volatility.[149] 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) t*he 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.[156]

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).

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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 specific 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).[1] 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.[2]

[1] 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.
[2] 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).*[3]

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.[4]

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?

[3] Source: World Bank. 2021. Women, Business, and the Law. https://wbl.worldbank.org/content/dam/sites/wbl/documents/2021/02/WBL2021_ENG_v2.pdf accessed 15 Feb 2022.
[4] 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.[5] 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).[6] 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

[5] 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.

[6] 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).[7] 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?

[7] 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 to 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.

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Comments from International Monetary Fund

Business Enabling Environment (BEE) – Pre-Concept Note

IMF Consolidated Comments[1]

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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- 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 (BBE) 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 2 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 *de jure* regulations as indicators of performance	Measurement focuses on *de facto*	This is an improvement from the DB methodology. By focusing on *de facto* 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 ○ Clarity of tax provisions ○ Stability of tax regulations ○ Transparency in the formulations of tax regulations	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	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. 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.
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 (&transfer) taxes, property transfer taxes, CG, and other small taxes. Calculated for case study single standardized hypothetical manufacturing firm (SME) In response to criticism of rewarding low tax jurisdictions, a percentile floor was introduced in 2015.	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. Several case study firms of different size will be evaluated, sector of activity will depend on structure of economy in each country The percentile floor seems to have been dropped	While the original methodology will be tweaked, the problematic underlying principle remains: less taxes are better. 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). 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.

Review Comments on the Business Enabling Environment (BEE) Indicators in the area of Taxation		
Doing Business	**Business Enabling Environment Indicators**	**Observations**
Time: Number of hours per year to prepare, file returns, and pay taxes (CIT, VAT, payroll taxes and social contributions). Data collected based on assessment of 2-5 experts in each country – highly subjective.	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. Data collection based on firm-level surveys	Covering VAT refunds and audit experience improves indicator and captures more relevant parts of compliance experience. Move to survey-based data collection reduces subjectivity and aligns with ITD 2008 Intention for environmental tax agenda is unclear from description in CN. 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. 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.
Time: Number of hours per year to prepare, file returns, and pay taxes (CIT, VAT, payroll taxes and social contributions). Data collected based on assessment of 2-5 experts in each country – highly subjective.	Services provided by the Tax Administration ○ Availability of electronic systems for tax filing and assessment ○ Use of risk-based selection of cases for tax audit and verification ○ Presence of effective and efficient dispute resolution ○ Transparency of tax administration operations	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. 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.

Review Comments on the Business Enabling Environment (BEE) Indicators in the area of Taxation		
Doing Business	**Business Enabling Environment Indicators**	**Observations**
		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. 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.
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.	Assessment of tax admin quality-based indicators resembling TADAT assessment: Use of digital systems, risk-based audit selection, effective dispute resolution, transparency of administration. Data collected through expert consultation.	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	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. Data collection (# of documents required; possibility of electronic filing, rulings issuance, frequency of amendments) based on expert consultation	Legal traditions may drive observations on frequency of changes to primary legislation. Use of private rulings can create governance challenges. Indicator could be expanded capture process of granting tax incentives aimed at promoting private sector development IMF/OECD 2017 tax certainty report/approach might be a useful reference for development of indicator

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 9 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 overwrap 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:

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**
Trade indicator narrowly focused on the time and cost associated with the logistical process of exporting and importing goods.	The trade indicator will be expanded, including an assessment whether trade regime promotes carbon footprint reduction (border carbon adjustments; tariffs on environmental goods) Trade indicator is supposed to capture restrictive or discriminatory measures affecting e-commerce, including taxation measures	No details on environmental scoring approach discussed, but main reference is Parry and others (2021) on carbon pricing. 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.
NA	Quality of regulations for international trade in goods and e-commerce (Good regulatory practices enabling international trade)	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. "Regulatory framework" should expand its scope to those regulating the performance of trade-

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	Quality of regulations for international trade in goods and e-commerce (Good regulatory practices enabling e-commerce) Quality of regulations for international trade in goods and e-commerce (Regulatory restrictions on e-commerce) Efficiency of importing goods (Time and cost to engage in e-commerce)	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.

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**
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).
- 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).

- **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	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". ***The level of public participation*** - 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

		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 or 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.

For further information about these suggestions, please contact Agnese Fridenberga, senior researcher of Centre for Public Policy PROVIDUS.
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Comments from Institute of World Economics, Centre for Economic and Regional Studies

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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 dejure 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 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 thrusted 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

UNIVERSITÄT BAYREUTH

Lehrstuhl für Bürgerliches Recht,
deutsches, europäisches und
internationales Unternehmens-
und Kapitalmarktrecht

Prof. Dr. Jessica Schmidt, LL.M.

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.

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- *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.

J. Schmidt

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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-Martinez

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 intents 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 noticed-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.). P*g 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.28 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 disputes29 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 ²
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

ASSOCIAZIONE
OSSERVATORIO
INTERNAZIONALE
SUL DEBITO

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 - t 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.

Addendum*

*This Addendum supplements the previously published document. It contains additional feedbacks provided by subject experts contacted directly by the BEE topic teams during the public consultation from February 8 to March 15, 2022. The addendum was last updated on December 14, 2022.

Comments on the BEE Pre-concept Note – Anthony Diala, PhD

My comments are influenced by the Research Quality Plus (RQ+) approach to program design, implementation, and evaluation. Summarily, the RQ+ approach is based on three customisable components. These are reliance on empirical evidence, a contextual view of quality, and a holistic consideration of organisational values such as integrity, legitimacy, inclusivity, and positioning for use.

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

I have reservations on the BEE's objective. Its aim to conduct "a quantitative assessment" of business environments is unduly restrictive. Excluding qualitative assessment could marginalise some important contextual factors that influence business, thereby compromising the quality dimensions of business assessment. Although scope limitation may justify the exclusion of "macroeconomic conditions," data analysis is a qualitative process, even when the data are entirely in numbers. This view is supported by the questions in nos. 3 and 4 of this questionnaire. It also finds support in some sections of the pre-concept Note. These include "BEE Attempts to Provide a Balanced Approach when Assessing the Business Environment," the "Quality of regulations for commercial disputes resolution," and the "Adequacy of public services in commercial litigation." In any case, pages 45-47 say that data will be best collected through expert consultations and "a simple case study will be used in order to guide respondents and ensure comparability of data." These examples involve primarily qualitative assessments. Also, they hint at the use of key informant interviews and imply that mere questionnaires would not yield reliable data.

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 project neglects the informal economy and its accompanying justice systems. This neglect is particularly significant for Sub-Saharan Africa. See my comments in No. 5.

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

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

Given its exclusion of “macroeconomic conditions,” I cannot answer this question affirmatively.

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

I have serious concerns about the topic titled ‘Dispute resolution.’ For many people in the south of the Sahara, customary law is the most important normative system in their lives. Accordingly, the adequacy of public services in commercial litigation (p. 45) should expand its rubric of “Institutional framework” to include legal pluralism. Specifically, it should consider how formal legal frameworks interface with informal or customary justice systems. For example, land laws may conflict with traditional tenure practices, while cultural expressions and indigenous knowledge may influence intellectual property disputes between private firms. As currently framed, the BEE neglects the informal economy and its accompanying justice systems. This neglect is regrettable because alternative dispute resolution owes much of its inspiration to the flexibility and effectiveness of traditional justice systems.

6. Do you have any other general feedback?

The BEE seems to adopt a top-down approach to business. To gain legitimacy and avoid the problems that killed the DE project, it should incorporate a qualitative research approach, consider the informal economy, and include legal pluralism in its dispute resolution plans. For its design generally, the BEE design could benefit from the RQ+ approach to program planning.

COMMENTS AND SUGGESTIONS

ON

BUSINESS ENABLING ENVIRONMENT (BEE) PRE-CONCEPT NOTE

(08 FEBRUARY 2022)

Prepared By:

CENTRE FOR ALTERNATE DISPUTE RESOLUTION (CADR)

NATIONAL LAW UNIVERSITY DELHI

15 March 2022

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ACKNOWLEDGEMENT

The Centre for ADR is thankful to the World Bank Group for reaching out to us and seeking our comments on their new benchmarking exercise Business Enabling Environment (BEE). We are happy to be part of the public consultation process on the pre-concept note.

The Centre for ADR would like to acknowledge the research assistance of few of the student members of the Centre [Mr. Hardik Baid, IV Year, B.A. LL.B. (Hons.), Mr. Ishaan Bhatnagar, IV Year, B. A. LL.B. (Hons.) and Ms. Labdhi Golechha, III Year, B.A. LL.B. (Hons.)] in preparing the comments/ suggestions.

GENERAL COMMENTS

1. In commercial disputes, resolution of disputes is important but prevention of escalation of disagreements into legal dispute is often more important[1]. So, instead of 'Dispute Resolution', the name of the topic can be 'Dispute Management & Resolution'.

2. In the choice of topics, dispute resolution is placed in the part "operating a business". However, often times there may be issues at the time of starting of business and even at the time of closing of business. Practice of Preventive Law[2] by counsels can play a very important role in clearly ascertaining the rights and liabilities of the parties and prevent some of the future disputes from occurring.

3. Understanding litigation culture of any country is also very important[3] as simply making changes in substantive law and creating institutions will not be sufficient.

4. The pre-concept note gives too much importance to litigation and court processes in respect of commercial dispute, whereas worldwide most of the commercial disputes are resolved by using various ADR mechanisms. So, the study may also include working and Governing Rules of the ADR institutions in any country where the research is conducted.

5. In recent times, International Mediation Convention 2018 has come into force which highlight the recent trend in favour of mediation in case of international commercial disputes. So, the study may, apart from focusing on Arbitration as ADR mechanism, also focus on mediation of commercial disputes.

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[1] Bjarne Vestergaard, Erik Helvard and Aase Rieck Sørensen, 'Conflict Resolution – Working with conflicts' - A Report by Danish Centre for Conflict Resolution (February 2011) ISBN 978-87-992429-4-9

[2] Andrea Kupfer Schnieder, 'Building a Pedagogy of Problem - Solving: Learning to Choose Among the ADR Processes' (2000) 5 Harvard Negotiation Law Review 113

[3] 253rd Report of the Law Commission of India – 'Commercial Division and Commercial Appellate Division of High Courts and Commercial Courts Bill, 2015 (January 2015)

SPECIFIC COMMENTS

Indicators in the Area of Dispute Resolution:

a) Quality of regulation for commercial dispute resolution

Comment No. 1: The expert consultation should not be limited to local practitioners but may include other important stakeholders like law makers, judges, members of business community, academicians, etc. as the purpose of consultation is not just to analyze the application in practice but the quality of law also. In this way, the study may not just present the current picture but can also be something which can bring to light the shortcomings in the systems so that steps may be taken by governments to improve it.

Comment No. **2**: An important indicator can be the simplicity in the language of law and the procedures of law.

Comment No. **3**: The quality of regulation can also be seen in the kind of remedies provided by it. The remedies can be specifically designed to suit the nature of the commercial disputes.

Comment No. 4: The law should be able to incentivize all the parties to dispute so that people will be motivated to use law and the legal systems.

1. In-court litigation processes

Comment No. 5: Some other indicators can be, whether the commercial procedural law provides for specialized and fast track procedures, special rules of evidence, effective procedures for disclosure, discovery and inspection, provisions for summary judgments, effective rules for imposition of costs, etc.

Comment No. 6: An important indicator can be if the legislation provide for pre-litigation ADR mechanisms for disputes which doesn't require some urgent interim relief and effective implementation of such a mechanism.

Comment No. 7: An important indicator can be regarding finality of decision of courts i.e., the grounds of appeal, forum of appeal and number of appeals available.

Comment No. 8: Enforcement mechanism of orders, decrees and awards passed by the courts and tribunals – We would like to emphasize on this parameter of enforcement mechanism and time-line of the enforcement machinery. This indicator is intended to analyze the effectiveness and efficiency of enforcement mechanisms so that the business are not engaged in separate long-drawn proceedings of enforcing the judgements/ awards thereby reflecting the quality of the regulations for commercial disputes.

This specific indicator is also intended to cover the legislative (through regulations) and judicial (general trend in the court judgements) steps to ensure enforcement of foreign/ international judgements/ awards. A robust mechanism, statutory provided and judicially implemented, of enforcement boosts investor confidence in the economy.

Comment No. 9: Provisions for appropriate forums/ tribunals and summary procedures for specific kinds of disputes – These provisions form part of *de jure* set of indicators to assess the quality and efficiency of regulations. Having separate legislations along with creating specialized tribunals, with appropriate mechanism, expert members and specified jurisdiction, to match the scope and nature of dispute for different kinds of disputes. This ensures that the businesses can resolve their disputes in an effective and efficient manner, at the instance of special legislation and competent tribunals.

Provisions of summary procedures i.e. specified time-lines of resolving the disputes is to be looked at to analyze the quality and effectiveness of regulations for commercial disputes.

Comment No. 10: Prevalence and presence of soft law in the legal framework – Under the head of 'quality of regulations', we believe another parameter for analysis can be the inclusion of *soft law* prevalent in the commercial industry as well as that prevalent in the adjudication of the commercial disputes ought to be included in the legal framework as well.

The presence of soft in the formal legal framework is more significant for the alternative dispute resolution mechanisms. Additional parameter to analyze the existence of legal framework regulating arbitration, mediation, negotiation, conciliation and other forms of ADR ought to be included to indicate the quality of regulations.

b) Adequacy of public services in commercial litigation

1. **Court automation and e-service**

Comment No. 11: With the advent of technological advancements and shifting of the legal proceedings to the virtual space, additional enabling and protective mechanisms are required for court automation and e-services. Under the relevant head of public services in commercial litigation, additional parameter to analyze the **provisions ensuring safeguard of e-proceedings and digital files and their resilience from malwares/ cyberattacks** becomes necessary to be looked into to grade the public services.

In virtual space, the e-proceedings and the digital files are at the risk of being corrupted, attacked and tampered with through cyberattacks. The proceedings are also vulnerable to third-party intrusions, adversely impacting the confidentiality of the proceedings. Therefore, the public services provided during the commercial litigations as well as during ADR proceedings, must ensure protection against such e-threats.

c) Ease of resolving a commercial dispute

1. **Obstacles to justice**

Comment No. 12: Institutional pervasive incentive/ malpractices – Under the heading of 'obstacles of justice', it is paramount to account for institutional deterrence to access to litigation and consequently justice. This includes analyzing the delays in dates and prolonging of the cases, adversely impacting the businesses and confidence of the business community in the legal system.

Comment No. **13**: Another indicator can be the user-friendliness of the judicial process.

Submitted by the Centre for ADR

Ruhi Paul
(Professor of law & Director Centre for ADR)
(National Law University Delhi)

ABOUT THE CENTRE FOR ADR

The Centre for ADR is a research centre at National Law University Delhi specializing in alternative dispute resolution mechanisms. The Centre has a vision to promote the use of ADR methods among the legal and non-legal professionals, students and general public at large. The Centre envisions a society which values harmony, peaceful co-existence and diversity. The skills involved in ADR methods are not only for amicably resolving the disputes and disagreements but these are life skills which are needed for all of us. The Centre strive to contribute to the vision and mission of the National Law University Delhi of developing human beings who are technically sound, socially relevant and emotionally strong by imbibing the skills of ADR methods like active listening, understanding other's point of view, discussions, empathy, rational thinking and community interest. The Centre wishes to bring a positive change in the view of the society regarding disputes/disagreements not as something negative but as an opportunity.

Since its inception in 2018, CADR has undertaken a number of activities including conducting legal awareness programs, national consultations on government policies, webinars, diploma and short courses on arbitration, publication of its flagship Journal, CJDR, and release of quarterly digest on arbitration judgements delivered by Hon'ble Indian Courts. More details about the activities and events undertaken by the centre can be accessed here.

The Centre for ADR and its members are committed to raising awareness about the Alternative Dispute Resolution Mechanisms that are well-accepted mode of settling commercial disputes both national and international. We at CADR take pride in collaborating with a wide range of institutions and independent researchers on various projects in furtherance of our objectives.

Centre for Alternate Dispute Resolution

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Diar Ramadani (Kosovo)

What about including Chambers of Commerce and ADR practitioners? Although Chambers of Commerce are institutions, and some of them (as in the case of Kosovo, have ADR mechanisms incorporated in them - i.e. an arbitration center); their input is crucial to determine whether ADR mechanisms are functioning based on set regulations.

For many developing countries, for example Kosovo, it's important to state that commercial cases include ECONOMIC & ADMINISTRATIVE cases. This is food for thought, and it may help you determine at what kind of cases go into commercial (because some civil cases that may be included are economic and/or administrative).

Including chambers of commerce and ADR practitioners is crucial. Maybe this indicator can look into ADR mechanisms and centers that are available privately as well? And see opportunities to coincide state and non-state owned mechanisms to determine the overall effectiveness.

The indicators under the regulations part should determine whether perceived obstacles are actually hindering the commercial justice in a country, or these might just be a wrongful perception given lack of knowledge. In many places, there is lack of knowledge of systems and subsystems supporting commercial dispute resolution, and the lack of knowledge pushes firms towards a higher perception of obstacles when in fact there might not be as much (or even as little).

Are perceptions of firms credible to determine expertise of judges? Certain firms that may be part of consultations may also be firms that have "lost" a case, and deem the expertise of judges as insufficient (bias effect). Consider phasing this indicator as BUSINESSES PERCEPTION OVER OBSTACLES TO JUSTICE. This indicator would be great to be ALSO seen above in the regulations, where an assessment of whether a lack of certain regulations cause obstacles to justice that are then reflected in the readiness of firms to resort to litigation or ADR. So then we would have both REAL OBSTACLES AND FIRMS PERCEPTION OF OBSTACLES. (a two way lens, two perspectives).

Lack of trust is not (always in my view) an indication that the system is not functioning. It displays how hesitant firms may be to resort to traditional means of justice, but does not showcase whether the justice is up-and-running and available for them. Definitely a proxy, though.

Will there be a comparable fee to determine whether it is cheap or expensive? I think firms want to see whether all of the calculated expenses are high or low (but this can only be determined if compared to a fee that is acceptable for a given country context). We can't just assume that if we showcase how much it costs (as a standalone value), that it shows us whether its efficient and cost-effective. Maybe try a percentage of claim value as a denominator?

COMMENTS FOR THE PAGES 42-47 (DISPUTE RESOLUTION) of the "Pre-Concept Note. *Business Enabling Environment (BEE).* February 4, 2022"

By
Erika Rickard
[The Pew Charitable Trusts]
(Received: March 14, 2022)

Thank you so much for the opportunity to provide consultation on the Dispute Resolution section of the Business Enabling Environment work. I've included brief comments in the body of this email, below, and would be delighted to schedule time to discuss further if helpful.

1. Section 2(a): "*Quality of regulations for commercial dispute resolution"* – The discussion of this indicator does not make it clear which regulatory environment you'd be examining – the local, the regional, the national? The World Bank's Strength of Legal Rights index, for example, looks at the regulatory environment that affects businesses in the economy's largest city. I'd recommend a similar approach here.
2. (2)(a)(1): I recommend clarifying or adding language to the following: "Aspects of enforcement of judgments will be covered as well, with an assessment of whether there are time standards within which judgments should be executed and what types of assets can be seized by an enforcement agent." One of the challenges we've observed in the United States is long-lasting enforcement mechanisms that are not based on a meritorious claim at the outset. Low rates of participation (potentially caused by failure to properly notify defendants of a lawsuit) lead to high 'default judgment' rates, in which the plaintiff obtains a judgment without judicial or clerical review to ensure that the right person was sued, for the right amount, or that the plaintiff has a valid claim. Despite this lack of review, a default judgment carries the same weight as any other court judgment, including judicial enforcement and seizure of assets. I recommend adding some language to include an assessment of whether enforcement of judgment depends on judicial review of the underlying claim.
3. 2(b)(2): I am pleased to see a discussion of e-services and court automation. One nuance that I don't think is captured in the indicators is "the functioning of E-Systems that allow for electronic filing of cases" – filing by whom? In our (U.S.-based) research, we've found that in a significant number of jurisdictions, electronic filing may be available, but only in a narrow set of cases, or (more often) only to attorneys. I recommend specifying whether you mean self-represented litigants as a category of court user that should be able to electronically file. I also recommend expanding the expert consultations to include court personnel, if not already contemplated.
4. 2(c)(2): I recommend adding another time indicator for cases that come to resolution without a trial, e.g., through ADR.
5. 2(c)(3): I agree with the cost indicators. One note is "whether any of th[e expenses and fees can be recovered from the losing party" is a very helpful one, but one that may play out differently depending on whether the losing party is the person who brought the litigation or the person responding to the litigation. To my mind, it's important to capture the cost information regardless of who wins / loses the litigation. I recommend clarifying in the indicator itself whether fees can be recovered by the initiating party if the responding loses, ***and*** whether fees can be recovered by the responding party if the initiating party loses.
6. Where possible, I recommend combining expert consultation and firm surveys with administrative data from the relevant court(s).

Thanks again for including me in this process, and thanks for all your work on this important topic. Again, if you'd like me to expand on any of the above, I'd be more than happy to schedule time to discuss further.

Warm regards,

Erika J. Rickard, Esq

1 March 2022

To: World Bank Group on Development Economics (WBG)

IRO: Call made by African Arbitration Association to provide Feedback on the Chapter on Dispute Resolution in the Business Enabling Environment (BEE)'s Pre-Concept Note (February 4, 2022).

COMMENTS:

These comments are made in regard to texts contained on page 44 which state thus:

> *The discussed good practices in the fields of in-court litigation and alternative dispute resolution derive from authoritative projects and institutions. To name a few, in the WBG many such practices were incorporated within the Justice Needs and Institutional Performance Review (JUNIPER) framework and the World Bank Good Practices for Courts report. Other internationally recognized instruments include the Council of Europe CEPEJ Checklist for Promoting the Quality of Justice and Courts, UNCITRAL Model Law on International Commercial Arbitration,* ***UNCITRAL Model Law on International Commercial Conciliation*** *(emphasis mine), New York Convention on the Recognition and Enforcement of Arbitral Awards, and others. As it is not practical to cover all the good practices from the named sources, the BEE project will focus on the most relevant ones based on the private sector needs in the area of resolving disputes in the postpandemic world.*

Another relevant paragraph states thus:

> *Alternative dispute resolution mechanisms – The second indicator will measure the quality of regulations governing alternative dispute resolution mechanisms (arbitration and* ***mediation -*** *emphasis mine). 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.*

The 2nd paragraph quoted above signifies that recognition is given to the fact that mediation is now the widely accepted ADR mechanism as opposed to conciliation. Yet reference is made in the first paragraph quoted above to the **UNCITRAL Model Law on International Commercial Conciliation** which has been replaced in 2018 by **the UNCITRAL Model Law on International Commercial Mediation and International Settlement Agreements Resulting from Mediation, 2018.**

To support this comment, I have taken the liberty to extract texts from the UNCITRAL website:

> ***UNCITRAL Model Law on International Commercial Mediation and International Settlement Agreements Resulting from Mediation, 2018***

Ibadan
1st Floor, Asabi House
108, Adekunle Fajuyi Road,
Adamasingba, P.M.B. 5227,
Ibadan, Oyo State.

Lagos
40a, Raymond Njoku Crescent,
Off Awolowo Road,
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Amending the Model Law on International Commercial Conciliation, 2002

The Model Law is designed to assist States in reforming and modernizing their laws on mediation procedure. It provides uniform rules in respect of the mediation process and aims at encouraging the use of mediation and ensuring greater predictability and certainty in its use.

The Model Law was initially adopted in 2002. It was known as the "Model Law on International Commercial Conciliation", and it covered the conciliation procedure. The Model Law has been amended in 2018 with the addition of a new section on international settlement agreements and their enforcement. The Model Law has been renamed "Model Law on International Commercial Mediation and International Settlement Agreements Resulting from Mediation". ***In its previously adopted texts and relevant documents, UNCITRAL used the term "conciliation" with the understanding that the terms "conciliation" and "mediation" were interchangeable. In amending the Model Law, UNCITRAL decided to use the term "mediation" instead in an effort to adapt to the actual and practical use of the terms and with the expectation that this change will facilitate the promotion and heighten the visibility of the Model Law.*** *(Emphasis mine) This change in terminology does not have any substantive or conceptual implications.*

To avoid uncertainty resulting from an absence of statutory provisions, the Model Law addresses procedural aspects of mediation, including appointment of conciliators, commencement and termination of mediation, conduct of the mediation, communication between the mediator and other parties, confidentiality and admissibility of evidence in other proceedings as well as post-mediation issues, such as the mediator acting as arbitrator and enforceability of settlement agreements.

The Model Law provides uniform rules on enforcement of settlement agreements and also addresses the right of a party to invoke a settlement agreement in a procedure. It provides an exhaustive list of grounds that a party can invoke in a procedure covered by the Model Law.

The Model Law can be used as a basis for enactment of legislation on mediation, included, where needed, for implementing the United Nations Convention on International Settlement Agreements Resulting from Mediation.

I hope you find the above useful, and I thank you for the opportunity given to us to contribute to the work the World Bank is doing in this regard.

With every good wish,

MRS. 'FUNMI ROBERTS, LL.M, C.Arb., F.IoD
Chartered Arbitrator, CEDR-Accredited Mediator & Member, CEDR Panel of Global Mediators

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RE: World Bank Group - Consultation Phase for the Business Enabling Environment - Dispute Resolution

Dr Karl Mackie CBE <kmackie@cedr.com>

Mon 2/21/2022 9:53 AM

To: Oleksandra Popova <opopova2@worldbank.org>

Cc: Julien Vilquin <jvilquin@worldbank.org>; Raman Maroz <rmaroz@ifc.org>

[External]
Dear Oleksandra,

A few comments on the Dispute Resolution section and referring to the question of the broader sophisticated indicators for effective/responsible business.

I think it does help particularly to be able to identify whether court systems have well established rules for referring cases to mediation or other forms of ADR, and incentives/sanctions for use/failure to use such procedures. Also identifying whether there is evidence of an effective network of independent ADR specialists/institutions in the country.

Whether a jurisdiction has signed up to the UNCITRAL Singapore convention on Enforcement of Mediated Settlement Agreements may become more significant in the future – the system is currently in its early days with a few signatories.

I think there may be a case for identifying whether non-court dispute mechanisms are in evidence eg consumer complaint bodies/ombuds offices.

Finally there may be a case for measuring a sample of companies with more than X employees, to assess whether they have well-established Operational Level Grievance Mechanisms for dealing with employee complaints, or indeed which allow the expression and independent review of stakeholder concerns reflective of responsible business or ESG standards of conduct (eg NCPs under the OECD or equivalent independent bodies which have oversight of companies' social or environmental impact in addition to the courts).

Time does not allow me to give a fuller review, but I hope that is helpful.

Kind regards

Karl Mackie

Karl Mackie

Senior Mediator and Founder President

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From: Oleksandra Popova <opopova2@worldbank.org>
Sent: 15 February 2022 20:08
To: Dr Karl Mackie CBE <kmackie@cedr.com>
Cc: Julien Vilquin <jvilquin@worldbank.org>; Raman Maroz <rmaroz@ifc.org>
Subject: World Bank Group - Consultation Phase for the Business Enabling Environment - Dispute Resolution

Dear Dr. Karl Mackie,

We trust this message finds you well and hope 2022 is off to a good start. We are reaching out to you today to seek your feedback on an important new initiative of the World Bank Group (WBG).

After the discontinuation of the Doing Business report on September 16, 2021, the Global Indicators Group in the Development Economics Vice-presidency (DECIG) of the WBG has been working on a new benchmarking exercise with the title of *Business Enabling Environment* (BEE). The primary 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. The development purpose is to advocate for policy reform and to inform research and specific policy advice.

The BEE project will include a number of topics covering the life cycle of the private firm and its participation in the market: opening, operating, and closing a business. One of such topics is Dispute Resolution, which is closely related to functioning of the judicial system.

Since this week the WBG is launching a public external consultation process to elicit feedback and contributions on the attached pre-concept note, we would like to invite you to review the chapter on Dispute Resolution (pages 42-47) and consider the value it could bring to development, judicial reforms, and research. We would be delighted to hear your views on arbitration and mediation (pages 44-45). Certainly, you are also free to provide comments on the overall design of the Dispute Resolution topic, the project in general, or any other topic.

If you and your organization are interested in providing your views for consideration by the team, please send your comments by March 8, 2022. Should you rather prefer to provide your feedback through a video call, please let us know and we will arrange it.

Our goal is to develop a rigorous, high-quality product in a constructive, transparent, and accountable manner. To help ensure transparency and accountability of the consultation process, all feedback received will be made publicly available, unless you explicitly request to keep it confidential.

Finally, please note that our team will not be able to provide written responses to specific inputs. We will, however, circulate the revised and final version of the concept note to all stakeholders who provided comments. While we will review all received comments and recommendations, we hope that you will understand that not all comments and perspectives can be incorporated into the final version of the BEE concept note.

Should you have any questions, please feel free to let us know.

We look forward to hearing from you.

Best regards,

Oleksandra Popova

Analyst, Dispute Resolution

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Comments on Pre-Concept Note for Business Enabling Environment project, February 4, 2022

Kevin E. Davis

New York University School of Law

March 7, 2022

Thank you for this opportunity to comment on the Pre-Concept Note on the Business Enabling Environment project. As a preliminary matter I should mention two features of the Note that I find commendable. First, I appreciate the recognition that it is important to capture information about the quality of legal processes as well as their cost and duration. Second, I also appreciate the recognition that expert consultations are better suited than enterprise surveys to capture information about aspects of the legal system that firms only encounter rarely. I believe that these features of the Note should be retained even though some of my comments focus on their associated challenges. My comments below apply to many aspects of the Note, but I only elaborate on their implications for the section on dispute resolution.

1. *The good practices against which countries are benchmarked should be based on either rigorous empirical studies of their merits or a truly international consensus.* For example, it is hard to see why judicial specialization should be treated as a good practice, as implied in the section on dispute resolution (45) given that, as far as I can tell, the literature suggests that its merits are indeterminate and context-specific (see e.g., Garoupa et al 2010). On another tack, the Note suggests that good practices will be derived from "authoritative projects and institutions" such as a Council of Europe checklist (44). However, it is difficult to see why the World Bank should treat standards formulated by intergovernmental bodies with restrictive membership (such as the Council of Europe or, in other contexts, the FATF) as "authoritative", especially if they do not claim to be grounded in empirical evidence from non-member states.

2. *If views on good practices change then it may be difficult to ensure that indicators based on such practices are comparable over time.*

3. *It may be useful to collect data on firms' beliefs about the business environment regardless of whether those beliefs are grounded in actual experience so long as firms are likely to act on their beliefs without further investigation*. For example, the pre-concept note proposes to collect data on obstacles to justice in relation to commercial litigation only from firms with relevant experience (46). However, firms may decide whether to do business with new customers based on their beliefs about the ease of enforcing their claim through litigation even if those beliefs are not based on either experience or specific legal advice.

4. *It may be useful to collect ranges rather than point estimates of the time and cost of legal processes*. For instance, even within a single city and for a given type of dispute there may be considerable variation in the time and cost of litigation. That uncertainty might be economically significant and thus worth tracking.

Reference

Garoupa, Nuno, Natalia Jorgensen, Pablo Vazquez, 'Assessing the Argument for Specialized Courts: Evidence from Family Courts in Spain,' *International Journal of Law, Policy and the Family*, Volume 24, Issue 1, April 2010, Pages 54–66, https://doi.org/10.1093/lawfam/ebp012

Re: World Bank Group - Consultation Phase for the Business Enabling Environment - Dispute Resolution

Linn Hammergren <lhammergren29@gmail.com>

Mon 3/14/2022 12:33 PM

To: Oleksandra Popova <opopova2@worldbank.org>

[External]
Dear Oleksandra and others, thank you for the invitation to comment and the date extension. I am not sure this is worth waiting for but here are some quick reactions:

First, killing DB was an overreaction, so shame on the Bank for taking that route. Although I always had criticisms of the exercise (and especially its lack of attention to corruption, political pressures on judges, cronyism as it protected certain classes of claimants, as well as inattention to administrative cases and reliance on an initially small group of elite attorneys whose guesstimates about time and costs always inspired doubts), it had evolved over time, was clearly actionable and did promote change in many countries, and in general was a serious effort to measure the quality of "contract enforcement" in the countries covered.

Second, this new attempt has addressed some concerns – adding administrative cases and making it explicit that some issues (corruption and gender) would not be included – although others remain. Will judicial independence cover, diplomatically I imagine, political interference with judgments (lawfare)? If not, maybe you had better add that to the excluded factors, which I hope will also be noted in the final product. Or maybe the best route is a better definition of what exactly you are tracking – I suppose the rules for and structural elements of what is now called dispute resolution as they affect private enterprises. Obviously, what is excluded and especially corruption and "lawfare" will have a larger impact on investment decisions and outcomes, but I guess those things can be left for other Bank tools (political economy analysis) or other measurement systems (Transparency International, Global Economic Index, and so on).

Third, like many Bank tools and other indices, presumed good practices often lack much of an empirical base. Good to list a source for claims about their impact, but one academic article is hardly sufficient. In fact you can probably find an article to support just about anything, like the piece of research on Italian courts (cited in World Bank, 2017, What Works), that seems to endorse FIFO as a best practice in courts, when in fact, most experts advocate differential case management. I gather that citing one article is now considered sufficient in the Bank (as well as in the IADB and possibly other MDBs) so nothing to do here, but just be forewarned that for those of us who read footnotes it is not a "good practice."

Fourth on terminology. I realize "regulatory framework" is now accepted Bank jargon, but for anyone outside it may imply much more that what you are covering – not the whole legal structure affecting private enterprise, but rather (I think) the laws and codes defining judicial procedures for resolving commercial, administrative, and civil disputes involving private enterprise. Keep the term as the Bank likes it but perhaps you could specify what you are actually reviewing.

The above are quibbles and my only real fear is that in attempting to transcend the DB treatment and expand coverage to a more varied private sector, you may be taking on too large a task. The old DB's strength was focusing countries on a few actionable elements – overly complex procedures, time to disposition and costs, as well as the availability of ADR and an expedited small claims procedure. These they could improve, although that hardly guaranteed a fair system, what with the overlooked corruption, cronyism, and lawfare. (And the two principal countries involved in the DB debacle are certainly evidence for that—their improvements may have been overstated, but the major issues for investors are others). As for the "regulatory framework" and the "public service" element, you will be walking on less sure ground, especially in attempting to broaden coverage to a wider variety of private enterprises and private sector environments (where, for example, digitization and digitalization may be less practical for many SMEs – a problem we faced and never resolved in drafting JUNIPER). So, my only advice here is to be more explicit about 1) what you are excluding and 2) what exactly you are tracking, why, and for whom. And of course, be careful about "good practices" as opposed to good results. The latter are what counts; the former in many cases are not the only way to get there.

Linn

On Thu, Mar 10, 2022 at 10:22 AM Oleksandra Popova <opopova2@worldbank.org> wrote:

Dear Linn,

We hope this e-mail finds you well. Last week we have reached out to kindly request your feedback on the attached pre-concept note concerning a new initiative of the World Bank Group (WBG) with the title of *Business Enabling Environment* (BEE).

As the original deadline to provide comments as part of the public external consultation process is approaching, we are glad to let you know that the deadline to provide feedback was extended to **March 15, 2022**. We are therefore hoping to be able to count on your written feedback by this time, or, alternatively, we are also available to set up a video call at a time of your convenience prior to the deadline.

Thank you in advance for your time and kind attention. We look forward to hearing from you.

Kind Regards,

Oleksandra Popova
Analyst, Dispute Resolution
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From: Oleksandra Popova <opopova2@worldbank.org>
Sent: Monday, February 28, 2022 1:32 PM
To: lhammergren29@gmail.com <lhammergren29@gmail.com>
Cc: Raman Maroz <rmaroz@ifc.org>; Julien Vilquin <jvilquin@worldbank.org>
Subject: Re: World Bank Group - Consultation Phase for the Business Enabling Environment - Dispute Resolution

Dear Linn,

Thank you very much for getting back to us and for sharing your expressed interest. It would be very useful to have your contributions. If you cannot send your comments by March 8 we can wait for them after the deadline. In such a case, however, they will be considered in an informal way and your input will not be shown on the BEE website. We can also discuss your feedback over a video call if that works better for you.

Thank you very much again for your interest in our project.

Kind regards,
Sasha

From: Linn Hammergren <lhammergren29@gmail.com>
Sent: Thursday, February 24, 2022 1:23 PM
To: Oleksandra Popova <opopova2@worldbank.org>
Cc: Raman Maroz <rmaroz@ifc.org>; Julien Vilquin <jvilquin@worldbank.org>

Subject: Re: World Bank Group - Consultation Phase for the Business Enabling Environment - Dispute Resolution

[External]
Dear Oleksandra and others, I am leaving on a two week mission today, but will see whether I can get back to you by the 8th. Despite occasional criticisms of DB (no mention of corruption, a big oversight for enforcing contracts, and probably for other sectors), I think the WB overreacted in this case. Yes, three people, all identified, applied pressure, but they are all out of the Bank by now, and the rest of the DB crew always struck me as very professional and serious. But then the Bank usually overreacts -- what I call using a sledgehammer to kill a cockroach. So my hope is that something equally rigorous (but perhaps considering corruption or at least the need to pay speed money to get things done) will soon be instituted, and because of this hope I will try to get back to you. If I can't, blame the Bank's new travel regulations (and more cockroach murders), which have caused endless problems for all of us STCs.

Linn

On Thu, Feb 24, 2022 at 12:25 PM Oleksandra Popova <opopova2@worldbank.org> wrote:

> Dear Linn Hammergren,
>
> We trust this message finds you well and hope 2022 is off to a good start. We are reaching out to you today to seek your feedback on an important new initiative of the World Bank Group (WBG).
>
> After the discontinuation of the Doing Business report on September 16, 2021, the Global Indicators Group in the Development Economics Vice-presidency (DECIG) of the WBG has been working on a new benchmarking exercise with the title of *Business Enabling Environment* (BEE). The primary 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. The development purpose is to advocate for policy reform and to inform research and specific policy advice.
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> The BEE project will include a number of topics covering the life cycle of the private firm and its participation in the market: opening, operating, and closing a business. One of such topics is Dispute Resolution, which is closely related to functioning of the judicial system.
>
> Since this week the WBG is launching a public external consultation process to elicit feedback and contributions on the attached pre-concept note, we would like to invite you to review the chapter on Dispute Resolution (pages 42-47) and consider the value it could bring to development, judicial reforms, and research. We would be delighted to hear your views on both the overall design of the Dispute Resolution topic and any specific component of it (e.g., court automation and e-services, mediation, adding/removing specific components). Certainly, you are also free to provide comments on the project in general or any other topic.
>
> If you and your organization are interested in providing your views for consideration by the team, please send your comments by March 8, 2022. Should you rather prefer to provide your feedback through a video call, please let us know and we will arrange it.
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> Our goal is to develop a rigorous, high-quality product in a constructive, transparent, and accountable manner. To help ensure transparency and accountability of the consultation process, all feedback received will be made publicly available, unless you explicitly request to keep it confidential.
>
> Finally, please note that our team will not be able to provide written responses to specific inputs. We will, however, circulate the revised and final version of the concept note to all stakeholders who provided comments. While we will review all received comments and recommendations, we hope that you will

understand that not all comments and perspectives can be incorporated into the final version of the BEE concept note.

Should you have any questions, please feel free to let us know.

We look forward to hearing from you.

Best regards,

Oleksandra Popova
Analyst, Dispute Resolution
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Re: Fw: World Bank Group - Consultation Phase for the Business Enabling Environment - Dispute Resolution

Omniah Ebeid <omzebeid@gmail.com>

Mon 3/7/2022 12:53 PM

To: Oleksandra Popova <opopova2@worldbank.org>

[External]
Dear Oleksandra,

Thank you for this opportunity to provide feedback on this new report (BEE) . I have read the Pre-Concept Note and in particular the pages on Dispute Resolution (pages 42-47).

In terms of value in driving reforms, the DB, despites the complaints by some countries, did drive reform and was a good tool and entry point to discuss best practices and the importance of efficiency and I am hopeful that the BEE will also provide a platform for driving and discussing justice sector reforms. This report is certainly needed.

With that said, the BEE generally appears to include many of the areas included in DB. With regard to Section III on p. 57 discussing the data collection approach, I would like to point out that the use of desk research / websites etc. as a data collection method may not be so effective as many countries do not publish their laws and you will also be limited by the fact that many are not available in English. We are still working with many countries on making laws accessible and perhaps the issue of access to information for judges, lawyers and court users in general should instead be included in the indicators- Access to justice (information and services) is a key area that is always assessed and one that enhances transparency among other things. The same limitation applies to case data that is made available- this is a key area that we continue to work with judiciary on and one that you may want to consider including in the indicators since it enables courts to properly measure and manage court performance, and thereby helps identify bottlenecks and area of delay as well. In many developing and less developed countries case data is simply not published which will limit the team's review. And even some well preforming courts that do publish case data do not really publish very detailed case data that can identify areas of delay and support the team's review for example.

As to assessing the regulatory framework, I am happy that this is a focus of the BEE since it is the cornerstone and foundation for enabling modernization and reforms and will assist us when discussing reforms in general. I continue to work in countries where the laws have not been reviewed or updated for 50 or more years and having this as the focus of the BEE will hopefully support us when discussing the need and utility of updated laws.

<u>The following are my specific comments:</u>

1) <u>Case type</u> – unlike BD design that used a case study that was limited to a small commercial dispute, The BEE will attempt to assess all commercial disputes, including those between private parties, private parties and state-owned entities and private parties and international entities. This may become more complicated because it will widen the scope of the review to not one type of courts but possibly more than one which may be too complicated to carry out. This potential variation among countries may impact comparability as well. For example, in Egypt the courts of first instance handle certain types of commercial disputes while other types of disputes are handled by a different type of court (Ex: The Economic Courts) . The latter courts are governed by a different law that may or may not intersect at times with the general rules governing commercial/ civil disputes. Also, including disputes with state agencies may also present another layer of complication in some countries that provide exclusive jurisdiction to

specific courts for handling these types of disputes. As to including disputes with international entities- contracts with such entities usually require arbitration as opposed to resorting to the local courts and I am not clear how, aside from assessing the existence of a law enabling the use of Arbitration, the BEE will be able to assess arbitration as a whole.

2) Quality of Regulations (in court processes and ADR mechanisms) - with regard to the in court-processes, it is good to assess the existence and use of best practice tools in managing cases such as pre-trial conferences and time standard for processing cases. However, including the existence of time standard within which judgments should be executed may be more problematic. Enforcement of judgments is a complicated case event in many countries and is generally a cause of delay. These complications however are not generally driven by the lack of enforcement time standards and nor should they be but are driven by a multitude of other factors such as: the quality of the judgment itself (is it well written and capable of being enforced); whether enforcement is carried out by the courts or by other entities and if it is carried out by the former then whether the laws contribute to delays by requiring complicated and dilatory procedures or whether the laws and regulations provide for effective enforcement rules on things like the sale of assets/ property by public auction or enable e-auctions etc.; whether the courts have sufficient human resource capacity to enforce; whether enforcement personnel are supported by automated solutions; and the existence of modern tools such as e-tagging of seized property.

Mediation- DB measured the existence of a law on mediation which served as a driver for introducing such laws and ultimately enabling its use. The BEE appears to go beyond the introduction of laws and focuses on the quality of the law itself. Many countries however are still working on introducing laws that enable mediation and the introduction of such laws should still be assessed and rewarded. Those working with judiciaries should still be able to use the BEE as a way to begin the discussion on the benefit of ADR / Mediation and the need to formalize these tools by way of passing laws. As such, I think that including both the existence of laws on mediation as well as the quality of the law as outlined in the Note on P. 45. will be a more rounded way to assess and will serve as a driver to push those countries that have not even passed laws to work harder on doing so.

3) Adequacy of public services – I just want to point out that it may be hard to identify local practitioners who actually litigate these cases so that the team may be able to collect relevant data on this indicator. This was an issue that we witnessed in DB- the firms selected for the questionnaire were often large firms that more often than not did not have any in-depth knowledge of how commercial cases were litigated in the local courts. They were mainly transactional lawyers, and this was an overriding concern that was voiced in many countries and one that affected the results.

a) The Institutional Framework indicator- looking into the existence of specialized courts is a good indicator since specialized courts contribute to the overall quality of judgments as well as efficiency of a court. Appellate courts however do not tend to be specialized like the lower courts and as such including them will be problematic.

As to ADR service provided centers, more clarity is required as to whether these centers are court -annexed or otherwise or whether the ADR scheme will include judge led mediation for instance.

In addition, with regard to measuring transparency, I think that including " whether judgments are well-reasoned" in the measure is a bit misplaced. It will also be complicated to

actually measure because it is difficult to measure the quality of the judgments / whether it is well-reasoned unless you also collect data on enforcement and appeals, which may widen the scope of the BEE to a possible unmanageable level of effort. This in addition to the appearance of interfering with judicial independence may pose challenges to the team and the BEE.

b) Court Automation and e-services-

-the note mentions looking into digitization on all court levels, meaning that the team will assess the existence of automated systems and services at the first instance, appellate and higher court levels? If so, this may be too wide a scope and may need to be limited to just the trial court level.

-the note mentions the use of ICT in ADR and I am not certain as to the meaning of this statement- does this mean that the team will look into the use of ODR (Online Dispute Resolution) for example? If so, this is an advanced method of conducting mediation that will create an even bigger divide among developed, developing, and underdeveloped countries. This tool goes beyond the ICT capacities of many countries which should be focusing on developing and having the proper ICT infrastructure and implementing proper well-functioning comprehensive automated case management systems and building a user culture that moves away from paper-based transactions. The risk in assessing the use of ODR is that countries will rush to implement it without factoring in user readiness and without first focusing on having a proper automated CMS which is essential to improving efficiency and providing reliable data that enables effective performance evaluation and management.

- As to the use of AI, this is an emerging area that has not been fully developed- it is shiny and attractive, but it is a field that should be approached with a great amount of caution, especially if we are attempting to assess developing and less developed countries. Although it may appear on the surface to be a driver for automation, AI requires a solid and comprehensive foundation (data and capacity) that is not yet available in many countries. In most countries, reform activities are still simply focused on automation of processes and having a comprehensive automated CMS in place. AI assumes to a great extent that automation is in place and is fully functional and also assumes that the users are willing to trust this technology. The reality is that the majority of developing countries are not there yet. Based on my ongoing work in justice reforms, I am in fact struggling with explaining to client countries that they are simply not there yet when it comes to introducing AI in the courts and that their focus should still be on ensuring that they have the proper foundation (CMS and solid legal framework) first. Including AI may make it even more difficult to make that argument and may also become a driver for hasty or bad automation that will not be sustainable nor serve the user communities in many countries. Also, assessing the use of AI may also create a wide divide between highly advanced judiciaries and all other judiciaries.

4) Ease of resolving a commercial dispute (attempts to measure accessibility and efficiency of court mechanism and time and cost)

a. Time and cost – I would add time spent enforcing judgments to the case events listed as opposed to listing it after the appellate process ; rethink including the appellate processes in this indicator (see above comment on including appeals); and clarify of you will assess pre-judgment attachment and post judgment attachment or just the latter. If you keep the appellate processes, then the cost of appeals should also be reflected/

included in the assessment. I am also not clear about the use of a case study to identify cost when a case study is not used for anything else and how you will reconcile this issue.

If you have any questions or need any clarifications , feel free to contact me anytime. I am still in Cairo on a mission but will respond with a bit of delay.

All the best, and I am looking forward to the BEE !

Omniah

On Tue, Mar 1, 2022 at 12:59 AM Oleksandra Popova <opopova2@worldbank.org> wrote:

Dear Omniah,

Thank you very much for agreeing to provide your views. We truly appreciate your expertise and are looking forward to receiving your comments. Attached you may find a Word version.

Please don't hesitate to contact me should you have any questions.

Warm regards,
Sasha (Oleksandra Popova)

From: Omniah Ebeid <omzebeid@gmail.com>
Sent: Sunday, February 27, 2022 5:53 AM
To: Oleksandra Popova <opopova2@worldbank.org>
Subject: Re: Fw: World Bank Group - Consultation Phase for the Business Enabling Environment - Dispute Resolution

[External]
Dear Oleksandra,

Thank you for email and the invitation to provide comments. Heike told me she recommended my name to your team. I appreciate this opportunity. Apologies for the delay in responding to you -I was en-route to Cairo for work. I will send you my comments and should I have any questions I will send you an email.

All the best,
Omniah

On Thu, Feb 24, 2022 at 8:57 PM Oleksandra Popova <opopova2@worldbank.org> wrote:

Dear Omniah Ebeid,

We trust this message finds you well and hope 2022 is off to a good start. Dr. Heike Gramckow suggests that we can reach out to you to seek your feedback on an important new initiative of the World Bank Group (WBG).

After the discontinuation of the Doing Business report on September 16, 2021, the Global Indicators Group in the Development Economics Vice-presidency (DECIG) of the WBG has been working on a new benchmarking exercise with the title of *Business Enabling Environment* (BEE). The primary 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. The development purpose is to advocate for policy reform and to inform research and specific policy advice.

The BEE project will include a number of topics covering the life cycle of the private firm and its participation in the market: opening, operating, and closing a business. One of such topics is Dispute Resolution, which is closely related to functioning of the judicial system.

Since this week the WBG is launching a public external consultation process to elicit feedback and contributions on the attached pre-concept note, we would like to invite you to review the chapter on Dispute Resolution (pages 42-47) and consider the value it could bring to development, judicial reforms, and research. We would be delighted to hear your views on both the overall design of the Dispute Resolution topic and any specific component of it (e.g., court automation and e-services, mediation, adding/removing specific components). Certainly, you are also free to provide comments on the project in general or any other topic.

If you and your organization are interested in providing your views for consideration by the team, please send your comments by March 8, 2022. Should you rather prefer to provide your feedback through a video call, please let us know and we will arrange it.

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Finally, please note that our team will not be able to provide written responses to specific inputs. We will, however, circulate the revised and final version of the concept note to all stakeholders who provided comments. While we will review all received comments and recommendations, we hope that you will understand that not all comments and perspectives can be incorporated into the final version of the BEE concept note.

Should you have any questions, please feel free to let us know.

We look forward to hearing from you.

Best regards,

Oleksandra Popova
Analyst, Dispute Resolution
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Comment on

Pre-Concept Note

Business Enabling Environment (BEE)

The comments are confined to the Dispute resolution aspect of the Pre-Concept Note Business Enabling Environment (BEE) (pp 41-47) henceforth referred to as the Note.

A. Commercial disputes

The Note uses the term commercial disputes as this is a self-evident category. This may not be so. For example, the term "commercial" is understood differently under *Commercial Courts Act 2015* and the *Arbitration & Conciliation Act 1996.* It would be more instructive if the term is defined and a prescriptive list of disputes be provided that would be considered "commercial" for the purpose of this Note.

B. Quality

The positive correlation between entrepreneurial activity and judicial efficiency is well established in literature and unexceptionable. However, I would like to flag some issues with how quality is being assessed.

B.1. *It is challenging to formulate a transnational methodology to compare regulations pertaining to in-court litigation.*

The Note proposes to assess Quality in two modes namely (a) In-court litigation processes (civil procedure) and (b) alternative dispute resolution processes. It is well understood that quality of judicial processes can be understood with reference to either "conformity with requirements" or "conformity with expectations".[1] The Note adopts the former measure. However, as the CEPJ document notes [2] "such a measure presupposes (i) (pre) defined quality parameters; and (ii) there must be fixed standards of quality. *When it comes to civil procedure there is a lack of international standard to which one can index the country report*. The rules of civil procedure vary vastly between legal systems and legal families. For example, Common law and civil law rules are different. Whereas common law has a plaintiff driven process the civil law opts for a judge driven process but both of them seem to yield similar good results. Private international law that guides issues like jurisdiction and choice of law are similarly not harmonized. An International best practise in litigation processes, if the same can be said to exist, is diffused in legislations, delegated legislations made by the Executive, delegated legislation by court (practise directions), rules of Bar Councils across different nations. It will be a hard task to formulate a transnational methodology to compare regulations pertaining to in-court litigation.

[1] *Measuring The Quality Of Justice*, EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE, Strasbourg, (7 December 2016), https://rm.coe.int/1680747548

[2] Ibid at para 5

B.2 *There is an over emphasis on "time factor".*

A speedy resolution of dispute is sought after quality of any judicial process. However, the it is to be noted that "time" is merely one factor. Indeed, it can be argued that civil procedure often insulates parties from party induced tactical delay. Provisions for costs and interests along with the facility for interim relief can protect parties from any party induced/tactical delay. Provided that a system has such in built rules that disincentivise tactical delay, the time factor becomes an issue of institutional capacity- whether there exist sufficient manpower, logistics and other support to bring a case to a conclusion. *It is submitted that a better measure for the quality of the judicial procedure is its ability to insulate itself from tactical delay*.

The expeditiousness of the judicial process might actually have a negative trade-off with quality. A judge pressurised in following a timetable without adequate logistics, may give an ad-hoc, sub-par judgment. In common law judgments set out the law, therefore such a decision will have a negative impact on the overall commercial law in the country.

B.3 ADR

The Note proposes to assess the quality of ADR processes in regulatory pillar. However, by ADR it means only arbitration and mediation. While these are indeed the most popular methods of dispute resolution, it must be remembered that the number of ADR processes are potentially infinite and certain other form of ADR are popular with particular industries. For example, expert consultation is popular with the construction industry, as a mode for resolution of disputes.

B.4 Alternative suggestions

The two alternate possibilities to assess the quality of the justice system is to see "justice as a service" or "base the index on justice perception.

The European Commission's EU Justice Scoreboard looks at the "justice delivery system" as a service, and creates a checklist with around 250 questions, with different weightages, creating annual overview of indicators on the efficiency, quality and independence of justice systems[3]. This is an established and well understood template. It can be adopted as it is for the current purposes.

Alternatively, it is possible to adopt a perception-based index. It is correct that perception of justice is not necessarily justice itself. However, it is to be noted that the persons involved in commercial litigation are often sophisticated and cosmopolitan "repeat players"[4] with exposure

[3] See generally *The 2021 Justice Scoreboard* (14th March 2022) https://ec.europa.eu/info/sites/default/files/eu_justice_scoreboard_2021.pdf

[4] According to Galanter, repeat players area class of litigants who are engaged in multiple litigants possibly spread over a period of time. They attain greater success in courts than one-shotters (people who engage in litigation at a one time basis) because they have greater familiarity with the court system and the laws, a relatively low risk of loss, superior resources, and "advance intelligence." See Marc Galanter, *Why the "Haves"*

to the practises in multiple jurisdictions. A survey done among commercial lawyers, corporate lawyers , commercial judges and general counsels about the general perception about the judiciary in a particular country can create a perception based index similar to the Corruption Perception Index by TI. Perception of the quality of the judiciary of a given jurisdiction is a reality in itself. Once judiciary at a jurisdiction is perceived to be efficient and high quality it boosts business confidence and is thus an enabling criterion by itself.

Another attractive idea could be to measure judicial innovation. Whereas in the Note the effort is to consider the quality of judgment, this criterion would necessarily measure the ability of judiciary to adopt to and accept different regulations and technology. This can be measured through a variety of matrices .For example one can note the average time taken for a proposal to be enacted into law (as a proxy for responsiveness) , judicial capabilities in terms of judges per million, the level of training of judicial personnel, resources devoted to the judiciary in terms of percentage of Government budget, the level of sophistication in technology , the perceived levels of corruption in the judiciary, the presence of specialised structures like International Commercial Courts and international bar that promotes innovation etc.

Come Out Ahead: Speculations on the Limits of Legal Change, IN LITIGATION: DO THE "HAVES" STILL COME OUT AHEAD? 13 (Herbert M. Kritzer & Susan Silbey ed., 2003)

To: K. Koch-Saldarriaga
From: G. Boon
Date: 8 March 2022
Re: External Consultation of World Bank Business Enabling Environment Pre-Concept Note – Business Insolvency Part

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Dear Dr. Koch-Saldarriaga,

With interest I have learned of your initiative in developing – what is currently called – the World Bank Business Enabling Environment (BEE), to replace the prior Doing Business Reports. As per your request, I have reviewed the section of the Pre-Concept Note (Note) that deals with 'Business Insolvency'. As part of your External Consultation, I set forth some of my comments, questions, and recommendations which I hope reaches you in time to be helpful.

I will first make several general remarks, before touching on the main parts of the Business Insolvency section of the Note.

A. General remarks

1. For this memo I have reviewed the 'Business Insolvency' section.[1] In addition, I have considered Section I of the Note, which sets out the objective and background to the BEE. Since the Note shows the (general) themes selected in the area of Business Insolvency, I have considered them as such, although further detailed deliberations could be given and would be useful to understand how the themes are or will be further operationalized. My comments reflect a European perspective on the matters discussed in the Business Insolvency section.

2. In the Note, I observe the importance that is attached to ensure that the BEE, as a successor of the Doing Business Report, 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).[2] Although the Note does not allow me to review the methodology to this end, I merely wish reiterate the importance of ensuring that the highest possible research standards are applied. As far as this is not already part of the proposed standards, I also recommend that adequate public disclosure mechanisms should be in place, both regarding the research methodology as developed and how it is executed in practice.

3. Figure 4 in Section I presents an overview of the BEE Topics and Cross-cutting Themes. Here Business Insolvency is positioned under the umbrella 'Closing a business'.[3] With the rise of business rescue cultures in Europe and also across the world, new procedures and reforms have been introduced which do not necessarily result in closing of the business (and dissolving the debtor as a legal person), but to promote the rescue of financially distressed but

[1] Note, p. 53-56.
[2] Note, p. 1.
[3] Note, p. 5.

economically viable businesses, whether by means of a restructuring (or reorganization) or (pre-packaged) going-concern sale.[4] Furthermore, also the Business Insolvency section itself regards both liquidation and restructuring procedures.[5] It is therefore that I recommend that the reference to 'closing a business' in Figure 4 is altered to reflect the scope of the Business Insolvency section. Possibly, this could be something like 'dealing with financial distress' or 'dealing with insolvency'.

4. The Business Insolvency section of the note emphasizes on the one hand the importance of restructuring '*within the formal bankruptcy process*',[6] while simultaneously emphasizing the emergence of pre-insolvency proceedings and specialized proceedings for MSMEs.[7] Furthermore, insolvency itself is defined broadly, including both 'liquidation and reorganization'.[8] Please consider if the use of terminology (including e.g. 'insolvency', 'bankruptcy', 'liquidation', 'reorganization', 'restructuring', but also 'proceeding', 'process')[9] could be further aligned, as the terminology used is given different interpretations in different jurisdictions and contexts.
   This may also sharpen the substantive scope of the Business Insolvency part of the BEE. Given the trend to introduce less formalised procedures,[10] the Business Insolvency indicators can gain further relevance if the indicators extend to such procedures too.

B. Quality of regulations for insolvency proceedings

5. The Note introduces six topics for reviewing the quality of regulations for insolvency proceedings. These topics are elaborated with a short description of the indicators. From the Note it cannot yet be derived why these six specific topics and indicators have been selected. Although I have observed the remark made under K of Section I, where it is understandably pointed out that several trade-offs were made, there is limited guidance on the selection of the proposed topics. In particular, in view of assessing the quality of insolvency proceedings, the World Bank, UNCITRAL and other standard-setters have developed extensive guidance and recommendations. A further clarification to this end will be helpful to specify the delineations relevant for the topics and indicators. In particular, this may elaborate why certain (also)

[4] Gert-Jan Boon & Stephan Madaus, '*Toward a European Business Rescue Culture'*, in: Jan Adriaanse & Jean-Pierre van der Rest (eds.), Turnaround Management and Bankruptcy: A Research Companion (Routledge Advances in Management and Business Studies), New York: Routledge, 2017, p. 238-258. See on the introduction of new preventive restructuring frameworks in the EU also: David C. Ehmke, Jennifer L.L. Gant, Gert-Jan Boon, Line Langkjaer & Emilie Ghio, 'The EU Preventive Restructuring Framework: a hole in one?', *International Insolvency Review*, 2019, 28(2), p. 184-209 (available at: https://onlinelibrary.wiley.com/doi/10.1002/iir.1344)..
[5] Note, p. 53.
[6] Note, p. 53.
[7] Note, p. 54.
[8] Note, p. 54.
[9] I will in this note follow mostly the terminology used in the Note.
[10] Compare for a concise global overview of recent developments, see for instance Aurelio Gurrea-Martínez, The Future of Insolvency Law in a Post-Pandemic World, *International Insolvency Review* (Forthcoming, 2022), Singapore Management University School of Law Research Paper 14/2021 (available at SSRN: https://ssrn.com/abstract=3916244).

important insolvency topics and indicators have – for good reasons – not been selected.

For your consideration, I will make some suggestions and raise questions for certain topics/features of restructuring and insolvency procedures to be a part of the selected topics and indicators.

6. Topics 2 (management of the debtor's assets) and 3 (scope of liquidation and reorganization proceedings) point at several relevant indicators, although some indicators of topic 2 could also fit within topic 3 and vice versa. For instance, both topics 2 and 3 deal with aspects of management of the assets (for instance, topic 3 does so by considering whether an insolvency representative will be appointed). This would benefit from further clarification on the scope of both topics. A change in the headings of these sections may assist in further distinguishing between both topics.

7. With respect to topic 3 (scope of liquidation and reorganization proceedings), the commentary elaborates in general on features regarding reorganization. Within Europe, key features of reorganization (preventive restructuring) have been stated to include: (i) early access to (preventive) restructuring, (ii) debtor-in-possession, (iii) availability of a temporary stay of individual enforcement actions, (iv) a restructuring plan adopted by the required majority is binding on all (affected) creditors following court confirmation, (v) availability of safeguards for new (and interim) finance, and (vi) limited court involvement.[11] Especially regarding (iii) the stay, (v) safeguards for new and interim finance, and (vi) court involvement, it is not clear if this is also part of the indicators. Furthermore, the current description elaborates on the indicators for reorganization only. With respect to liquidation, what indicators are included on the scope of liquidation proceedings?

8. Topic 3 also raises the issue of insolvency governance. Reference is made to 'how the company's management is replaced by an insolvency representative'.[12] Here, I wish to emphasise the new forms of governance introduced – at least in Europe – in implementing the EU Directive on Preventive Restructuring (2019).[13] The position of the debtor in reorganization and liquidation proceedings can take various forms, where the debtor is not either fully in possession or fully divested (out of possession). Instead, the debtor may also be partially divested.[14] I suggest that the indicator will be able to reflect these new forms of insolvency

[11] Commission Recommendation of 12 March 2014 on a new approach to business failure and insolvency (2014/135/EU), OJ L 74/65, at 6 and 7. Similar features can (already) be found in, for instance, the World Bank Principles for Effective Insolvency and Creditor/Debtor Regimes and the UNCITRAL legislative guide on Insolvency Law.
[12] Note, p. 55.
[13] Article 5 Preventive Restructuring Directive 2019 (Directive (EU) 2019/1023 of the European Parliament and the Council of 20 June 2019 on preventive restructuring frameworks, on discharge of debt and disqualifications, and on measures to increase the efficiency of procedures concerning restructuring, insolvency and discharge of debt, and amending Directive (EU) 2017/1132 (Directive on restructuring and insolvency), OJ L 172) (PRD 2019).
[14] Gert-Jan Boon, 'New Arrivals in EU Restructuring Law: the DIP and the PIFOR', *International Corporate Rescue*, 2020, 17(6), p. 426-435. See also Bob Wessels and Stephan Madaus, Instrument of the European Law Institute - Rescue of Business in Insolvency Law, 2017, par. 1.1.5 (available at SSRN: https://ssrn.com/abstract=3032309).

governance and indicate the extent to which the debtor is in possession. Furthermore, although not mentioned explicitly for topic 6, the form of insolvency governance will also be pivotal for any MSME regime and has been given specific attention, for instance by UNCITRAL in its 2021 legislative recommendations.[15]

9. The relevance of topic 4 (creditor participation) is obvious for both reorganization and liquidation proceedings. Do the indicators also extend to the information rights of creditors as well as the use of (unsecured) creditors' committees? Furthermore, to what extent is the position of shareholders – as a possibly affected party in a reorganization – considered?

C. Quality of institutional and operational infrastructure for insolvency proceedings

10. This set of indicators deals specifically with judges/courts. As the focus lies on both institutional and operational infrastructure, you may wish to also consider the operational support available to judges/courts, in particular, the extent to which judges have direct access to non-legal expertise/experts (for instance, access to financial expertise in reorganization proceedings), available both within the court and externally.

11. The institutional and operational quality of insolvency proceedings is laid down largely in the hands of courts, an important role is also performed by insolvency practitioners (or in this case also insolvency *representatives*) in this regard. The legal framework for insolvency practitioners is included as topic 5 as indicator for the quality of insolvency frameworks. At the same time, insolvency practitioners provide an important operational infrastructure for insolvency proceedings, and you may wish to extend the indicators in this regard also to them, beyond the mere legislative framework for insolvency practitioners.

D. Ease to resolve an insolvency judicial proceeding

12. Although it will remain a challenging endeavour to pursue, an accurate measure to assess and compare the time and costs involved in resolving an in-court insolvency proceeding will be helpful for further research and policy making.

E. Concluding

With the previous remarks, I hope to be of assistance in your consultation on the BEE.

I remain at your disposal should you have any questions.

Kind regards,

G. Boon

[15] See UNCITRAL Legislative Recommendations on Insolvency of MSMEs (2021).

Comments from the Centre for Responsible Business Conduct, Directorate for Financial and Enterprise Affairs, OECD

Pre-Concept Note
Business Enabling Environment (BEE)
February 4, 2022

Section I. Objective and Principles of the *Business Enabling Environment (BEE)* Project

On September 16, 2021, the World Bank Group (WBG) Senior Management 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, including the *External Panel Review* on DB methodology. Its design will also take into consideration the views of potential users in government, the private sector, and civil society through an open consultative process.

The new benchmarking exercise will be developed in the Development Economics (DEC) Global Indicators Group (where DB used to be housed). This Group will design, pilot, and implement the new benchmarking exercise, under the guidance of the WBG Chief Economist and DEC Senior Vice President. 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.

The objectives and principles of the new project for benchmarking the business environment around the world are as follows:

A. Working Title. The working title of the new project is *Business Enabling Environment*, with the acronym BEE. The title will be refined after due consideration for branding impact.

B. Intended Output. The objective of this benchmarking exercise is to provide a quantitative assessment of the business environment for private sector development. This quantitative assessment will produce granular data and a report based on these data, published with regular annual frequency and covering most economies worldwide.

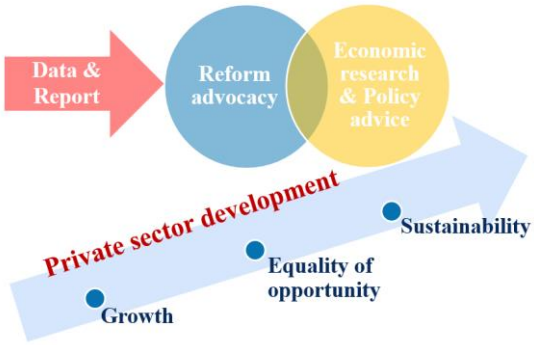
Private sector development is here defined by three characteristics: it promotes economic growth through innovation and entrepreneurship;[1] it increases equality of opportunities among market participants;[2] and it

[1] World Bank. 2004. World Development Report 2005: A Better Investment Climate for Everyone. Washington, DC: World Bank.
Commission on Growth and Development. 2008. The Growth Report: Strategies for Sustained Growth and Inclusive Development. Washington, DC: World Bank.
La Porta, R., and Shleifer, A. 2008. "The Unofficial Economy and Economic Development." Brookings Papers on Economic Activity 47 (1): 123-135.
Dabla-Norris, E., Ho, G., Kochhar, K., Kyobe, A., and Tchaidze, R. 2014. "Anchoring Growth: The Importance of Productivity-Enhancing Reforms in Emerging Market and Developing Economies." Journal of International Commerce, Economics and Policy (JICEP), World Scientific Publishing Co. Pte. Ltd., vol. 5(02), pages 1-29.
[2] World Bank. 2005. World Development Report 2006: Equity and Development. Washington, DC: World Bank.

ensures the general sustainability of the economy in the long term.[3] Private sector development is driven by the efforts and ingenuity of private entrepreneurs but is critically affected by a range of public policies and regulations that create a conducive business environment. This incentivizes the start-up of new firms, the facilitation of existing businesses, the creation of good jobs, and the transition of informal to formal firms.[4]

C. Development Purpose. BEE's granular data and summary report will aim to achieve a twofold purpose: (1) to advocate for policy reform and (2) to inform economic research and specific policy advice (Figure 1).

Figure 1. BEE Twofold Purpose towards Private Sector Development



Therefore, BEE will first 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. Second, BEE 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 should effectively contribute to meet the WBG twin goals of eliminating poverty and boosting shared prosperity.[5] 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.

D. Scope. The business environment can be defined as the set of conditions outside a firm's control that have a significant influence on how businesses behave throughout their life cycle.[6]

Commented [LD1]: As mentioned in our call: in light of this stated aim, it would enhance the methodology if sustainability in its entirety would be considered – beyond the environmental dimension (as highlighted on p. 5).
We would suggest to conceptualize sustainability in line with international agreements (ref. SDGs), adopting a comprehensive concept of sustainability. Concretely, we would suggest:

- Review the overall framing and edit accordingly for a more comprehensive scope of sustainability (section 1)
- add a stand-alone pillar on environment (like labour)
- a systematic review of the pillars to include aspects of sustainability beyond the environmental dimension, ensuring that this cross-cutting sustainability theme addresses all components of responsible businesses conduct / sustainability, not only environment

Being aware of the limitation on data, adapting the framing towards a more comprehensive concept of sustainability would not preclude limiting the scope of individual indicators, where (to date) a full application of sustainability considerations is not possible. At the same time, a comprehensive sustainability concept would provide a more rigorous framing for certain sustainability considerations beyond environmental considerations that are already included in the proposed scope (e.g., labour issues, integrity…)

In addition, note that some pillars seem already to be aligned with a broadened sustainability concept, for example the 2030 Agenda / SDGs (e.g. "Labor"), and more so than others (e.g. "Trade")

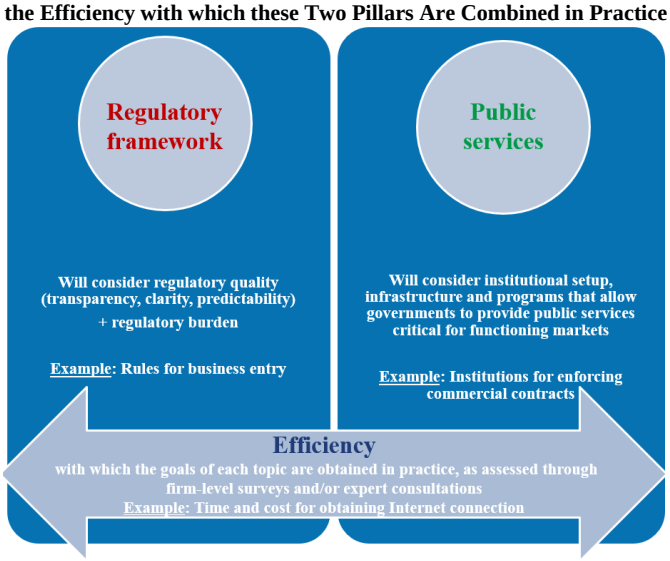
[3] World Bank. 2003. World Development Report 2003: Sustainable Development in a Dynamic World-Transforming Institutions, Growth, and Quality of Life. Washington, DC: World Bank.
Commission on Growth and Development. 2008. *Ibid.*
United Nations Conference on Trade and Development. 2020. Entrepreneurship for Sustainable Development: Report of the Secretary-General. Pursuant to General Assembly resolution 73/225. New York: United Nations.
[4] De Soto, H. 1989. The Other Path. Harper and Row Publishers Inc., New York.
Loayza, N., and Servén, L. 2010. Business Regulation and Economic Performance. Washington, DC: World Bank.
Bruhn, M., and McKenzie, D. 2014. "Entry Regulation and the Formalization of Microenterprises in Developing Countries." The World Bank Research Observer, 29(2), 186-201.
[5] Independent Evaluation Group. 2016. Private Sector Development: Recent Lessons from Independent Evaluation. Washington, DC: World Bank.
[6] World Bank. 2004. *Ibid*.
Aterido, R., Hallward-Driemeier, M., and Pagés, C. 2011. "Big Constraints to Small Firms' Growth? Business Environment and Employment Growth across Firms." Economic Development and Cultural Change, 59(3), 609–647.
United Nations Industrial Development Organization. 2017. Improving the Business Environment. Vienna: United Nations.

This set of conditions can be very large, from macroeconomic stability to microeconomic regulations. 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*** (Figure 2). Microeconomic regulations and services refer to those that are enacted and/or implemented to directly affect firms´ behavior and performance, as well as those of their markets and workers.[7]

BEE will, therefore, not cover macroeconomic conditions (for this purpose, see, for instance, *Global Economic Prospects*), government corruption and accountability (see, for instance, *Worldwide Governance Indicators*), gender (see, for instance, *Women, Business and the Law*), human capital (see, for instance, the *Human Capital Index*), or conflict, crime, and violence (see, for instance, *United Nations Office on Drugs and Crime Statistics*), to name a few.

In order to recognize the relevance of these other issues, the BEE website will feature a section on "complementary resources," with a presentation of the areas not covered by BEE and links to their most relevant data sources. This will make the BEE website a "***one-stop shop***," where people and institutions interested in the business and investment climate can readily obtain information from. This will also serve to clarify the informational gap that BEE is intended to fill, thus highlighting its value-added in the broader context of data and analysis on business and investment climate.

Figure 2. BEE Measures the Regulatory Framework and Public Service Provision, together with the Efficiency with which these Two Pillars Are Combined in Practice

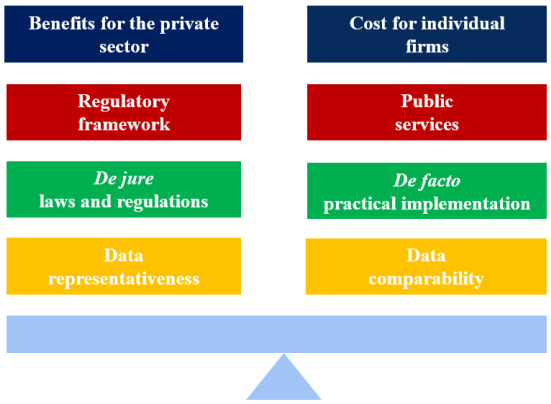


E. Approach. BEE´s approach may be best understood in contrast to DB.[8] It is an attempt to strike better balances as a business environment assessment, as recommended by the *External Panel Review* (Figure 3). First, BEE will evaluate the business environment not only from the perspective of an individual firm's ease of doing business but also from the standpoint of private sector development as a whole. Recognizing

[7] Loayza, N., Oviedo, A. M., and Servén, L. 2010. "Regulation and Microeconomic Dynamics." In Business Regulation and Economic Performance, edited by Loayza, N. and Servén, L. Washington, DC: World Bank.
[8] Appendix I provides a comparison of DB and BEE key features.

that there is a tension between the cost to individual firms and the benefits to the whole economy, BEE will include different indicators that address these different perspectives. Second, BEE will not only look at the regulatory burden but also at the provision of public services key for functioning markets. This new balance attempts to provide a more nuanced and potentially positive perspective on the role of governments in creating a conducive business environment. 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 information directly derived from firm-level surveys. Fourth, and related to the previous point, BEE will try to achieve a balance between data comparability across countries and data representativeness in a given economy. This balance can be achieved by collecting data through a combination of expert consultations and firm surveys, as well as by 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).

Figure 3. BEE Attempts to Provide a Balanced Approach when Assessing the Business Environment



F. Data Integrity and Transparency. 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. The Global Indicators Group will engage with the WBG's Group Internal Audit (GIA) unit to examine the end-to-end process of data collection and reporting, will update and expand the GIA recommendations provided in the context of DB, and will produce a *Manual and Guide* (where protocols and processes are established clearly in writing).

G. Thematic Areas or Topics. The specific topics of analysis covered by BEE are currently under development. They are organized following the life cycle of the firm and its participation in the market: opening, operating, and closing a business. 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 (Figure 4). These topics are further developed in Section II.

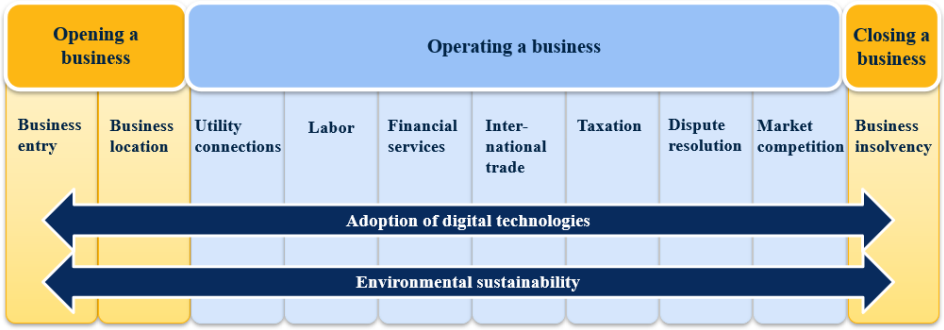
The selection of topics is guided by the twofold purpose of the BEE project of (1) advocating for policy reform and (2) informing economic research and specific policy advice. The selection will meet the following criteria:

i. **Relevance**. Based on extensive economic research (elaborated in Section II), each selected topic should have been shown to contribute to the development of the private sector, as defined earlier.

ii. **Value-added.** Each topic should fill an existing data gap. BEE should add value by producing a unique primary dataset with worldwide coverage and comparability. Value may be added, for instance, by studying new areas of an existing topic or by looking at them from an innovative perspective.

iii. **Complementarity.** Only comprehensive microeconomic reforms can have substantial effects on productivity and growth.[9] Therefore, BEE will look at a range of topics that complement each other, using the life cycle of a firm as the common thread. Only after these relevant factors are evaluated for all economies, the country-specific binding constraints can be identified and addressed.

Figure 4. Overview of BEE Topics and Cross-cutting Themes



H. Cross-cutting Themes. Together with the preliminary topics listed above, BEE will look at two cross-cutting themes relevant across topics. They are the adoption of digital technologies and environmental sustainability. On digitalization, for instance, most topics will include the assessment of electronic single windows and online one-stop shops. Likewise, on environmental sustainability, for instance, some topics will include the assessment of environmental licenses and the presence of green tax incentives.

I. Indicators. Within each topic, BEE will analyze a number of specific indicators based on the following components and criteria:

i. **Components.** For each topic, indicators will be divided in three groups, the first two representing the regulatory and public service pillars, and the third measuring the efficacy with which the two pillars are combined in practice.

- ***Regulatory framework:*** 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.

[9] Bergoeing, R. Loayza, N., and Piguillem F. 2016. The Whole Is Greater than the Sum of Its Parts: Complementary Reforms to Address Microeconomic Distortions. Washington, DC: World Bank.

Commented [LD2]: As mentioned above, suggestion to reconsider whether a broader scope of sustainability wouldn't enhance the methodology. Considerations to take into account:
- Increasing regulation on social aspects of sustainability affecting businesses – e.g.:
  - Proposed: EU mandatory Due Diligence Directive
  - NO Mandatory Human Rights Due diligence Law
  - DE Supply Chain Law
  - NL Child Labour Due Diligence Law
  - AU Modern Slavery Bill
  - EU Directive on Non-Financial Reporting
  - EU Conflict Minerals Regulation
  - DE CSR Directive Implementation Act
  - FR Corporate Duty of Vigilance Law
  - UK Modern Slavery Act
  - US Dodd-Frank Act (conflict minerals)
  - California Transparency Act
  - UK Bribery Act
- Trade and investment agreements increasingly include sustainability chapters and responsible business conduct clauses, requiring businesses to follow sustainability in its broadest sense
- Consumers are increasingly paying attention to social aspects of sustainability and businesses are responding.

- ***Public services:*** will consider the institutional setup, infrastructure, and programs that allow governments to provide directly or through private firms the public services critical for functioning markets.

- ***Overall efficiency:*** will measure the efficiency with which the goals of each topic are obtained in practice as experienced by the private sector. It will be assessed through firm-level surveys and/or expert consultations.

ii. **Criteria.** The selection of indicators will be guided by the following criteria:

- **Balanced approach between *de jure* and *de facto* indicators within each topic.** *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.

- **Balanced approach between indicators focused on individual firms and indicators focused on the private sector as whole.** Certain BEE indicators may be more targeted at assessing the business environment from the perspective of an individual firm (e.g., indicators on the efficiency of implementation of utility connections). Other BEE indicators may be more focused on the general private sector. This later group of indicators will account for equality of opportunities across markets participants as well as for the growth and sustainability of the private sector as whole, beyond an individual firm's interest (e.g., environmental standards for utility connections).

- **Indicators should be seen as good proxies and not expected to be exhaustive**. Indicators should 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 team's resources and likely not be cost-efficient. Moreover, 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. As such, they are beyond the scope of BEE.

- **Indicators should be quantifiable, based on primary data, and actionable.** They will focus on areas that can be measured in an objective and comparable manner across countries. Since the aim of BEE is to produce primary data, indicators should be designed in a way that they can be collected through a combination of expert consultations and firm surveys. Indicators should also be actionable; that is, they should be amenable to reform through government policies. To the extent possible, indicators should focus on areas where there is an established "good-practice" to facilitate comparisons.

Details on the indicators are developed in Section II and summarized in Appendix II.

J. Scoring. Quantifying business environment conditions into corresponding measurable indicators is critical for this benchmarking exercise. 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. Aligned with the recommendations provided by the *External Panel Review* and the WBG Independent Evaluation Group,[10] BEE will explore different ways of presenting summary information for

[10] Independent Evaluation Group. 2013. Independent Panel Review of the Doing Business Report. Washington, DC: World Bank.

maximizing public interest and motivating reforms (e.g., distance-to-frontier scoring, grouping by quintiles, and scoring per topic).

K. Trade-offs. The BEE project acknowledges that the current approach faces some trade-offs in relation to its broader focus on the private sector, limited scope of the business environment, use of proxy measures, and treatment of incumbent vs. potential entrant firms. These are detailed in Table 1.

Table 1: Trade-offs Faced by the BEE Project

	Advantages	Limitations	Solutions
Focus on private sector development	BEE assesses business regulations affecting private sector development as a whole.	BEE will not necessarily assess business regulations only affecting individual enterprises.	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.
Limited scope in the topics assessed for the business environment	BEE focuses on producing unique primary data in a limited number of areas relevant for private sector development where BEE adds value.	BEE does not include all aspects that could affect private sector development; for instance, macroeconomic conditions, corruption, or gender equality are not included.	The BEE website will feature a section on complementary resources, with well-established international measures (e.g., corruption from *Worldwide Governance Indicators*), which interested people and institutions can consider and access.
Indicators are proxies	Indicators focus on the regulatory framework and the provision of public services relevant for the topic and should be seen as proxies that span most relevant areas for the business environment.	Indicators are not exhaustive and certain details and areas for the firm and the market will not be covered.	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.
Limited use of standardized case scenarios	Makes data more representative across firms and sectors within the economy.	May potentially limit the level of details that can be collected and compared across economies.	Use a combination of expert consultation and firm-level surveys as needed. Besides, BEE will add a set of parameters to ensure comparability of data as needed (e.g., type of utility connection).

Entrants vs. incumbent firms	For topics related to operating a business, BEE collects data through a combination of expert consultations and firm surveys among incumbent companies.	May potentially underestimate entry and exit barriers by focusing on firms that are currently operating in the market.	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.

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The rest of the pre-concept note is organized as follows. Section II presents BEE's topics, their motivation and grounding in the literature, and their corresponding indicators. The topics are organized following the life cycle of the firm: opening, operating, and closing a business. For each topic, the indicators are grouped into three categories: regulations, public services, and efficiency of implementation. And for each indicator, the type of measure (*de jure* or *de facto*) and the mode of data collection are indicated. Section III briefly introduces some features of implementation of the project, namely, the data collection approach and the required skill set. It also includes a proposed timetable for the project.

The pre-concept note represents work-in-progress. It is intended to elicit feedback and inputs from experts around the WBG and other development institutions, as well as civil society and private sector organizations, academics and practitioners. These inputs will be incorporated in a Concept Note to be circulated in a formal Bank-Wide Review in late-March and discussed in the Bank-Wide Review Meeting in April 2022, chaired by WBG Chief Economist and DEC Senior Vice President.

Section II. Topics, Motivation, and Corresponding Indicators

D. Labor

Commented [LD3]: As mentioned when we spoke, we believe that expanding this area to include workers' rights considerations is commendable; we welcome this focus.

1. Motivation

Labor markets, along with the policies and institutions that shape them, play a key role in private sector development. Employment protection legislation – the regulation of hiring and dismissal of workers – matters for all firms and employees regardless of the sector they operate in. 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. From the perspective of employees, employment protection legislation can help them obtain job security in a safe workplace, protection from discriminatory practices as well as social protection. As the world evolves and many countries face a growing workforce and changes in the composition of labor, it is important for countries to update their regulations so that the labor market is inclusive while allowing firms to run their businesses efficiently, while complying with internationally recognized labor standards.[11] Many studies point to the association between rigid labor market regulation and higher levels of unemployment (especially among vulnerable groups[12]) and informality[13], along with reduced levels of productivity[14] and economic growth.[15]

Public policies and services matter too. Unemployment insurance schemes, healthcare plans, retirement pensions, public employment services all influence the interaction between employees and employers. Without protection, employed individuals face many risks, including out-of-work poverty.[16] However, if protections are too taxing on firms' budget, they may have unintended negative effects and further encourage informality, as they alter the incentives of employers to hire workers formally. The combination of market flexibility with broad and effective social protection encourages firm formalization and decreases both employer and employee vulnerability to shocks.[17]

To better assess the labor market, the BEE indicators will capture the segmentation arising from differences in regulations applying to different contractual arrangements (permanent vs. temporary work) or types of workers (migrant vs. non-migrant), and from the lack of enforcement (formal vs. informal sector). BEE

[11] (i) Wandner, Stephen A., David E. Balducchi, and Christopher J. O'Leary. 2018. "Public Employment Policy for an Aging Workforce." *Gerontology and Geriatric Medicine* 4: 1-13; (ii) Malo, Miguel. 2018. "Finding proactive features in labour market policies: A reflection based on evidence". ILO Future of Work Research Paper Series. ILO, Geneva.

[12] (i) Montenegro, Claudio, and Carmen Pagés. 2003. "Who Benefits from Labor Market Regulations?" Policy Research Working Paper 3143. World Bank, Washington DC.; (ii) Kahn, Lawrence. 2012. "Labor Market Policy: A Comparative View on the Costs and Benefits of Labor Market Flexibility." *Journal of Policy Analysis and Management* 31: 94-110; (iii) Kugler, Adriana, Juan F. Jimeno, and Virginia Hernanz. 2005. "Employment Consequences of Restrictive Permanent Contracts: Evidence from Spanish Labor Market Reforms." Discussion Paper 657. Institute for the Study of labor (IZA), Germany.

[13] (i) Sharma, Siddharth. 2009. "Entry Regulation, Labor Laws and Informality." Working Paper 48927. World Bank, Washington, DC; (ii) La Porta, Rafael, and Andrei Shleifer. 2008. "The Unofficial Economy and Economic Development." *Brookings Papers on Economic Activity* 39: 275-352; (iii) Loayza, Norman, Ana Maria Oviedo and Luis Serven. 2012. *The Impact of Regulation on Growth and Informality: Cross Country Evidence*. Washington, DC: World Bank.

[14] (i) Martin, John, and Stefano Scarpetta. 2012. "Setting It Right: Employment Protection, Labour Reallocation and Productivity." *De Economist* 160(2): 89-116; (ii) Bassanini, Andrea, Luca Nunziata, and Danielle Venn. 2009. "Job Protection Legislation and Productivity Growth in OECD Countries." *Economic Policy* 24(58): 349-402.

[15] Loayza, Norman, Ana Maria Oviedo and Luis Serven. 2012. *The Impact of Regulation on Growth and Informality: Cross Country Evidence.* Washington, DC: World Bank.

[16] Acemoglu, D., 2001. "Good jobs versus bad jobs." *Journal of Labor Economics* 19(1): 1-21.

[17] Loayza, Norman. 2018. "Informality: Why Is It So Widespread and How Can It Be Reduced?" World Bank Research and Policy Briefs, World Bank, Washington DC.

will also assess some aspects of labor disputes, as better compliance with mandated benefits makes it attractive to be a formal employee, inducing informal workers to move to the formal sector.[18]

2. Indicators in the area of Labor

BEE uses a set of three indicators in the area of labor: (a) the quality of labor regulations (regulatory pillar); (b) the adequacy of public services for the labor market (public services pillar); and (c) the ease of employing labor which assesses how the two pillars (regulatory and public services) contribute in practice to the efficient functioning of labor markets from the perspective of both the firm and the employee.

The indicators will measure labor regulations and public services as they apply to different types of workers in different contractual arrangements, including but not limited to permanent, fixed-term employment, self-employed, and foreign workers. This is to understand how the policy and practice vary depending on the type of workers, as well as how countries address labor market segmentation.

In contrast to the former *Doing Business* Employing Workers topic[19], BEE will consider more explicitly the perspective of employees. It will offer a more balanced view, by including indicators on workers' protection (unemployment insurance, healthcare, pension), decent working conditions (rights at work, social dialogue, and others) and public services, in addition to the data on labor market flexibility. Another important addition is the efficiency component which will collect data directly from firms to understand how rules and regulations are applied in practice. Finally, unlike *Doing Business* the BEE indicators will include different types of firms and workers, including workers on different types of employment contracts.

a. Quality of labor regulations

This set of *de jure* indicators will measure the regulation of employment, applying to businesses, in terms of (1) workers' protection, and (2) restrictions on hiring, working hours and redundancy. Data for these *de jure* indicators will be collected through expert consultations with labor lawyers. No case study will be used to collect these data, but some assumptions may be included to ensure comparability of data across countries.

(1) Workers' protection – This indicator assesses whether the applicable regulatory framework includes good practices promoting a safe, secure, and non-discriminating workplace environment. Economies where employees feel protected, and their rights respected, tend to have higher levels of productivity.[20] The workers' protection indicator will measure regulations that guarantee employee protection and decent working conditions in accordance with international labor standards. These areas will cover the availability of minimum wage and equal remuneration for work of equal value, non-discrimination at the workplace (race, color, religion, sex, age, or national origin), workers' right to organize and collective bargaining, safe and healthy working conditions, and the right to annual leave and family leave. This indicator will build on applicable International Labor Standards drawn up by the ILO, in relation also to the 2030 Agenda for Sustainable Development and previous research on good practices conducted by the World Bank Group individually, and in cooperation with OECD, ILO, and other institutions.[21]

[18] Almeida, Rita, and Pedro Carneiro. 2012. "Enforcement of Labor Regulation and Informality." *American Economic Journal: Applied Economics*, 4(3): 64-89.
[19] Employing Workers used to be part of *Doing Business*. 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.
[20] World Bank. 2012. *World Development Report 2013: Jobs*. World Bank, Washington, DC.
[21] ILO. 1998. "ILO Declaration on Fundamental Principles and Rights at Work" Recommendation and Resolutions adopted by the International Labour Conference, 86th Session, Geneva.

(2) *Employment restrictions* – This indicator will assess flexibility in hiring, work scheduling, and dismissal of employees. Restrictions in the regulation of employment can prevent businesses to respond to changes and economic shocks, lead to misallocation of companies' resources and leave some categories of workers vulnerable (young, female or less experienced workers, in particular). This indicator will build on OECD, IMF, and World Bank research on labor market flexibility.[22] The flexibility in hiring will be measured across different types of contracts and probationary periods. Working hours will be measured through working hours per day/week, restrictions, and premiums for work during irregular working hours, such as night work or work on rest days. Rules and statutory cost on dismissals will be measured through notification and approval requirements, as well as through the regulation of notice period and severance payment.

b. Adequacy of public services for the labor market

This set of indicators will provide selected *de facto* measures of public services affecting the private sector with respect to: (1) workers' social protection, (2) public employment services and (3) individual labor dispute resolution. Data for these indicators will be collected through expert consultations with labor lawyers, labor bureaus, and labor ministries, and can be corroborated by desk research.

(1) *Workers' social protections* – This indicator will assess aspects of social protections available to workers, with a focus on unemployment insurance, healthcare, and pension. For instance, it will determine the availability, type and level (e.g., duration and amount) of unemployment insurance, regardless of the type of contract, Similarly, the indicator will assess the availability of health care and pension as an employee benefit for different types of workers, including access of informal workers to social security.

(2) *Public employment services* – This indicator will assess public employment services that promote participation in the labor force and help workers match to employment opportunities, including but not limited to employment services, job search assistance, job training programs, and employment subsidies. The indicator will also measure the extent of digitalization of public employment services through the assessment of digital job-seeking platforms. These platforms can take different forms, including online vacancy databases or workforce sharing platforms that connect businesses through a temporary workforce exchange.[23]

(3) *Individual labor dispute resolution* – This indicator will assess the availability of public services provided for resolution of individual labor disputes arising from day-to-day workers' grievance and complaints.[24] It will also assess the availability of administrative bodies and/or government programs that educate workers about their rights. 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,

[22] (i) Froy, F., et al. 2011, "Building Flexibility and Accountability Into Local Employment Services: Synthesis of OECD Studies in Belgium, Canada, Denmark and the Netherlands", OECD Local Economic and Employment Development (LEED) Papers 2011/10. OECD, Paris; (ii) Bernal-Verdugo, Lorenzo E., Furceri, Davide, and Guillaume, Dominique M. 2012. "Labor Market Flexibility and Unemployment: New Empirical Evidence of Static and Dynamic Effects". IMF Working Paper 12/64. IMF, Washington, DC; (iii) Betcherman, Gordon. 2014. "Labor Market Regulations: What Do We Know about Their Impacts in Developing Countries?" Policy Research Working Paper 6819. World Bank, Washington, DC.

[23] European Commission: Directorate-General for Employment Social Affairs and Inclusion European Network of Public Employment Services. 2020. "PES measures and activities responding to Covid-19. Survey-based study", European Union.

[24] ILO Recommendation No. 130 (1967) states that a complaint may arise over "any measure or situation which concerns the relations between employer and worker or which affects or may affect the conditions of employment of one or several workers in the undertaking when that measure or situation appears contrary to provisions of an applicable collective agreement or of an individual contract of employment, to works rules, to laws or regulations or to the custom or usage of the occupation, branch of economic activity or country, regard being had to principles of good faith".

inspectorates, departments of labor) that provide consultations, administrative guidance and settlement of labor disputes between employers and employees.

c. Ease of employing labor

This is a set of *de facto* indicators that will measure how efficiently labor regulation and public services are implemented in practice, informing on the realization of the policy objectives (e.g., flexibility for businesses, protection of basic rights for employees, and access to the job market for the unemployed). More specifically, by relying on the experience of firms and expertise of local practitioners, it will measure the enforcement of labor and social protection laws as well as the efficiency and coverage of public employment services for job seekers. The indicators will also assess the *de facto* availability and frequency of labor inspections as well as the efficiency of public employment centers.

Questions about compliance with working hours, non-wage costs, and labor inspections will be addressed to firms because such questions directly relate to their everyday operations. Hence, firms are better positioned to provide high-quality data in these areas. 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. This is because firms may either be reluctant to respond due to the delicate nature of an issue (discriminatory practices) or simply have little experience to comment on certain topics (quality of training programs for unemployed). In such cases, we assume that expert consultations would be a more reliable source of data.

Commented [LD4]: While we understand that this indicator will be further developed, we would highlight the importance of ensuring that this indicator (focusing on implementation) meaningfully takes into account whether the labor rights assessed "de iure" under the first part of the indicator ("quality of labor regulations") are implemented according to the law.

E. Financial services

1. Motivation

Even the most brilliant business idea can remain just that – an idea – with the lack of proper financing. Access to finance remains a major constraint for almost a quarter of firms worldwide,[25] despite being essential for a firm's operations, being positively associated with firm innovation, [26] and directly contributing to a firm's resilience – which was especially accentuated during the recent pandemic.[27] Moreover, research has shown that private sector financing in developing economies has positive macroeconomic effects as employment rates can benefit from firms' improved access to finance.[28]

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 framework and the availability of information services also affect the operation of credit markets and the likelihood that firms will obtain financing. Access to finance may be restrictive when only immovable assets can act as collateral. Countries with a modern secured transactions system, where movable assets are commonly used as collateral, offer more access to credit to borrowers at affordable rates.[29] Moreover, to enable financing, lenders require adequate access to borrowers' credit information to overcome information asymmetries. Sharing such information in the form of credit reporting reduces lenders' uncertainty about borrowers' total debt exposure, increases the availability of credit and lowers interest rates.[30] Accessible financing plays an important role in maintaining a company's financial stability. Removing bottlenecks associated with making and receiving payments further strengthen firms' financial security. In recent years, electronic payments have become more widespread for different types of government payments and collections.[31] However, the ever-increasing digitization of the economy requires proper regulation of electronic monetary solutions to reap the benefits of technological progress. This would enable the extensive use of electronic payments, which is associated with reduced tax evasion[32] and lower informality[33] in the private sector.

Commented [LD5]: An overarching comment / food for thought: OECD RBC standards are increasingly referenced in sustainable finance regulations and are used in a growing numbers of instruments (i.e. taxonomy, SFDR, ECB guidelines on climate reporting and risk management). In this context, due diligence can bring consistency to these different green finance products.

Commented [MBD6]: The OECD has developed an number of guidance to support institutional investors to conduct due diligence in their investment or in ways in which they manage their portfolio to make sure these are "responsible investments".

Commented [MBD7]: Increasingly, lenders are also looking at non-financial information or ESG information to make informed investment decisions.
Looking at existing non-financial reporting frameworks based on robust international standards – could be something to consider.

[25] World Bank. *Enterprise Surveys* database: https://www.enterprisesurveys.org/en/enterprisesurveys.
[26] Wellalage, Nirosha Hewa, and Stuart Locke. 2020. "Formal Credit and Innovation: Is There a Uniform Relationship across Types of Innovation?" *International Review of Economics & Finance* 70: 1-15.
Wellalage, Nirosha Hewa, and Viviana Fernandez. 2019. "Innovation and SME Finance: Evidence from Developing Countries." *International Review of Financial Analysis* 66: 101370.
Qi, Shusen, and Steven Ongena. 2019. "Fuel the Engine: Bank Credit and Firm Innovation." *Journal of Financial Services Research* 57(2): 115-147.
[27] Amin, Mohammad, and Domenico Viganola. 2021. "Does Better Access to Finance Help Firms Deal with the COVID-19 Pandemic? Evidence from Firm-Level Survey Data." Policy Research Working Paper 9697. Washington, DC: World Bank.
Hu, Shiwei, and Yuyao Zhang. 2021. "COVID-19 Pandemic and Firm Performance: Cross-country Evidence." *International Review of Economics & Finance* 74: 365-372.
[28] Meghana Ayyagari, Pedro Juarros, Maria Soledad Martinez Peria, and Sandeep Singh. 2021. "Access to Finance and Job Growth: Firm-Level Evidence across Developing Countries." *Review of Finance* 25 (5): 1473-1496.
Siemer, Michael. 2019. "Employment Effects of Financial Constraints during the Great Recession." *Review of Economics and Statistics* 101: 16-29.
[29] World Bank Group. 2015. *Credit Reporting: Knowledge Guide (English).* Washington, DC: World Bank Group.
[30] Brown, Martin, Tullio Jappelli, and Marco Pagano. 2009. "Information Sharing and Credit: Firm-Level Evidence from Transition Countries." *Journal of Financial Intermediation* 18: 151-172.
Martinez Peria, Maria Soledad, and Singh, Sandeep. 2014. "The Impact of Credit Information Sharing Reforms on Firm Financing." Policy Research Working Paper 7013. Washington, DC: World Bank.
[31] World Bank Group. 2020. *Payment Systems Worldwide: Summary Outcomes of the Fifth Global Payment Systems Survey: A Snapshot (English).* Washington, DC: World Bank Group.
[32] Immordino, Giovanni, and Francesco Flaviano Russo. 2018. "Cashless Payments and Tax Evasion." *European Journal of Political Economy* 55: 36-43.
[33] Këlliçi, Erdet, and Indrit Baholli. 2015. "Mobile Payments, Driving Economies in Development Countries Toward Less Risky Transactions and Lowering Informality." *European Academic Research* 3 (1): 572-588.

2. Indicators in the area of financial services

BEE uses three sets of indicators in the area of financial services: (a) the quality of regulations for secured transactions, e-payments, and green financing (regulatory pillar); (b) the quality of credit reporting framework, including scope and availability of credit information distributed through credit bureaus and registries, as well as availability and functionality of a collateral registry (public services pillar); and (c) the ease of receiving financial services (combination of regulatory and public services pillars). While the area of financial services can be very broad and different types of firms may hold interest in different types of financing, the selected measures are identified as broadly relevant to private sector as a whole, irrespective of companies' size, legal structure, ownership, and other specific factors.

The Financial Services topic incorporates the *Doing Business* Getting Credit topic and adds four new components. The quality of regulations for secured transactions component remains the same as it was in *Doing Business*. The quality of reporting framework for operationalization of credit bureaus and registries additionally captures the data exchange between credit reporting service providers (CRSPs) and potentially reassesses the criteria for scoring eligibility[34] when multiple CRSP operate. Similarly, the quality of reporting framework for operationalization of collateral registries component introduces the data for the cost of recording a collateral, the frequency of updates, and potentially usage data (subject to availability). The remaining four components (quality of regulations for electronic payments, quality of regulations for green financing, ease of obtaining a loan, and ease of making an e-payment) are new and are not based on *Doing Business* methodology. Each of these measures are discussed in detail below.

a. Quality of regulations for secured transactions, e-payments, and green financing

This indicator set will measure the quality of regulations (*de jure* elements) for secured transactions, e-payments, and green financing in each economy, and how they compare to internationally recognized good practices. The following will be the indicator set's three components:

(1) 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. It will

[34] BEE will explore recording CRSPs features as long as they are applicable to any of the credit bureau or registries operating in the economy that meet a certain coverage threshold. Such coverage threshold will be defined at a later stage.

also analyze the possibility of agreeing to out-of-court enforcement of the security interest and to both seize and sell the encumbered asset through public and/or private auction or, if agreed, that the secured creditor would take the asset in satisfaction of the obligation.

(2) *Electronic payments* – Although relatively new, electronic payments are becoming increasingly widespread as they allow faster and more flexible transactions. Furthermore, digital transactions enable an entire novel type of businesses that operate in e-commerce and help stimulate economic growth.[35] At the same time, e-payments do not exist in a vacuum and are a part of a larger payments system. Therefore, while BEE focuses on e-payments, the data will also include aspects that are applicable for banking and traditional payments in general.

Electronic payments commence with a payment order issued using a digital device and involve several parties: the payer and the recipient, as well as payment processors that act as service providers. Sound regulatory framework around e-payments that promotes financial inclusion is based on the following principles:[36] (i) robust risk management (including through the supervision/oversight of the service providers); (ii) protection of customer funds (including regulation of erroneous and fraudulent transactions); (iii) transparency of fees, terms, and conditions; (iv) availability of solid recourse and dispute resolution mechanism; (v) wide accessibility that does not hinder the integrity of financial system (including interoperability requirements and non-exclusivity conditions); (vi) and promotion of competition among the service providers, instruments, products, business models and channels.

Data will be assessed through these six principles. This component focuses on good regulatory practices in domestic e-payments although typically such a legal framework would extend to cross-border e-payments as well. Data for this *de-jure* component will be collected through expert consultations (for example, financial lawyers and commercial banks) complemented by the reading of the law.

(3) *Green financing* – Green financing acts as a catalyst of an environmentally sustainable economy by shifting investments into green technology and sustainable projects (for instance, renewable energy, recycling, green infrastructure).[37] The Network for Greening the Financial System stresses the importance of green financing instruments (such as green bonds and green loans) in the transition toward sustainable finance.[38] The proliferation and use of these instruments have significantly expanded in the recent years in response to addressing sustainable development goals (SDGs). For example, the green bonds market is estimated to be worth $2.36 trillion by 2023.[39] The use of green bonds improves a firm's operational and equity performance, green innovations, value creation, investment potential, stock returns and liquidity.[40]

This component will measure: (i) sustainable finance regulation following the framework developed by the UNEP Inquiry and the Green Finance Platform;[41] (ii) good practices related to green bonds

Commented [MBD8]: I would in particular look at financial disclosure regulations and corporate disclosure regulations, stewardship and fiduciary duty rules, and ESG/RBC risk management requirements (or ideally due diligence) for investors.
I would in particular focus on the ESG data issue – as we are currently seeing a lack of consistent, comparable and credible data from the financial sector and corporate on their ESG/climate risks and impacts.

[35] Zandi, Mark, Virendra Singh, and Justin Irving. 2013. "The Impact of Electronic Payments on Economic Growth." *Moody's Analytics: Economic and Consumer Credit Analytics* 217(2).
[36] World Bank Group. 2020. *Payment Aspects of Financial Inclusion in the Fintech Era.* Washington, DC: World Bank Group. World Bank Group. 2020. *Digital Financial Services*. Washington, DC: World Bank Group.
[37] Gilchrist, David, Jing Yu, and Rui Zhong. 2021. "The Limits of Green Finance: A Survey of Literature in the Context of Green Bonds and Green Loans." *Sustainability* 13(478).
[38] Network for Greening the Financial System (NGFS). 2019. *A Sustainable and Responsible Investment Guide for Central Banks' Portfolio Management*. NGFS Secretariat.
[39] World Economic Forum. 2020. "What Is Green Finance and Why Is It Important?" https://www.weforum.org/agenda/2020/11/what-is-green-finance/.
[40] Tang, Dragon Yongjun, and Yupu Zhang. 2020. "Do Shareholders Benefit from Green Bonds?" *Journal of Corporate Finance* 61: 101427.
[41] Green Finance Platform. 2021. Green Finance Measures Database. Technical Note: https://www.greenfinanceplatform.org/sites/all/themes/f1omega/f1gfp/images/Technical%20Note%20-%20GFMD.pdf.

issuance, such as those defined by the Sustainability Bond Guidelines published by the International Capital Markets Association;[42] (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.

Commented [MBD9]: While Green and sustainability-linked bonds are a useful tool to finance the transition to low-carbon economy – they are not sufficient yet to align with the SDGs and Paris Agreement Goals. I would ideally look at the country nationally determined contributions, high-emitting industries net-zero pathways and transition plans – and the detailed and robustness of such plans. Looking at regulation around carbon pricing would also be interesting.

b. Quality of credit reporting framework

This indicator set will measure the quality of the credit reporting framework, which seeks to reflect the *de facto* elements in each economy and focuses on relevant proxies measuring the functioning of institutions providing public services. In that sense, the indicator set will assess how CRSPs, such as credit bureaus or credit registries, and collateral registries operate. The indicator set will have two components:

(1) Operationalization of credit bureaus and registries – Credit bureaus and registries[43] collect data on the credit history of individuals and firms and share it in the form of credit reports and additional services to improve the efficiency of the lending process, by reducing information asymmetries. By accessing borrowers' credit information, lenders can better understand lending risks associated with each potential borrower. The quality of the credit reporting framework measures the availability of CRSPs and the scope of the data and services they offer. This component of the indicator set measures whether an operational and modern credit bureau or credit registry is operational and provides data on the borrowing history of individuals and firms through credit reports. It evaluates whether the CRSPs: (i) provide sufficient information to inform lending decisions (positive and negative data, a minimum amount of historical data); (ii) complement traditional finance data (banks and other financial institutions) with alternative data (telecom, retailers, utilities, rent) that help borrowers with limited credit history to build their records; and (iii) follow good practices regarding the rights of borrowers to access their own financial records (the right to consult own credit reports for free, the possibility of receiving notifications of negative information being reported to the credit bureau or registry, and the right to rectify data in case of discrepancies).

In addition, the component collects information on the data exchange between different CRSPs, and the availability of value-added services, such as credit scores, that facilitate the evaluation of the creditworthiness of potential borrowers. To capture the extent of usage of the credit information services, standardized[44] data on the share of issued credit reports will be published for information purposes. Because of its nature, the component combines *de jure* and *de facto* data. For example, for borrowers' rights to access their own credit data, two criteria must be met: (i) borrowers have a specified legal right to access their data, and (ii) such access is available in practice and affordable.[45] Data for this component will be collected through consultations with CRSPs.

(2) Operationalization of collateral registries – Collateral registries are publicly available databases of interests in moveable assets by incorporated and nonincorporated entities. They support the legal

[42] International Capital Markets Association. 2021. Green Bond Principles. https://www.icmagroup.org/sustainable-finance/the-principles-guidelines-and-handbooks/sustainability-bond-guidelines-sbg/.
[43] Credit bureaus and registries differ in terms of their ownership with the former generally being privately owned companies and the latter established by the government in the majority of cases, usually under the management of the central bank or the banking supervision authority. Regardless of the ownership structure, as CRSPs both types of organizations can serve the same role by providing information on borrower's histories that assist creditors in their lending decisions.
[44] Since economies have different population and CRSPs coverage rates, the usage data will be normalized by calculating the average number of reports issued on one borrower covered by the CRSP. In combination with the coverage rate (expressed as a percentage of adult population) these data will allow to understand the extent to which CRSP services are used.
[45] Following the *Doing Business* approach, access is considered affordable if it costs less that 1% of GNI per capita.

framework of security rights in movable assets by facilitating awareness of both their existence and establishing priority based on the time of registration.[46] Functioning collateral registries further enable lenders to assess risks when the borrower intents 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 noticed-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).

c. Ease of receiving financial services

This indicator set will measure the time and cost (*de facto* elements) to obtain a loan and make an e-payment in each economy. This measure of efficiency serves as a proxy for the efficiency of receiving financial services. The following will be the indicator set's two components:

(1) Making an e-payment – This *de facto* component measures the time and cost required to make an electronic payment through each of the following four methods: internet banking, mobile banking, e-money, and payment cards. Each of these four types of payments will be assessed twice: assuming a business-to-business (B2B) transaction and assuming a person-to-business (P2B) transaction. The time estimate will capture the entire process – from the moment of submitting a payment to its full clearance and complete release of funds (i.e., until the recipient has received and is able to use the funds). The cost will be recorded as a share of the transaction amount. Data will be collected using firm-level surveys.

(2) Obtaining a loan – This *de facto* component measures the time and cost required for a firm to obtain a loan. Firm-level surveys will provide factual data on loans that firms have recently obtained. To allow for comparability, the collected data will provide additional information regarding key characteristics of the loans, such as the source of financing, the purpose of the loan, the period and amount of the loan, whether collateral was used, etc. The component will focus on domestic loans provided by commercial banks, and it may collect data on loans received from both public and private banks.

The component will capture the time to prepare the loan application (including the time to obtain a credit report, gather financial records, secure collateral or a personal guarantee and fill out the application forms) and the time for the application to be evaluated and approved by the lender. The cost for obtaining a loan will include components such as the applicable fees and any additional expenses to secure the loan. The cost will be recorded as a share of the loan. Both time and cost will be normalized to account for variation in the loan value and repayment times.

[46] Alvarez de la Campa, Alejandro. 2011. "Increasing Access to Credit through Reforming Secured Transactions in the MENA Region." Policy Research Working Paper 5613. Washington, DC: World Bank.

F. International trade

1. Motivation

International trade is a key driver of economic growth and plays a decisive role in the promotion of private sector development. The private sector is impacted by an economy's openness to international trade through a multitude of channels, as covered by an extensive body of literature. The first of these channels lies at the origin of trade theory, as engaging with the global market brings about increased competition with foreign firms, both domestically and abroad, which leads to domestic firm specialization in areas of comparative advantage and the reallocation of resources to the most productive firms.[47] To remain competitive, firms need to continuously adapt, innovate, and improve their efficiency, resulting in aggregate productivity growth. Trade openness generates further productivity gains as it allows firms to overcome the limitations of their domestic markets, creating economies of scale, and providing access to cheaper intermediate inputs of higher quality and higher variety.[48] In addition, international trade flows enable domestic firms to take advantage of knowledge and technology transfers as they interact in the global market.[49] Lastly, research also shows that firms that participate in international trade tend to be larger and more productive.[50]

An enabling environment for the private sector must, thus, be conducive for firms to actively compete in the global economy by minimizing trade related costs. In the complex context of international trade, there are several aspects of the business environment that may affect firms' participation and performance in the global market. First, the regulatory framework may serve as a powerful catalyst to participate in international trade. In the era of the global economy, and especially after the digital acceleration caused by the COVID-19 pandemic, firms' competitiveness depends on whether the regulatory framework can adapt to the evolving context and establish a transparent, predictable, and safe environment for the potential of trade, including e-commerce, to be harnessed. Conversely, restrictive regulations create market distortions, such as those imposed by stringent non-tariff measures, fees, or redundant processes, and have a negative impact on trade.[51] Moreover, international trade regulations may fulfill an important role in promoting green goods and technologies that aim to mitigate climate change and reduce greenhouse gas emissions. Second, governments can provide public services to streamline trade procedures and allow the private sector to maximize the benefits and/or minimize the restrictions provided by regulations. These trade facilitation efforts increase participation in international trade for both small and large firms.[52] Finally, the time and costs borne by the private sector when complying with trade regulations and using the implemented public services may hinder its ability to access the global market, representing a substantial barrier to trade.[53]

2. Indicators in the area of international trade

BEE uses three sets of indicators in the area of international trade: (a) the quality of regulations for international trade in goods, e-commerce and environmentally sustainable trade (regulatory framework pillar), (b) the quality of public services for the facilitation of international trade in goods (public services

Commented [LD10]: An overarching comment: International trade has been increasingly seen as a conduit for responsible business conduct and social aspects of sustainability. For example, trade agreements increasingly include sustainability chapters and responsible business conduct clauses that go beyond environmental considerations to include aspects like human rights, labor rights, etc. This is part of the regulatory environment for international trade and businesses are directly affect by it; it also impacts private sector development notably in its role to ensure "the general sustainability of the economy in the long term" (p.1 of this concept note.)

In light of these international developments, we suggest to adapt the overall framing, and also review the indicators to take into account aspects of increasing regulation of international trade relating to human and labor rights, among other aspects of social sustainability.

Commented [FB11]: As per the above - The way this paragraph is drafted could give the impression that including social and environmental criteria in trade would be distorting, and in that sense may seem rather outdated. It would be important to present a narrative through which trade (and investment) can drive good corporate behaviour and a race to the top on sustainable outcomes.

[47] Melitz, M. J. 2003. "The Impact of Trade on Intra-Industry Reallocations and Aggregate Industry Productivity." *Econometrica*, 71 (6): 1695–1725.
[48] Goldberg, P. K., Khandelwal, A. K., Pavcnik, N., and Topalova, P. 2010. "Imported Intermediate Inputs and Domestic Product Growth: Evidence from India." *The Quarterly Journal of Economics*, 125 (4): 1727–1767.
[49] Madsen, J. B. 2007. "Technology Spillover through Trade and TFP Convergence: 135 Years of Evidence for the OECD Countries." *Journal of International Economics*, 72 (2): 464–480.
[50] Bernard, A. B., Jensen, J. B., Redding, S. J., and Schott, P. K. 2007. "Firms in International Trade." *The Journal of Economic Perspectives*, 21 (3): 105–130.
[51] Fernandes, A. M., Ferro, E., and Wilson, J. S. 2019. "Product Standards and Firms' Export Decisions." *World Bank Economic Review*, 33 (2): 353–374.
[52] Fontagné, L., Orefice, G., and Piermartini, R. 2020. "Making Small Firms Happy? The Heterogeneous Effect of Trade Facilitation Measures." *Review of International Economics* 28 (2020): 565–598.
[53] Hummels, David L., and Schaur, G. 2013. "Time as a Trade Barrier." *American Economic Review*, 103 (7): 2935–59.

pillar), and (c) the efficiency of importing goods, exporting goods, and engaging in e-commerce (the efficacy with which the two pillars are combined in practice). While BEE focuses on international trade in goods, it acknowledges that trade in services is an increasingly important component of international trade. However, considering the resources required to cover this aspect and those available to BEE, there is no current plan to measure international trade in services. Indicators on international trade in services may be added at a later stage of the project.

The BEE indicators differ from the *Doing Business* Trading across Borders topic in two main facets. First, whereas *Doing Business* focused on the ease to comply with trade regulations, 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. Furthermore, as detailed below, other areas, such as e-commerce and environmentally sustainable trade, will also be included pertaining to BEE's focus on the cross-cutting themes of adoption of digital technologies and environmental sustainability. Second, the International Trade topic will not be limited to a case study with standardized scenarios and specific assumptions. The data will be collected through expert consultations for the regulatory framework and public services pillars, and through representative firm-level surveys for the efficiency indicators. The BEE methodology will thus expand the level of representativeness of the data, without tying it to specific assumptions on traded products, trading partners, mode of transport and border.

a. Quality of regulations for international trade in goods and e-commerce

Uncertainty about trade procedures, future conditions, and application of existing regulations generates increased risk, aggravates transaction costs, and delays investments.[54] Good practices in the regulatory framework for international trade are fundamental to creating a stable and predictable trading environment. Additionally, on the rising area of e-commerce, effective policies and regulations are required to remove obstacles to cross-border online trade, foster inclusive private sector growth, and at the same time ensure the necessary safeguards and address potential adverse effects.

At the same time, trade policies may also include restrictive trade measures. These may be important to protect public safety, health, and the environment, but can become counterproductive and hinder trade if they are excessive[55] or if they are ineffectively implemented by the public sector. Governments, thus, need to design effective regulations that strike the right balance between safety and health, and streamlined trade procedures. This is especially relevant for non-tariff measures, such as sanitary and phytosanitary regulations, standards, and technical regulations, which have steadily risen in importance as key barriers to trade, while tariffs declined, despite the recent trade wars.[56] A similar approach should be applied to regulatory restrictions on e-commerce, such as specific bans on online sales.

This set of indicators will cover five components which will serve as proxies for assessing the legal framework governing international trade and e-commerce, showcasing the commitment to open trade policies that ensure a safe and level-playing field, promote competition, reduce digital divides, and mitigate climate change. The quality of regulations will be assessed through the selection of internationally recognized good practices, as detailed below. Data for this *de jure* indicator will be collected via expert consultations with trade economists, trade lawyers, and e-commerce lawyers, and can be corroborated by desk research through readings of the law.

Commented [LD12]: Here, we would suggest to make a link to the labor pillar, and refer to aspects like human rights, labor rights, protection of minorities (notably indigenous communities.) As input on how to phrase this, suggest to follow international standards, such as the OECD Guidelines for Multinational Enterprises http://mneguidelines.oecd.org/ , the UN Guiding Principles on Business and Human Rights, ILO Tripartite Declaration, among others.

As highlighted above, countries are increasingly regulating these issues for businesses, including in international trade.

[54] Handley, K. 2014. "Exporting under Trade Policy Uncertainty: Theory and Evidence." *Journal of International Economics*, 94 (1): 50–66.
[55] Fontagné, L., Orefice, G., Piermartini, R. and Rocha N. 2015. "Product Standards and Margins of Trade: Firm-level Evidence." *Journal of International Economics*, 97 (1): 29–44.
[56] Hoekman, B. and Nicita, A. 2011. "Trade Policy, Trade Costs, and Developing Country Trade." *World Development*, 39 (12): 2069–2079.

(1) *Good regulatory practices enabling international trade* – assesses whether the regulatory framework promotes a transparent and predictable trading system by providing legal obligations that mandate public access to the rules and regulations pertaining to international trade, and laws and regulations to ensure fair and predictable international trade processes. Good regulatory practices established in the World Trade Organization's (WTO) Trade Facilitation Agreement (TFA), the World Customs Organization's (WCO) Revised Kyoto Convention, the United Nations Economic Commission for Europe (UNECE) Recommendations on Information Trade Portals and on Establishing a Legal Framework for International Trade Single Window, and the WBG Guide on Developing a Trade Information Portal, among others, may serve as guidelines to benchmark these areas.

(2) *Good regulatory practices enabling e-commerce* – assesses whether the regulatory framework promotes a safe and trusted environment for e-commerce by providing legal protection to e-commerce users and service providers, legal requirements to promote electronic commerce transactions, and cybersecurity requirements to ensure information security. Good regulatory practices established in the UNCITRAL's Model Laws on Electronic Commerce, on Electronic Transferable Records, on Electronic Signatures, and the Technical Notes on Online Dispute Resolution, the United Nations Convention on the Use of Electronic Communications in International Contracts, as well as the OECD Recommendation on Consumer Protection for E-commerce and the OECD Guidelines on the Protection of Privacy, among others, may serve as guidelines to benchmark these areas.

(3) *Good regulatory practices enabling environmentally sustainable trade* – assesses whether the regulatory framework promotes carbon footprint reduction by establishing Border Carbon Adjustments (BCAs) and lower tariffs on environmental goods. BCAs are import fees levied by carbon-taxing countries on goods manufactured in non-carbon-taxing countries. Well-designed BCAs enable early mover countries to implement higher carbon prices than their trading partners in a manner that limits losses in competitiveness, addresses carbon leakage, and incentivizes mitigation actions in other countries.[57] Likewise, lowering tariffs on environmental goods improves access to products and technologies that support the move to a low carbon future.[58]

(4) *Regulatory restrictions on international trade* – assesses whether the regulatory framework establishes restrictive trade policies, including non-tariff measures, and mandatory licensing and membership requirements for trade actors. Regarding the former, while the United Nations Conference on Trade and Development (UNCTAD) has collected data on non-tariff measures since 2012, covering over 100 countries, BEE would add value by providing data for selected groups of measures and sectors and covering a larger sample of countries through a cyclical benchmarking exercise. Good regulatory practices established in the WTO Agreement on Sanitary and Phytosanitary Measures and the Technical Barriers to Trade Agreement, among others, may serve as guidelines to benchmark these areas.

(5) *Regulatory restrictions on e-commerce* – assesses whether the regulatory framework establishes restrictive or discriminatory measures, such as bans on online sales, standards on cross-borders data flows, and taxation measures.

b. Quality of public services for the facilitation of international trade in goods

The provision of public services to facilitate trade and reduce the cost to comply with trade regulations is a prominent matter in the international trade agenda, including being at the center of the WTO TFA. Trade

Commented [LD13]: To create consistency with the pillar on labor and in line with comments above, suggest to add here the OECD Policy Framework for Investment https://www.oecd.org/investment/pfi.htm, which includes the Guidelines for Multinational Enterprises on Responsible Business Conduct. http://mneguidelines.oecd.org/

[57] Parry, I., Dohlman, P., Hillier, C., Kaufman, M., Kwak, K., Misch, F., Roaf, J., and Waerzeggers, C. 2021. "Carbon Pricing: What Role for Border Carbon Adjustments?" *IMF Staff Climate Note* 2021/004. Washington, DC: International Monetary Fund.
[58] Shapiro, J. 2020. "The Environmental Bias of Trade Policy". *The Quarterly Journal of Economics* 136 (2): 831–886.

facilitation efforts encompass four pillars, namely transparency, predictability, simplification, and harmonization and standardization, and aim at streamlining trade procedures to minimize compliance costs. These efforts span diverse areas of public services, which include, among others, trade information portals, electronic trade single windows, risk assessment systems, Authorized Economic Operators (AEO) programs, increased cooperation and coordination between customs and other border agencies (both at the domestic level and cross-border), participation in bilateral and regional trade agreements, and improvements to the quality of trade infrastructure and connectivity. Crucially, their implementation in practice is associated with a decrease in operational and transaction costs and an increase in trade flows.[59]

This set of indicators will cover six components which will serve as a proxy for the overall implementation of trade facilitation measures across all pillars. These components expand on the OECD Trade Facilitation Indicators whose assessment mirrors the provisions of the TFA. The quality of public services will assess which features have been implemented and made available to the trading community. Data for this *de facto* indicator will be collected via expert consultations with freight forwarders, customs brokers, shipping lines, port authorities, as well as customs and other agencies, and can be corroborated by desk research.

(1) Transparency and availability of information – assesses the implementation of good regulatory practices on transparency, measuring whether there is a dedicated government website or trade information portal explaining international trade procedures and regulations, whether relevant information on international trade is made publicly available in practice and free of charge, whether the government regularly provides advance notification of regulatory changes, and the frequency of consultations between the government and the trading community.

(2) Electronic systems and interoperability of services – assesses the availability, scope, connectivity, and functionality of an economy's electronic platforms for trade operations, measuring which agencies and other trade actors are connected through an electronic single window, what features the platform has, and its bilateral, regional, or multilateral interoperability.

(3) Risk management – assesses the availability and features of an integrated risk management system, measuring the level of risk and information sharing, integration, inclusiveness, coordination in a risk assessment matrix, as well as the criteria applied and use of risk-based selectivity.

(4) Border agency programs – assesses the availability and characteristics of AO/AEO schemes and other customs and border agency programs which provide benefits for traders, such as Post-Clearance Audits, education and outreach programs for the trading community and expedited shipments. Measuring the criteria, applicability and the benefits of these programs will build on the data collected by the WCO, as customs agencies report key design aspects of their AEO and Customs Compliance programs.

(5) Internal/External cooperation – assesses the border and behind-the-border cooperation with partner countries, measuring the international coordination between domestic agencies responsible for border control and those of other countries (i.e., coordinated border management), the participation in bilateral, regional, or multilateral trade agreements, and the areas covered by those agreements, as well as the availability of simplified trade regimes and other special trade arrangements. Measuring the participation in bilateral, regional, or multilateral trade agreements will build on the existing WTO's Regional Trade Agreements database, which is notification-based, and WBG Global Preferential Trade Agreements Database and Deep Trade Agreements database, which are not exhaustive.

[59] de Sá Porto, P. C., Canuto, O., and Morini, C. 2015. "The Impacts of Trade Facilitation Measures on International Trade Flows." *Policy Research Working Paper* No. 7367. Washington, DC: World Bank.

Commented [LD14]: In line with the comments above, depending on the intended scope of this sub-indicator, this could be a good opportunity to link to the increasing attention internationally and by policy makers to require mandatory due diligence of companies (see above in the overall introduction to the methodology.)

The OECD Guidelines for MNEs recommend that businesses carry out risk-based due diligence to avoid and address such adverse impacts associated with their operations, their supply chains and other business relationships. The OECD Due Diligence Guidance illustrates the central role for risk management and might contain useful for information to further develop this sub-indicator. Due diligence should be commensurate with risk and appropriate to a specific enterprise's circumstances and context. The six measure are: (1) to embed RBC into the enterprise's policies and management systems; to undertake due diligence by (2) identifying actual or potential adverse impacts on RBC issues, (3) ceasing, preventing or mitigating them, (4) tracking implementation and results, (5) communicating how impacts are addressed; and (6) to enable remediation when appropriate.
(See more info and sectoral guidance here: http://mneguidelines.oecd.org/duediligence/)

Happy to discuss and provide further detail.

(6) *Trade infrastructure* – assesses the availability, quality, and efficiency of essential physical infrastructure for trade, including road and railway transport networks, maritime transportation, seaports, bonded warehouses, and border checkpoints. This component will build on the WBG's Logistics Performance Index by expanding on specific measures not covered by that index.

c. Efficiency of importing goods, exporting goods, and engaging in e-commerce

Operational and transaction costs associated with importing and exporting have become increasingly important and are aggravated when facing low levels of trade facilitation. Inefficient customs clearance procedures, inadequate coordination between border agencies, ineffective implementation of border agency programs, limited logistics services, poor trade, and transport infrastructure, among other factors, substantially increase the time and cost associated with complying with export and import requirements. These increased costs of compliance are substantial barriers to trade, which hinder the ability of firms to access international markets.[60] Similarly, when engaging in e-commerce, firms may also face additional compliance costs vis-à-vis traditional trade.

This set of indicators will cover five components which will serve as a proxy for the efficiency of trade procedures and the overall burden imposed on the private sector when trading internationally. Data for this *de facto* indicator will be collected via representative firm-level surveys and can be corroborated by administrative data, for example, Time Release Study data.

(1) *Operationalization of risk management system* – assesses the operationalization in practice of an integrated risk management system, including the 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.

Commented [LD15]: Same comment as above – could be good to explore linkages with increasing requirements to conduct due diligence, depending on scope.

(2) *Implementation of border agency programs* – assesses the implementation in practice of these programs and the benefits effectively received by compliant traders, including share of customs declarations cleared before the arrival of goods, share of consignments cleared under expedited processing, and percentage of consignments qualified for post-clearance audit.

(3) *Time and cost to comply with export requirements* – assesses the time and cost borne by the private sector when directly exporting goods, including those associated with administrative requirements from customs, use of customs brokers services, product inspection agencies and other border control authorities, logistics and freight, and trade finance.

(4) *Time and cost to comply with import requirements* – assesses the time and cost borne by the private sector when directly importing goods, including those associated with administrative requirements from customs, use of customs brokers services, product inspection agencies and other border control authorities, logistics and freight, and trade finance.

(5) *Time and cost to engage in e-commerce* – assesses the time and cost associated with obtaining, registering, and protecting domain names (such as for a digital platform), the time for a merchant to receive online payments into its merchant account (by comparing domestic e-commerce versus cross-border e-commerce), and the cost for purchasing cyber liability insurance.

[60] Volpe Martincus, C., Carballo, J., and Graziano, A. 2015. "Customs." *Journal of International Economics*, 96 (1): 119–137.

H. Dispute resolution

1. Motivation

In both developed and developing economic systems, commercial disputes inevitably occur. When these disputes cannot be resolved properly, adverse economic outcomes might arise for the private sector.[61] This makes a well-functioning judicial system a key part of a healthy business environment. Such a judicial system requires efficiency and quality. First, time- and cost-effective mechanisms for resolving disputes are indispensable for private sector development. Excessively long and expensive proceedings may defeat the very purpose of litigation, making it unattractive and inaccessible. In the literature, a strong correlation has been established between judicial efficiency and facilitated entrepreneurial activity.[62] Slow court systems are associated with smaller firms and costlier bank financing.[63] Evidence also suggests that under a more effective court system businesses tend to have greater access to finance and borrow more.[64] It equally finds that firms operating in areas with less congested civil courts experience a larger increase in the use of secured loans.[65] Fast judiciaries are also associated with higher levels of domestic and foreign investment.[66] Whenever investors know that in case of non-performance of an obligation their claim will be considered in a timely manner, they have more incentives to deploy additional capital.[67] Further, enhancing the efficiency of the judiciary can strengthen competition and foster innovation.[68]

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.[69] To attract investors, economies need to ensure that their judiciaries are not only fast, but also strong and reliable.[70] Limited enforceability of contracts leads to suboptimal distribution of resources, delayed arrival of new technologies, and greater macroeconomic volatility.[71] Finally, because inadequate commercial dispute

Commented [LD16]: While this might not be entirely in the scope of this pillar, it might provide some food for thought as it addresses the social sustainability component suggested in the overarching comments:
The OECD Guidelines for Multinational Enterprises (part of the OECD Policy Framework for Investment) require Adherents to establish a National Contact Point that is tasked with resolving "specific instances" that might arise in relation to harm connected to the business conduct of a company.
http://mneguidelines.oecd.org/ncps/

This might be particularly relevant to strengthen aspects of labor rights / stakeholder perspectives and falls squarely under ADR mechanisms.

For background: the notion of remedy as part of a well-functioning judicial system is a central element in the OECD Guidelines for MNEs, as well as in the OECD Due Diligence Guidance – as part of the measures taken as part of due diligence. The OECD recommends that governments should take appropriate measures so that those affected by non-observance of RBC standards by companies operating in or from their territories have access to effective judicial or non-judicial remedy mechanisms (forthcoming OECD Recommendation on the Role of Governments in Promoting Responsible Business Conduct; previous draft here https://mneguidelines.oecd.org/public-consultation-draft-oecd-recommendation-on-the-role-of-government-in-promoting-responsible-business-conduct.htm – note that the text is in the process of being finalized and formally adopted.)

As before, happy to have a more in-depth discussion on this.

[61] Esposito, Gianluca, Sergi Lanau, and Sebastiaan Pompe. 2014. "Judicial System Reform in Italy – A Key to Growth." IMF Working Paper WP/14/32, IMF, Washington, DC.
[62] Ippoliti, Roberto, Alessandro Melcarne, and Giovanni B. Ramello. 2015. "Judicial Efficiency and Entrepreneurs' Expectations on the Reliability of European Legal Systems." *European Journal of Law and Economics* 40 (1): 75–94.
[63] Fabbri, Daniela. 2010. "Law Enforcement and Firm Financing: Theory and Evidence." *Journal of the European Economic Association* 8 (4): 776–816.
[64] Moro, Andrea, Daniela Maresch, and Annalisa Ferrando. 2018. "Creditor Protection, Judicial Enforcement and Credit Access." *The European Journal of Finance* 24 (3): 250–281.
[65] Ponticelli, Jacopo, and Leonardo S. Alencar. 2016. "Court Enforcement, Bank Loans, and Firm Investment: Evidence from a Bankruptcy Reform in Brazil." *The Quarterly Journal of Economics* 131 (3): 1365–1413.
[66] Koutroumpis, Pantelis, and Farshad R. Ravasan. 2020. "Do Court Delays Distort Capital Formation?" Working Paper No. 2020-4, Oxford Martin Working Paper Series on Economic and Technological Change, University of Oxford, Oxford.
[67] Chemin, Matthieu. 2009. "The Impact of the Judiciary on Entrepreneurship: Evaluation of Pakistan's "Access to Justice Programme"." *Journal of Public Economics* 93 (1-2): 114–125.
[68] OECD (Organisation for Economic Co-operation and Development). 2013. "What Makes Civil Justice Effective?" OECD Economics Department Policy Notes No. 18, OECD, Paris.
[69] World Bank. 2004. *World Development Report 2005: A Better Investment Climate for Everyone*. Washington, DC: World Bank.
[70] World Bank. 2019. *Moldova: Rekindling Economic Dynamism. Country Economic Memorandum*. Washington, DC: World Bank.
[71] Cooley, Thomas, Ramon Marimon, and Vincenzo Quadrini. 2004. "Aggregate Consequences of Limited Contract Enforceability." *Journal of Political Economy* 112 (4): 817–847.

resolution might deprive firms of timely and full payments, liquidity and insolvency issues can arise, and so can subsequent bankruptcies and unemployment.[72]

Efficiency and quality of commercial dispute resolution rely on adequate public services. A great deal of disputes between private firms eventually necessitates court involvement, thereby underscoring the importance of establishing a robust institutional framework.[73] Recent research has emphasized that not only solid *de jure* rules but also strong *de facto* judicial institutions are required for economic growth.[74] As demonstrated by the pandemic, one essential feature that can help create better institutions in the current context is their digitalization.[75] Introducing relevant e-services thus carries a promise of making the dispute resolution process more efficient and fairer, to benefit the private sector.[76]

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.

a. Quality of regulations for commercial dispute resolution

This set of indicators will focus on the quality of legislation that pertains to both in-court processes and alternative dispute resolution (ADR) mechanisms to serve as a reliable proxy for the topic in question. This is primarily a *de jure* set of indicators that will look at provisions that promote efficiency and quality alike. Specifically, it will determine whether domestic laws follow a set of internationally recognized good regulatory practices intended to make resolving disputes effective and fair. In addition, when relevant legal

[72] Esposito, Gianluca, Sergi Lanau, and Sebastiaan Pompe. 2014. "Judicial System Reform in Italy – A Key to Growth." IMF Working Paper WP/14/32, IMF, Washington, DC.
[73] See, e.g., Peev, Evgeni. 2015. "Institutions, Economic Liberalization and Firm Growth: Evidence from European Transition Economies." *European Journal of Law and Economics* 40 (1): 149–174.
[74] Marciano, Alain, Alessandro Melcarne, and Giovanni Ramello. 2019. "The Economic Importance of Judicial Institutions, Their Performance and the Proper Way to Measure Them." *Journal of Institutional Economics* 15 (1): 81–98.
[75] Susskind, Richard. 2020. "The Future of Courts." *The Practice (Harvard Law School)* 6 (5). https://thepractice.law.harvard.edu/article/the-future-of-courts/.
[76] Cabral, James E., Abhijeet Chavan, Thomas M. Clarke, John Greacen, Bonnie Rose Hough, Linda Rexer, Jane Ribadeneyra, and Richard Zorza. 2012. "Using Technology to Enhance Access to Justice." *Harvard Journal of Law & Technology* 26 (1): 241–324.

provisions are in place, the set of indicators will also assess if these are respected in practice. Measuring both rules on the books as well as actual compliance with them is crucial because, as evidenced by research, private sector growth requires both.[77]

The discussed good practices in the fields of in-court litigation and alternative dispute resolution derive from authoritative projects and institutions. To name a few, in the WBG many such practices were incorporated within the Justice Needs and Institutional Performance Review (JUNIPER) framework and the World Bank Good Practices for Courts report. Other internationally recognized instruments include the Council of Europe CEPEJ Checklist for Promoting the Quality of Justice and Courts, UNCITRAL Model Law on International Commercial Arbitration, UNCITRAL Model Law on International Commercial Conciliation, New York Convention on the Recognition and Enforcement of Arbitral Awards, and others. As it is not practical to cover all the good practices from the named sources, the BEE project will focus on the most relevant ones based on the private sector needs in the area of resolving disputes in the post-pandemic world.

The data for the quality of regulations indicators will be collected through expert consultations. This is because local practitioners – lawyers in commercial litigation – possess the best knowledge of relevant laws and their application in practice. The process of expert consultations will be corroborated by desk research.

The quality of regulations for commercial dispute resolution will have two indicators.

(1) In-court litigation processes – The first indicator will focus on the quality of regulations applicable to in-court litigation processes. Provisions related to both efficiency and quality will be targeted. For example, this indicator will measure whether commercial (or civil, where applicable) procedure legislation establishes timeframes for different stages of commercial litigation and whether the judge and litigants can be held accountable for not respecting them. In this vein, it will equally examine whether the regulations provide for holding a pre-trial conference – a practice aimed at clarifying the scope of a dispute from the very beginning. Aspects of enforcement of judgments will be covered as well, with an assessment of whether there are time standards within which judgments should be executed and what types of assets can be seized by an enforcement agent.

(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.[78]

The arbitration section of the component will largely draw on the previous studies of the WBG in this area: Investing across Borders (2010), and Arbitrating and Mediating Disputes (2013). In terms of regulations that support efficiency, this set of indicators will measure procedural timeframes and confirmation, recognition and enforcement of arbitral awards. As to provisions that promote quality of the arbitration process, the section will look into the form of the arbitration agreement, arbitrability of commercial disputes, parties' autonomy, and judicial support of arbitration, including ruling on the validity of arbitration clauses or agreements, and general assistance to the arbitration proceedings. In addition, some other areas relevant to arbitration will be considered for inclusion in the next phases of

[77] Ndungu, Joseph, and Peter Muriu. 2017. "Do Good Institutions Matter for Private Investment? Evidence from East Africa." *Journal of Economics and Sustainable Development* 8 (6): 18–29.
[78] World Bank. 2011. *Alternative Dispute Resolution Center Manual: A Guide for Practitioners on Establishing and Managing ADR Centers*. Washington, DC: World Bank.

the project. These are arbitrators' independence and impartiality, proceedings against public entities, expedited proceedings, multi-party proceedings, and others.

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.

b. Adequacy of public services in commercial litigation

The set of indicators will assess the adequacy of public services provided to resolve a commercial dispute. Even when an economy has crafted a robust legal framework, its practical application can vary dramatically depending on the existing institutional arrangements, and information and communications technology (ICT) infrastructure. 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.

This is a *de facto* set of indicators that will focus on the actual availability and quality of public services beyond the legal framework. The data will be collected through expert consultations. As is the case with quality of regulations, lawyers in commercial litigation have the best knowledge of institutional arrangements and ICT infrastructure since they deal with them on a daily basis. Furthermore, data collection through expert consultations is more informative than firm-level surveys because most businesses go to courts only occasionally and, when they do, they tend to rely on lawyers to resolve disputes – whether hired attorneys or in-house ones. Private firms may therefore have only superficial knowledge of specific features of the services provided. For these reasons, and particularly in the area of court automation and e-services, the data will reflect the experience of regular users, although various aspects of these services are equally relevant to occasional litigants.

The adequacy of public services in commercial litigation will have two indicators.

(1) Institutional framework – Academics generally agree that the quality of institutions plays a key role in how disputes are resolved.[79] For example, commercial dispute resolution can be impacted by such institutional arrangements as specialization of judges, extent of formalism and independence of the judiciary.[80] This indicator will capture those aspects by looking at the existence of specialized courts/chambers at both first instance and appeal levels, presence of small claim courts and types of services provided by ADR centers. 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.

(2) Court automation and e-services – The second indicator will focus on digitalization of commercial litigation across different levels of the judiciary. ICT infrastructure in dispute resolution is still a relatively new area; however, the COVID-19 pandemic has demonstrated its importance for effective and inclusive resolution of disputes. Overall, digital solutions have the potential to (i) improve efficiency in case management by expediting processing time; (ii) provide better access to justice through online tools; and (iii) increase transparency by facilitating access to information.[81]

[79] Marciano, Alain, Alessandro Melcarne, and Giovanni Ramello. 2019. "The Economic Importance of Judicial Institutions, Their Performance and the Proper Way to Measure Them." *Journal of Institutional Economics* 15 (1): 81–98.
[80] See, e.g., Melcarne, Alessandro, and Giovanni Ramello. 2015. "Judicial Independence, Judges' Incentives and Efficiency." *Review of Law & Economics* 11 (2): 149–169.
[81] Cordella, Antonio, and Francesco Contini. 2020. *Digital Technologies for Better Justice: A Toolkit for Action*. Washington, DC: IADB (Inter-American Development Bank).

For example, this indicator will examine the functioning of E-Systems that allow for electronic filing of cases, exchange of procedural documents and notifications between courts and their users and holding virtual hearings. In addition, acknowledging the increasing importance of artificial intelligence (AI) and machine learning (ML) for better judicial decision-making, the indicator will also study the potential inclusion of these areas in the next phases of the project.

c. Ease of resolving a commercial dispute

A key contribution of this set of indicators will consist in determining how reliable, accessible and efficient court mechanisms are in general (i.e., whether cases are worth pursuing in the first place and why if not), as well as in providing specific details on time and cost for different parts of litigation (i.e., what time and cost to expect).

The ease of resolving a commercial dispute is a *de facto* set of indicators. As mentioned above, unlike Enforcing Contracts of *Doing Business* it will collect information from both firms and experts to measure the efficiency and credibility of the dispute resolution system. It will consist of three indicators.

(1) Obstacles to justice – The first indicator will identify the main perceived obstacles for bringing commercial disputes to court. Firms that have faced a commercial dispute within a defined timeframe will be asked to share their experience and identify major obstacles for efficient and fair resolution of disputes. These can include lack of trust in the fairness of the judicial process, insufficient expertise of judges, excessive duration of proceedings, manifestly high cost of litigation, and others. The indicator will distinguish between two types of firms (domestic and foreign) as well as two types of disputes: those among two private firms (whether domestic or foreign), and those against a public agency (e.g., tax authority or another representative public sector agency).

The data for this indicator can be best collected through firm-level surveys, using Enterprise Survey methods. First, businesses are the ultimate beneficiaries of the justice system and therefore it is particularly important to know their actual experience. Second, firms often decide whether it is worth going to court before hiring a lawyer, so experts may have insufficient knowledge about the firm's decision process. Firms operating in all sectors can respond and provide original insights on the quality of the justice system. To ensure the accuracy of the data, however, firms that have not had relevant experience will be excluded from the sample. No specific case study is needed to collect these data, besides a clarification that firms should refer to commercial disputes relating to the conduct of their business that occurred within a specified timeframe (for example, the past 5 years).

(2) & (3) *Time and cost to resolve a commercial dispute* – The second and third indicators will be dedicated to the time and cost needed to resolve a commercial dispute, providing specific estimates for different parts of litigation when a firm decides to go to court. 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. The cost indicator will assess expenses and fees generally incurred in commercial litigation by a good faith party: attorney fees, court fees, expert fees, and enforcement fees, as well as whether any of them can be recovered from the losing party.

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 (e.g., appeal trial time, enforcement costs). Thus, they are better equipped to identify bottlenecks and inefficiencies in court practice. To collect the data on time and cost, 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. No assumptions pertaining to the size of the firms, their ownership, and sector of operation are necessary.

I. Market competition

1. Motivation

There is general consensus among academics that effective market competition spurs economic growth by increasing industry and firm productivity, leading to higher gross domestic product, more jobs and higher labor productivity.[82] Affecting market entry and exit, unfettered competition stimulates product innovation and service quality, protects consumers and forces market operators to provide their products and services at cost.[83] But competition is rarely perfect. Markets fail either due to firms' behaviors or government interventions. Market power -the firms' ability to raise price substantially above cost or to offer low quality- must be kept in check.[84]

Governments have a wide range of tools to deter anti-competitive behaviors, promote market entry, ensure a fair level of competition and reduce distortions created by market failures.[85] Competition policy is the set of policies and laws that ensure that competition in the marketplace is not restricted in such a way as to reduce economic welfare.[86] Crucial for the business environment and for the economy, competition policy can help alleviate poverty and bring about shared prosperity. 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.[87]

This topic will benchmark key regulations that promote competitive behaviors from the perspective of the whole private sector, rather than considering their impact on an individual firm. It will assess regulations that deter anticompetitive behaviors of firms, regulations that promote competitive behaviors in government markets, key public services provided to implement such regulations, as well as their efficient implementation.

2. Indicators in the area of Market Competition

BEE uses three sets of indicators in the area of market competition: (a) the quality of regulations that promote market competition (regulatory pillar), (b) the adequacy of public services promoting competition (public services pillar), and (c) the efficiency in the implementation of key services promoting market competition (reflecting how the two pillars pertaining to the quality of regulations and adequacy of public services contribute in practice to the promotion of market competition). Each set of indicators will cover aspects of enforcement of competition policy and regulations that focus on improving competition in the private sector, including in markets where the government is a purchaser of services or goods. None of these areas were previously covered by the *Doing Business* project.

a. Quality of regulations that promote market competition

The following two *de jure* indicators will benchmark: (1) the quality of the competition regulations, and (2) the quality of regulations for bidding for public contracts. The data will be collected through expert consultations. Corporate lawyers with expertise in competition will be best suited to answer questions relating to the first indicator; WBG public procurement experts will be best suited to answer questions relating to the second indicator. The process of expert consultations will be corroborated by desk research.

[82] World Bank. 2017. *A Step Ahead: Competition Policy for Shared Prosperity and Inclusive Growth.* Washington, DC.
[83] Begazo Gomez,Tania Priscilla. Nyman,Sara. 2016. *Competition and poverty*. Washington, D.C. : World Bank Group.
[84] Tirole, Jean. 2015. "Market Failures and Public Policy*". American Economic Review,* 105 (6): 1665-82.
[85] Tirole, Jean. 2017. *Economics for the Common Good.* Princeton University Press.
[86] Motta, Massimo. 2004. *Competition policy: theory and practice*. Cambridge University Press.
[87] Worldwide, public procurement accounts for between 10% and 25% of GDP on average. European Commission, DG Enterprise and Industry. 2014. *Evaluation of SMEs' access to public procurement markets in the EU: final report.*

(1) *Quality of competition regulations* – This indicator will provide a proxy on the overall quality of competition enforcement by focusing on some aspects of the enforcement of antitrust laws (e.g., anticompetitive agreements, as well as merger control).[88] Not all areas of competition policy will be covered in this indicator. For example, some areas are excluded because they are mostly sector-specific (e.g., measures enabling contestability of formerly government regulated monopolies). This indicator will assess economywide regulations that impact the market dynamics of the private sector. No case study will be used for this indicator.

This indicator will cover regulations relating to collusion/anticartel enforcement on the one hand, and merger control on the other hand. More specifically, it will measure whether regulations clearly identify anticompetitive practices, empower authorities to investigate and provide for a range of sanctions; the availability of leniency programs that provide incentives to firms to break cartels (e.g., through procedural guarantees, confidentiality, whistleblower protection); the clarity and coverage of merger control regulations, including the types of transactions that do not need to be reviewed (e.g., transactions that fall below notification thresholds or are subject to simplified merger control procedures); the level and type of filing fees for merger review; and the procedural guarantees in antitrust investigations and of the merger review process allowing parties to exercise their rights of defense. Some aspects of consumer protection can also be included as long as they complement competition enforcement. The selection of good practices will be influenced by the Markets and Competition Policy Assessment Toolkit of the Markets, Competition and Technology unit of the WBG.

(2) *Quality of regulations for bidding for public contracts* – A robust regulatory framework is crucial for firms to participate in markets where the government is a purchaser. The quality of regulations for bidding for public contracts indicator assesses (*de jure*) whether public procurement regulatory frameworks provide a fair assessment process, legal certainty for firms and include selected internationally recognized good practices that promote competition, transparency, integrity, and best value for money. The scope will be limited to assessing regulations that promote market entry and competitive behaviors to benefit the whole private sector.[89] Additionally, this indicator will measure good regulatory practices integrating environmental/sustainability considerations in public procurement, focusing in areas that benefit market entry and competition. The selection of good practices will be consistent with the Methodology for Assessing Procurement Systems.[90]

Procurement rules and practices might differ across sectors. In order to identify if good regulatory practices have been widely adopted, this indicator would collect data as applied to the three largest purchasers of the federal/central government (to be determined via expert consultations).[91] Goods and services subject to specific safety or national security regulations will be excluded from consideration.

Commented [LD17]: Here, a very practical approach to address sustainability concerns in its broad definition could be to see whether the legal framework for public procurement allows for inclusion of social and environmental considerations in selection and award – to create a level playing field / competition also on this aspect and incentivize sustainable businesses, etc.

b. Adequacy of public services that promote market competition

This set of indicators will benchmark public service delivery that promote market competition through: (1) the institutional framework and quality of enforcement of competition regulations, and (2) e-procurement.

(1) *Institutional framework and quality of enforcement of competition regulations* – Having a competition authority is key to effectively enforce competition regulations and signal a level playing field in the

[88] World Bank. 2017. *A Step Ahead: Competition Policy for Shared Prosperity and Inclusive Growth.* Washington, DC.
[89] For an example of research on best value for money criteria in procurement see Lewis, G. and Bajari, P. 2011. "Procurement Contracting with Time Incentives: Theory and Evidence." *The Quarterly Journal of Economics*. 126 (3): 1173-1211,
[90] https://www.mapsinitiative.org/
[91] Questionnaires would be distributed to WBG procurement experts.

market.[92] Competition authorities must operate within a clear and independent framework to investigate firms' behaviors and implement sanctions to deter anticompetitive practices.[93] By focusing on the institutional framework and the quality of the enforcement of competition regulations, the indicator will serve therefore as a proxy for the *de facto* operationalization of competition authorities. Data will be collected through expert consultations (legal practitioners of competition law and representatives of the central competition authority, if applicable) and can be corroborated through desk research.

This indicator will capture the institutional framework of the competition authority as implemented in practice, including the extent of its independence (e.g., whether it is exempt from direct supervision by the government), the scope of its mandate (e.g., whether its sole task is to safeguard competition or whether it has more competences assigned), the possibility to appeal its decisions (e.g., whether firms can appeal a decision to a specialized independent body or whether non-judicial bodies can overturn the authority's decisions), the level of its resources (e.g., budget and staffing), the cooperation with other government agencies (e.g., regulators), and the collaboration with cross-border competition authorities.

In addition, this indicator will benchmark the accessibility and transparency of the implementation of competition regulations by measuring whether the competition authority publishes its decisions and the legal and economic justification behind them; issues guidance/advocacy reports on instruments on antitrust and merger control; and enforces sanctions.

(2) *Transparency and transactional features in electronic procurement platforms* – The second *de facto* indicator assesses e-procurement as a proxy for a government's actions to promote market entry and reduce anticompetitive behaviors. E-procurement matters because it has the potential to save time, create efficiency and help new firms access the market. E-procurement also facilitates sustainable practices in public procurement through features such as environmental labels, for example. The availability of information promotes equal access for all types of businesses, including small and medium enterprises, by reducing the possibility of large or well-connected firms gaining an advantage because of information asymmetries, and potentially increases competition for government contracts.[94] Research suggests that e-procurement facilitates entry by higher quality contractors.[95] The indicator is divided into two components: transparency features of e-procurement system, and transactional features.

Data – as applied to the three largest purchasers to verify that e-procurement has been widely implemented – will be collected through expert consultations, including with WBG procurement experts and public sector entities. Data can be corroborated through desk research.

c. Efficiency in the implementation of key services promoting market competition

This set of indicators will assess the efficiency in delivering public services implemented by competition authorities and procuring entities that have an impact on a firm's decision to enter or operate in the market. Competition authorities enforce competition rules to deter anticompetitive behaviors, while procuring entities design markets to purchase goods services or works. By focusing on key administrative procedures,

[92] Sergio Mariotti, Riccardo Marzano. 2021. "The effects of competition policy, regulatory quality and trust on inward FDI in host countries*". International Business Review*. 30 (6).
[93] Jens Høj. 2007. "Competition Law and Policy Indicators for the OECD countries*". OECD Economics Department Working Papers* 568.
[13] Beschel,Robert P.;Cameron,Blair James;Kunicova, Jana;Myers,C. Bernard. *Improving Public Sector Performance: Through Innovation and Inter-Agency Coordination*. 2018. Vol. 1 of 2Washington, D.C.: World Bank Group.
[95] Lewis-Faupel S, Neggers Y, Olken BA, Pande R. "Can Electronic Procurement Improve Infrastructure Provision? Evidence from Public Works in India and Indonesia". 2016. *American Economic Journal: Economic Policy*. 8 (3): 258-283.

it examines how efficient implementation of regulations can support market competition and firm growth. In addition, it will provide quantitative data on competitive behaviors through a survey of a representative sample of firms.

There will be four *de facto* indicators. On administrative procedures, the indicator will benchmark (1) the effective implementation of merger review for a transaction that would typically follow a simplified merger notification procedure, (2) the time to award a public contract through a bidding process, and (3) the time to pay government contractors. To assess the overall effectiveness of competition policy, the indicator will capture (4) some aspects of market dynamism and competitive behaviors as reported by firms, and their knowledge of competition policy regulations.

(1) Effective implementation of the simplified merger review – assesses whether the information request process is burdensome for businesses, the time to file a merger notification, to review it and to obtain a decision, and whether competition authorities actually use the simplified procedure appropriately. Inadequate merger review processes, and ineffective implementation of the competition policy can have an overall negative effect on the economy, for example by holding up mergers that do not raise concerns.[96] Poorly implemented review processes can also undermine firm growth by discouraging firms to merge if the cost to do so is deemed too high, or if the outcome of the merger review is deemed too uncertain. Most economies have regulations to review merger notifications, and provide simplified procedures, but effective implementation of those is crucial for the business environment.

(2) Time to award a public contract – assesses the time between bid opening and public notice of award. In procurement markets, lengthy processes to award contracts and to pay contractors can deter market entry and encourage collusive behaviors. Firms might incorporate the cost to prepare bids and the length of the tender procedure before deciding to participate in the government markets.

(3) Time to pay government contractors – assesses the time taken by the government to pay its contractors Late payments create a number of negative externalities on firms, such as disruption of market activity and postponed payment of employees and suppliers. This can have the effect of draining firms' liquidity, and in the presence of limited access to credit, delayed payments can ultimately force firms to exit the market, with additional negative effects on their suppliers and customers.[97]

(4) Market dynamism and competitive behaviors – provides an overall measure of competition in the markets. Given of the complexity of measuring market concentration, this indicator will assess market dynamics and competitive behaviors through proxy questions addressed directly to businesses about certain characteristics of their markets (for example, market exit rates), and their ability to compete horizontally and vertically without restraints from anticompetitive practices or government regulations (for instance, constraints in their ability to set prices or the ease of changing a utility provider).

The data on the implementation of a simplified merger control procedure and on the time to award a contract could be collected via expert questionnaires collected from competition law and public procurement practitioners, respectively. Mergers and acquisitions should be considered a rare event in the life cycle of a firm, therefore lawyers routinely dealing with these issues are better suited to address these questions than the firms themselves. As for time to award a contract, since only a subgroup of firms participates in public tenders, there is a risk that firm-level surveys of a representative sample of an economy's private sector will not capture enough observations of this subset of companies, thus a targeted approach via questionnaires to public procurement experts would be preferred. Several scenarios with some assumptions could be

[96] OECD. *Merger control in the time of COVID-19*. 2020.
[97] Conti, Maurizio, Elia, Leandro, Ferrara, Antonella Rita, Ferraresi, Massimiliano. "Late Payments and Firms' Survival: Evidence from the European Union*"*. 2021. *The Journal of Law and Economics*. 64 (3): 603-627

considered (e.g., transaction object of the merger for the effective implementation of merger review, open tendering, restricted tendering, auctions for time to award a contract, to name a few). For the time to pay government contractors and the measures of market dynamism and competitive behaviors, firm-level surveys will be considered.

Business Entry

Name: Not. Antonio Cappiello

Comment:

Dear Frederic,
Hope you and all the experts of GIG Dev. Econ. are doing well.
I took a quick look to the Pre Concept Note. My compliments to all of you for this very detailed document.
Unfortunately I had a very busy work schedule and I could not focus on this document as I wanted. Next two days I will be in Brussels for a meeting and when I come back I hope to have more time to give you more precise feedback.
Anyway, from this first draft I can only make general observations. Maybe I could be more precise once BEE produces a technical methodological draft containing the detailed mechanism of the indicators, the criteria for the score assignment, the methodology to aggregate the score, the standardization method, the ranking criteria etc.
Just one quick observation about the statement at pag. 10 Pre Concept Note "The BEE indicators will also assess whether the involvement of third-party professionals is optional (e.g., lawyers, accountants, notaries) for business registration". I believe that the "per se" involvement should not be part of a criteria that will potentially affect the score. As emphasised in our past exchange of views, I think that it is reasonable that the impact of a third party professional should only be evaluated in terms of the general efficiency for the whole process. Also the methodology for calculating time and procedures should take into account the "actual time" and the easiness for the consumer without penalising a one-stop-shop providing its output, with more controls, but within the same rage of time and higher guarantee. Afterwards everything should also be weighted with an indicator calculating the quality and legal certainty of the procedures/transactions. I could read that this new methodology will integrate the quantitative indicators with many new quality indicators. Also in this case, I can not give you a detailed feedback before BEE indicates the criteria for assigning the score and the weighting mechanism.
Have a very nice week.
Thank you again to all of you.
All the best,
Antonio

Name (Publish the Agency Name only): Companies Commission of Malaysia

Comments:

Cf. PDF.

Business Location

International Council of the Belgian Notariat

World Bank. “Business Enabling Environment”. Remarks by the International Council of the Belgian notariat

14 March 2022

The International Council of the Belgian Notariat, representing both the Federation of Notaries and the National Chamber of Notaries, are pleased to have been informed by the World Bank about the new approach to assessing the business and investment climate in economies worldwide. The Belgian notariat has in the past provided input for the Doing Business Report on a yearly basis and has recently collaborated with the World Bank on the subnational report, which was published in July 2021. We therefore want to thank the World Bank for reaching out to us again on this important matter, and we are happy to contribute to the development of the new indicators.

We have analysed the pre-concept note, paying particular attention to the sections on ‘Business entry’ and ‘Business location’ and we have seen the World Bank has taken into account some of the concerns that were raised before regarding the discontinued Doing Business report. We are however of the opinion that there is room for improvement in the new approach. Here below we include the remarks that we have.

a. Striking the right balance

One of the main issues with the previous way of gathering data was that the indicators – the set of questions, as well as the case studies – clearly favoured the common law system and a thorough knowledge of the characteristics of the continental legal system was lacking. The indicators focused on whether procedures were easily conducted within the shortest possible timeframe and at the lowest possible cost at the moment of company constitution. On the one hand, the disadvantages of such a system were not measured. On the other, the advantages of a system that provides legal certainty to entrepreneurs and reliability of business-information to the public at large, were not measured either. This unbalanced approach resulted in the impossibility of conducting a proper comparative analysis and has led to conclusions being drawn from biased sets of data.

b. Preventive justice

When going into the section on business entry, the most important remark concerns the disregard for the concept of preventive justice. Even though the newly proposed indicators intend to take into account good practices, it does seem like a sound regulatory framework is still seen more as a business entry restriction rather than a good practice.

- In the part on good practices, reference is only made to verification of the company name and verification of the identity of the founders. Good practices reach a lot further than that and include the availability of reliable and correct information in the business registers, as well as the undisputed validity of company documents and business transactions. We do not see these important factors reflected in the new approach, which therefore fails to acknowledge that an effective regulatory framework enables the entrepreneur to focus on the development of his business and prevents burdensome additional steps that have to be taken in the absence of one. Especially when a one-stop-shop with digital services is offered, the positive effects of the regulatory framework are multiple. This is true not only for the individual entrepreneur or business, but also in the context of general consumer protection and the country's economic and financial stability (e.g. combatting money laundering and the shadow economy). What are thus regarded as obstacles to business entry in fact turn out to be long-lasting advantages.
- In the part on restrictions, reference is made to the OECD restrictiveness indicator; this indicator however does not sufficiently consider the positive effects of the sound administration of justice for the public good, in particular through the positive effects of legal certainty and preventive justice in the economic system. These factors go beyond mere predictability and transparency of the registers. The fact that these very important concepts are still not considered, shows the disregard to the fundamental differences between common law and civil law systems yet again.

If the World Bank is unable to evaluate the positive effects of preventive justice properly, there is no difference between the old and new structure, and there is no need to change anything about the way data collection was handled in the past. This would, in our view, be a missed opportunity for the World Bank to gain actual insight into the ease of doing business worldwide.

c. Dispute resolution

The efficiency of the economic system for the first two themes of the study, whereby the business enters the market, is of utmost importance for the theme dispute resolution. The more efficiently a business can enter the market the fewer entrepreneurs have to resort to dispute resolution at a later stage. The concept of preventive justice comes into play again: where the states provide for a system whereby legal professionals guarantee the validity of the company documents and advice the entrepreneurs to make the best decision for their professional endeavours, the registers are reliable, and the information contained therein is opposable to third parties.
Added to this is the fact that notarial documents, which are drafted in the authentic form, are directly enforceable titles. If a dispute on a certain matter should nonetheless arise, the entrepreneur has the legal security that all documentation concerning the company is valid, correct, and directly enforceable, thereby avoiding having to go to court.

d. Time and cost

As for the time and cost we see that the proposed indicators are closely related to the way the World Bank approached efficiency before. The number of procedures, and the time they take, are measured and valued. The report should reflect in a sufficient way the advantages of procedures that can be done within one and the same step. One-stop-shops should therefore be

accorded more weight, and lead to a positive outcome, especially when services are available online. The World Bank might therefore consider using steps, instead of procedures, leaving the opportunity to have several procedures within one and the same step.

e. Realistic case studies

One of the main issues with the previous Doing Business questionnaires was that the outcome was heavily influenced by the chosen case study. The practical examples chosen in no way reflect reality in the economic systems worldwide. Using unrealistic case studies undermines the result and credibility of the report as a whole. The type of limited liability company the World Bank used in the case study for example had a starting capital of over 400.000 euro/dollars. This represents only an extremely small number of businesses. We therefore suggest that the World Bank enquire with the relevant stakeholders what a representative case study would be and what the relevant questions to be posed are, so as to enhance the credibility of the study.

Taxation

Confidential - Comment received via email on 28th February 2022.

Hi – thanks for sending this. I read through the pages you noted and have a few comments. I will go in order of the text. Generally, I want to highlight that I think the report is well-written and quite competently covers a wide range of material. Specific comments:

--page 36, second para – While I understand that the focus of the project is tax administration, it is strange not to list effective marginal tax rates as a driver of "deficiencies that affect economic outcomes and influence investment decisions." "Tax burdens" are mentioned, but I take those to mean average tax rates not marginal. It would be worth clarifying that EMTRs matter for economic activity.

--page 36, third para – Most complexity comes from base issues, rather than rate issues. Nebulous concepts, line drawing, etc. The para seems to emphasize rate differences.

--page 36 (or somewhere) – it would be useful to have a discussion of why tax systems tend to be complex, given that virtually every existing system is, even though we can all write down simple systems on paper.

--page 37, first full para – this is another place where there is more of a focus on rates than the base. But one of the most effective ways to eliminate tax competition is by focusing on a consumption/destination base – for example, while there has been pressure over the last 30 years to reduce income tax rates around the world, there has been no such pressure on VAT rates.

--page 38 – this sounds like a very ambitious agenda. I am not sure how the various indicators (especially "clarity") could be measured.

--page 40, top – "Total tax and contribution rate" – not clear to me if this is an average or marginal rate. It reads like an average rate, but, again, the marginal rate is important, not just for investment incentives but for evasion and movement to the informal sector as well.

Robert Carling, Senior Fellow in Economic Program, Centre for Independent Studies. Comment received on 11th March via email.

The project looks very ambitious and the task of quantifying the various indicators appears daunting, even if for only one country let alone the large number the World Bank will be doing it for. I wish you well with that.

Without wanting to add to the task, I would say that I would like to see more emphasis on the discretion that tax administrators have and the predictability of the tax administration process, less discretion and greater predictability being desirable. I have in mind that in corporate tax systems the code can be so complex that the tax payable by any given corporation almost becomes a matter of negotiation with the tax authorities rather than a figure that the corporation can confidently predict from the provisions of the tax law.

Second, at the tax policy level I do not think it is desirable to have a proliferation of special concessions to attract investment by particular firms. It is better for the same tax law to apply broadly to all firms, or at least all firms in the same sector. You could perhaps pick this up by looking not only at average effective tax rates but also the variance.

Third, I take issue with the approach to tax incidence discussed on page 40. While I recognise that it is not feasible to determine economic incidence of various taxes across a large number of countries, I think the approach described is deficient. I do not think it is correct to attribute the economic incidence of all net VAT payments to the businesses paying them. Also, I think that payroll taxes paid by employers are likely to be weighted in their economic incidence heavily towards the employees. That is certainly the conclusion among Australian economists with respect to payroll taxes here, though I should add that they are different from payroll taxes in most countries in that our payroll tax is a general revenue tax and is not for the purpose of funding employee benefits.

Another Australian tax paid by employers but believed to bear heavily on employees in its economic incidence is the fringe benefits tax.

Then there is the pay-as-you-go income tax which legally has to be collected by employers. This is clearly for administrative convenience only, and the economic incidence of PAYG falls entirely on employees.

I mention these Australian examples only to illustrate the point that it is very difficult to apply broad rules of thumb such as 50/50 to economic incidence of business taxes across all countries when the individual country facts vary a great deal.

Grégoire ROTA GRAZIOSI - Professeur, Directeur, CERDI. Comment received via email on 27th February 2022.

The taxation section is very interesting and provides several improvements with regards to the previous approach in the Doing Business Indicator. In particular, I appreciate your hybrid data collection approach. A very general comment is to be as transparent as possible for instance by allowing the replication of your main results. I computed myself several estimates of the tax burden of the Doing Business indicator for some African countries and obtain sometimes significant different results. I have several remarks, which may be helpful. These remarks are mainly driven by my experience on tax policy issues in developing countries, especially in French-speaking African countries. First, it could be relevant to appreciate the progressivity of the tax system. The progressivity in this context means the relative weight of the tax burden when the gross profitability of the firm increases. Depending on the details of the tax system we can observe an increasing or decreasing tax burden. The IMF developed such an approach for extractive industries. It appears also interesting in a more general context. I attach a paper, which uses the Doing Business representative firm in Africa and measures the progressivity or regressivity of several African tax systems.
Second, I didn't understand if you will appreciate tax incentives under the general tax code only, or if you will also estimate the tax burden under investment code for instance. If not, then you may have an incomplete view of the tax burden. A World Bank report on Special Economic Zones in 2008 establishes that half of world's manufactured goods are produced in these zones, which enjoy significant tax advantages. There are more than 7,000 SEZs across the world and they impact significantly the business environment especially for foreign investors.
Third, if the purpose of BEE Project is to reflect the business environment for everyone and not only for foreign investors, it is important to distinguish firms depending on their respective legal form. In developing countries many firms are still physical persons and are not organized into corporation. Thus, firms (physical persons) are under PIT and not CIT. Moreover, the process of formalization goes through this of incorporation and it is frequent to observe a higher tax burden for the same activity organized in corporation than as a physical person.
Fourth, I don't understand why you use an assumption 50-50 for social contributions. It is quite easy to know the exact share of social contributions paid by the employer only. Moreover, you may also consider other several taxes and fees, which are raised on wages and increase the cost of formal employment (e.g. professional tax, social or youth funds…). Finally, considering indirect taxes is a good idea, but this will raise additional issues in terms of tax incidence and how these taxes are shared between firms and consumers.
Fifth, transparency of tax administration is a very important topic. The current proposal would certainly be biased in favor of Tax Revenue Agency against Tax Administration, since the latter does not publish or even compute their own budget. But, this bias may be right and could push tax administration to publish their budget if they can. Beyond budget issue, it would be very interesting to have an idea of the level of Human Resources in tax (and custom) administration (number of civil servants, gender, age…), and how they are paid (average, median wages, bonuses…). This would be very useful to provide some benchmark of the relative efficiency of each tax administration.

Martin Hearson, Rhiannon McCluskey, Giulia Mascagni, Mick Moore, Wilson Prichard, International Centre for Tax and Development (ICTD) - received on March 11.

Thank you very much for the opportunity to comment on the *Business Enabling Environment Pre-Concept Note* (Feb 4th 2022). These comments reflect the collective views of the International Centre for Tax and Development (ICTD) colleagues listed below. They relate only to the Taxation section. They to some extent reflect the focus of ICTD's research activities on revenue raising in lower-income countries.

We are very aware of the history of the *Doing Business* and *Paying Taxes* reports and appreciate the enormous challenge of doing better. We also appreciate that final decisions about BEE will be heavily shaped by the availability of certain kinds of data or the possibilities of creating it. Our responses are given in that pragmatic spirit. We will refrain from any discussion of the broad conceptual issues involved.

1. We have questions about the proposed use of the total tax and contribution rate (TTCR) that intersect with what appears to be ambiguity about how you propose to define the term operationally.

- TTCR is now a widely used term, and has a clear definition. It is the amount of tax remitted to tax administrations by (large) companies, comprising (a) taxes paid or borne by the company as a business cost (typically especially CIT and net VAT) and (b) taxes collected by the company from other taxpayers and remitted to government (typically PIT via PAYE, VAT, social security contributions) (labelled the *second component* below).
- TTCR has little or no use as a tool of economic analysis. The size of TTCR is typically heavily dependent on the size of the second component, i.e. taxes collected on behalf of government. For example, the pwc report on TTCR for the 100 Group of large British companies for 2020-21 tells us that this second component comprised 68% of collective TTCR.
- The size of this second component of TTCR will vary from one country to another and over time to reflect differences in business models, company structures and VAT structures and practices (of which there are quite a large number). It is not clear that any policy implications can be inferred from levels or changes in TTCR.
- It is worth adding that TTRC has a very political history. It was developed as a defensive mechanism used by large (and transnational) companies in the face of claims that they were not paying enough tax. Anyone using it is vulnerable to the charge that they are somehow agreeing that a company can validly claim credit for the PIT borne by its own employees but collected and remitted by the company (as PAYE). (Note that pwc, for example, still makes this claim, stating that the "company generates the commercial activity that gives rise to the taxes" that are collected on behalf of government as the second component. Implicitly, the company's suppliers, employees and customers play no role in generating the commercial activity in which they participate.)
- In sum, the two points above are (a) that it is unclear what TTRC is supposed to measure and (b) there are political risks attached to using it.
- Equally important, it is not at all clear from p.40 how you propose to define and measure the second component of TTRC. The first sentence on the page implies that you are not going to include the second component at all. However, the third paragraph tells a different story. There is no mention of including PAYE in the second component, so we assume it is excluded. It is however proposed, at least on an experimental basis, to include "50% of the total social taxes and

contributions paid cumulatively by the employer and the employee." Why not simply use the social taxes and contributions that are in principle paid by employees?

- There is admittedly a bit of a rhetorical element in that last question. We think we appreciate the underlying tension between the pressures to generate some unique measure of the 'tax burden' and the fact that economic logic does not permit any such unique measure. We just note the risk that contortionate measures of the tax burden might attract a lot of negative attention and damage the whole BEE exercise. Is it impossible for the Bank to declare itself, at least for the moment, unable to produce a measure that will be numerically and economically credible?

2. The paper implicitly acknowledges the damage that often results from excessive use of (non-transparent, political) investor tax exemptions of various kinds. It is likely that they do net damage to the business/investment climate, even taking into account the fact that they reduce the tax burden. They create market inefficiencies and inequities, and directly encourage politicisation. The Bank has long been a leading campaigner against them. However, the use of any measure of the 'tax burden' on companies is to give implicit encouragement to the proliferation of bad tax exemptions. This is perhaps another reason to desist from measuring the tax burden. Equally important, have you considered the possibility of creating a separate measure of the quality and integrity of the processes for granting tax exemptions for investors? A great deal of research has been done on this, and there are 'manifestos' around. One would aim to measure such things as clarity of criteria for exemptions, transparency of the application/granting process, and degree of effective monitoring of uses of exemptions. Many people believe that improving the process is likely to be the most effective way of reining in proliferating bad exemptions. Nothing else seems to have worked. This could be a great opportunity.
3. We agree on the importance of tax predictability. There are however questions about your proposals for measuring the 'stability of tax regulations':

- The more changes that are made to national 'regulations on environmental taxation', the worse a country will appear (i.e., less stable tax regime). But most countries just at the beginning of a process of trying to use taxation as a tool to tackle our environmental crises. We know this will be very challenging, including finding suitable balances between tax measures and more direct regulation. This is a learning process. We should be encouraging experimentation at this point. It is probably not even defensible to say that the pursuit of the bigger societal goals nevertheless will impose costs on companies. It is at least likely that companies themselves will be proponents of changes in environmental taxes once they have experience with them.
- For many companies, and especially in lower income countries, a wide range of evidence, admittedly mostly impressionistic and anecdotal, suggests that effective tax stability derives relatively more from the behaviour of the tax administrators with whom they interact then from the formal properties of the tax system. In other words, the proposed his way of measuring predictability may be of limited use for smaller companies. (The Bank has one way or another been responsible for a wide range of surveys of businesses that deal with issues like tax predictability. We wonder whether people experienced in these surveys can give some insight into what kind of tax predictability is perceived by companies as really important?)

4. A good tax administration provides a range of taxpayer services other than those mentioned. Has any consideration been given to recognising and measuring, for example: the existence and performance of a call centre; initiatives to educate or sensitize taxpayers; clarity of tax information reported on the website; information materials, taxpayer helpdesks and seminars, etc?

5. Our final point concerns an issue that barely appears in any of the tax literature, but which recent ICTD research reveals to be a very significant issue in much of Africa at least: strong pressures on and from the tax administration to register new (small) taxpayers, despite the fact that the great majority of them will either never file tax returns, file returns but declare no tax liability, or simply not pay. We call these "unproductive taxpayers". I am attaching a draft of a paper in the publication process that explains the issues and marshals the evidence in some detail. I quote from the paper: "Unproductive taxpayers are not just making occasional appearances on taxpayer registers in sub-Saharan Africa. If the six countries cited above are representative of the region, then on average considerably more than half the taxpayers registered with national tax administrations are not paying taxes at all." Several ICTD researchers could talk more about this. Giulia Mascagni would be the best person to approach. The core point is that tax administrations in effect harass very large numbers of small businesses by obliging them to engage in tax administration processes needlessly. Can the Bank consider introducing a measure of the incidence of this phenomenon?

Marc Berenson, Senior Lecturer (Associate Professor), Russia Institute, School of Politics and Economics, King's College London. Comment received on 14th March via email.

Many thanks again for inviting me to provide some feedback on your BEE report, and my sincere apologies for not being able to reply earlier. It has been an unusually busy time. I recognise that you all very well may have an internal deadline or two, but perhaps my comments here might still be of use to you.

Section G is very comprehensive and is a useful approach to any study on taxation. My comments, though, reflect my own research experience in countries where the rule of law is not significantly respected and where the tax administration as well as the courts have been employed as weapons against private individuals or businesses (either for political purposes or for purely personal financial ends on the part of those working in the state tax bureaucracies).

If there is an assumption built into the analysis provided in Section G, it might be that the tax systems under study (a) follow or are designed to follow the goals of raising revenue for the state (when this may not always be the primary objective); (b) that failures to achieve maximum effectiveness lie mostly within legislation, regulation, reporting requirements, etc., and (c) that the incentives of (most) tax bureaucrats are to follow the laws, ensure compliance and/or seek revenue for the state. In societies where the state seeks to control rather than simply regulate economic activity – or where state actors have captured the state, tax systems may well have very different objectives from those in states where the rule of law is recognised or respected to some extent. As such, businesses could be impacted negatively in a manner different from the undesirable outcomes of excessive legislation requirements, administrative inefficiencies or pure implementation errors.

In my research, I have found that at various points in their recent post-communist histories, the Russian and Ukrainian tax bureaucracies often have been instilled with incentives that are not conducive to the more common goals of tax systems outlined or assumed in more developed states and that these incentives manifest themselves in the very origins of the tax system such that the goals from the outset are often more about control, imposition of force and coercion, and personal financial gain of state actors.

In my book, Taxes and Trust, I focus on four main factors that have accounted for the behaviour of the tax bureaucrats as they interact with the state – the ability to use any historical references in designing the tax system in order to build up trust with society; the internal structural design (to provide for oversight); human and technological resources; and work philosophy. Above all, for Russia and at times for Ukraine, the work philosophy or incentive structure built into the tax system was the critical difference when it comes to explaining outcomes. Whether a tax administration is structured around targets – or revenue collection goals – rather than around ensuring that taxpayers simply comply with tax legislation makes a profound influence on the ability of the state to collect revenue in an efficient manner. If tax targets are built into the system, tax bureaucrats have an entirely different motivation than the one implied, perhaps, by the metrics selected for analysis in Section G. As such, I would recommend that any evaluation of a country's tax administration start with some research as to what actually incentivises tax bureaucrats and then uncover what behaviours ensue from these incentives. Admittedly, a tax system that officially or unofficially requires its tax officials to collect a certain amount each quarter or year will be discovered by such metrics as being inefficient, but the precise cause for this risks not being uncovered by simply asking taxpayers to evaluate how well they are treated. The indicators delineated in Section G (focusing on the quality of tax regulations, services provided by the tax administration, and tax burden and efficiency of tax systems) no doubt will pick up problems for states that focus their tax agencies on control rather than

exclusively on raising revenue or improving the economy, but relying solely upon such indicators may not uncover the reasons as to why a tax system's performance is the way it is.

Further, should there be an interest in the BEE report to focus on the issue of tax compliance, this is an area of research where multiple factors have been deemed in scholarship to be critical ranging from gender to education to business sector. Nonetheless, a focus in evaluating the trust of taxpayers in the tax system and in the state – including whether businesses feel as if they are treated fairly and whether they are satisfied with the goods and services they receive broadly from the state as a whole – should be considered to be included as part of any efforts to discern why businesses pay (or don't pay) taxes.

Hopefully something in the above is of use to you all. Please feel free to reach out should you have any further questions or concerns, and I look forward to reading the next iteration of your good work.

OECD, Centre for Tax Policy and Administration (Pascal Saint-Amans, David BRADBURY), email received on 25th February 2022)

General comments

Reference to international good/best practices/standards

One concern that we have is that the document currently refers to the OECD and IMF guidance/best practices and FTA guidance/best practices in a number of respects. While the precise documents referred to are not clearly identified, we have concerns about the use of documents prepared by the OECD or FTA being used to justify rankings. This is especially the case, as it is highly unlikely that these documents were written with this objective in mind and, as a result, will likely be misleading.

"This set of de facto indicators will be measured based on international good practice standards specified by OECD and IMF." (p. 38)

"It will build on the best practices defined by the Tax Administration Diagnostic Assessment Tool (TADAT), the Forum on Tax Administration (FTA) and the Intra-European Organization of Tax Administrations (IOTA)." (p. 38)

"Best practices provided by OECD and IMF will be used as a way for categorization." (p. 39)

"The IMF and OECD guidelines will be used to measure the level of independence of the administrative review process and the speed with which disputes are resolved." (p.39)

While there is a footnote reference to the joint OECD/IMF Tax Certainty Report at an earlier point in the document and a link to the FTA's webpage, no other details are provided to indicate, which reports/standards/best practices are being referred to. As indicated above, our tax policy and administration reports rarely set out "standards", "best or good practices" or "guidelines" developed for the purpose of cross-country comparison and benchmarking. On this basis, we would have concerns if an OECD or FTA report was used as a basis for ranking countries when the report was not prepared for this purpose. To do so, would likely lead to misleading results and would inappropriately suggest that the rankings have the endorsement or imprimatur of the OECD or FTA. **We strongly recommend that the references to OECD and FTA practices/guidelines be deleted.**

The proposed indicators

a) **"Quality of tax regulations"**
As acknowledged by the authors, these indicators are very narrow and the "quality of tax regulations" cannot be easily measured. Specifically, this category includes four indicators, which attempt to measure the quality of tax regulations:

   i. **Clarity of tax provisions**: Assessing the clarity of tax provisions is, by definition, a fairly subjective endeavour. What this indicator actually proposes to measure are the systems in place for obtaining business feedback through "surveys, FAQs on websites, and public contact centres, and providing guidance to businesses by issuing clarifications and interpretations through public and private rulings to provide certainty". These metrics do not appear to be suitable for assessing the clarity of the tax provisions.

   ii. **Stability of tax regulations:** Attempting to measure the quality of tax regulations by examining how frequently tax provisions are amended over time. It is not clear that an absence of change equates with high quality tax regulations. There could be many different cases where the quality of tax regulations would be enhanced by change. In democratic systems of government, often such change reflects the wishes of the people.

iii. **Complexity of record keeping and filing:** This indicator will measure the number of additional documents (i.e. other than financial statements already prepared by businesses) to be submitted with the CIT return and seeks to measure the extent to which flexibility to file electronically is provided. Whilst the objectives of reducing the material to be filed and increased digitalisation of record submission are worthy, it is not clear how a quantitative metric will allow for good cross-country comparison and benchmarking.

iv. **Transparency in the formulation of tax regulations:** This indicator will measure whether authorities routinely inform businesses of future changes in process/procedure, the length of time between announcement and enactment of tax changes, and whether authorities conduct impact assessments and public consultations. While some of these process aspects can be correlated with quality tax regulation, the mere existence of the process, does not guarantee a well-functioning tax system in practice. Also, on the length of time between announcement and enactment, there does not appear to be an objective standard. For example, for large and complex changes a long lead in time might be appropriate to allow business compliance. However, in other cases, a delay between announcement and enactment could lead to increased tax uncertainty.

b) **"Services provided by the tax administration":** Our main concern on the tax administration services side is the focus on processes, e.g. the existence of a range of e-services, risk management strategies, transparency etc., rather than outcomes, e.g. the level of compliance burdens, timeliness and quality of responses, tax certainty, fairness and proportionality. Placing undue emphasis on the existence of processes, rather than outcomes can lead to highly misleading results.

For example, when assessing a particular country, the limitations of this approach may be highlighted with the following examples:

- The country may have solid e-services – however they are very slow at responding due to a lack of resources and appropriate skills and their internal case management systems are not very good;
- The country may have transparent legislation around penalties – however they have very high fines for even trivial mistakes and have very little flexibility;
- The country may have good risk assessment – however, they have little experience of auditing and there can be long delays.

In the case described above, the country would likely score quite highly on the indicators in the consultation draft, however, this would paint a misleading picture. Better indicators might focus on the impacts and outcomes of tax administration, which is what one would expect to influence business decisions. One approach might be to focus more on impacts/outcomes and then include some of the main tools/factors that might contribute towards these outcomes (which might also provide administrations with something of a guide).

By themselves impacts/outputs can be very hard to measure and may have considerable lags, Taxpayer surveys can also have a number of flaws. It may be worthwhile to consider whether a combination of taxpayer surveys and desk top/expert assessments of how far the various factors are in place might enable a more credible scoring. By way of example, we have outlined a few possible factors and approaches at Annex A.

c) "Tax burden and efficiency of tax systems"

This is comprised of two separate components:

i. **"Total tax and contribution rate":** this indicator attempts to measure the tax burden borne by businesses from paying three core taxes: profit taxes, consumption taxes and social security contributions (SSCs). It is proposed that the indicator will consider "effective tax rates" (ETRs), but very little detail is provided on how these will be calculated. For example, are they "forward-looking" or "backward-looking" ETRs. Either approach will have substantial limitations and will be constrained by available data.

This indicator uses a "case study company" approach, which is similar to what was previously included in the Doing Business report, but now the indicator will include several case study companies. Notwithstanding the effort to use a range of different company case studies, this indicator remains very similar to the very controversial indicator used by the WBG in the past, with only some changes, which arguably worsen some key problems. For example, the indicator now measures "taxes collected and remitted by businesses, including both those levied on businesses and those levied on workers and purchasers (e.g. VAT) but collected and remitted on their behalf by businesses" as discussed further below

Overall, the case study approach raises some serious problems. The text proposes to address these problems by having 2-3 different representative firms (e.g. of different sizes). However, this will not address the representativeness of the case studies in a more general way. First, there is not an adequate discussion of the sample from which such a representative firm would be drawn or across which distributions (other than size) would be taken into account. While accounting for different firm size and sector is important, there are many other factors that could not be considered, including the profitability of the firm, the firm's historical loss position, the asset intensity of the firm, whether the firm is closely held or not, and whether the firm is an MNE subsidiary or a domestic standalone firm. Of course, in most countries the effective tax burden would be expected to vary meaningfully across different types of firms. So it is difficult to see how the choice of 2-3 firms from different sectors or of different sizes would be sufficient to ensure representativeness, particularly if key financial variables (e.g. profitability, debt, depreciation, investment, ownership structure) would all be apparently chosen on an ad-hoc basis as opposed to by actually sampling from a distribution of firms. In turn, even if such sampling were to be carried out, it is difficult to see how such data would be available even for a subset of countries.

In terms of the taxes covered in the estimate, the text acknowledges that the tax incidence is difficult to determine, especially in the case of SSCs. Nonetheless, the decision to include taxes in such an indicator purely on the basis of remittance responsibility is not at all consistent with any notion that the indicator would measure burden. If the indicator really was focussed on incidence, it is hard to see why the VAT and SSCs are included at all, as the incidence of these taxes is more likely to fall on consumers and workers (to a large extent; and that's indeed an area of discussion as the incidence will vary), than on businesses. In this regard, it is proposed that only 50% of total SSCs and payroll taxes would be taken into account, and that VAT would be included net of input credits. We do not find this to be an appropriate approach and this remains a very misleading indicator. Even if the indicator would want to capture all the taxes that are remitted, then it should include ALL taxes that are remitted, including all SSCs and PIT withholding. The selective inclusion of some of the

taxes that are remitted signals that the indicator is in effect a tax burden indicator (as the heading suggests), although this is clearly not the case.

We have serious concerns about this indicator, as we believe it will be highly misleading and is not an efficacious tool against which countries should be benchmarked and ranked. <u>We do not believe that this indicator should be used</u>. We would also note that this indicator does not appear to capture any business-related property taxes or any of the environmentally related taxes that businesses pay.

ii. "Time to comply with tax regulations"

The indicator assesses three dimensions of administrative compliance with tax regulations:

- Time to file and pay mandatory taxes, including time to prepare, file and pay profit taxes and VAT/sales taxes
- Time to complete and obtain a VAT refund
- Duration and frequency of tax audits

This indicator also states that "in relation to environmental taxation, the number of environmental taxes and associated cost of compliance with them will be assessed". On this point, it is very unclear how these metrics will be measured.

Will McBride, Tax Foundation Comments on World Bank BEE Pre-Concept Note
March 3, 2022

Thank you for inviting us to comment on the Business Enabling Environment (BEE) pre-concept note. Our team at Tax Foundation has reviewed the note and has the following comments:

1. In the section on services provided by tax administration, dispute resolution mechanisms (page 39), we recommend emphasizing as key measures the share of tax filers or tax filings in dispute and the average time required for dispute resolution.

2. In the section on tax burden and efficiency of tax systems (starting on page 39), to the extent possible, we recommend including property taxes and sales taxes on business inputs in the total tax and contribution rate (in addition to profit taxes, consumption taxes, and social taxes and contributions). We also recommend considering the economic incidence of these taxes to produce a measure of the business tax burden that is most salient for business formation and growth (studies generally indicate profit taxes are most impactful in this regard). We generally approve of the approach to improving the representativeness of the model firm, and recommend considering the approach we, in conjunction with KPMG, used in our Location Matters study.[1]

3. In the international trade section (page 33), it encourages Border Carbon Adjustments (BCAs) and reduced tariffs on environmental goods. One concern is that very few countries have anything approximating a BCA (the EU is perhaps furthest along with the Carbon Border Adjustment Mechanism but there remain many open questions about its implementation). Also, it is not clear from the language

that BCAs in this context include both fees on carbon imports and rebates on carbon exports (only import fees are mentioned).

UNSW Business School | UNSW Sydney

Professors Chris Evans, Michael Walpole, Richard Highfield and Binh Tran-Nam -

Thanks for giving us the opportunity to comment on the World Bank Pre Concept Note outlining the proposed new approach to assessing the business and investment climate in economies worldwide using the "Business Enabling Environment (BEE)", and particularly the opportunity to comment upon the proposed taxation component on pages 36 to 41. We also looked at the Final Report of the Expert Panel Review which informed the Pre Concept Note. As suggested, I have consulted with my colleagues (Professors Michael Walpole, Richard Highfield and Binh Tran-Nam) here at UNSW as we have all been involved in projects related to the assessment and evaluation of the tax compliance burden at various times, and this is a consolidated response representing all of our views.

First, and at a general level, we think that the proposed new BEE model is a significant improvement on the previous Doing Business (DB) model, appropriately addressing many of the concerns that had been raised over the years about the way that the previous model had developed. We are particularly pleased that there is a shift away from the single/hypothetical case study approach (based upon a domestic ceramic pot manufacturer in the case of the Paying Taxes indicator) to one in which expert consultations, firm level surveys and (where appropriate) case studies are used.

The shift from a focus which was more weighted to an analysis of *de jure* regulations to one in which more weight is also given to the *de facto* burden of regulations is also welcome – the previous approach may have provided some level of certainty and consistency but it also gave rise to a level of scepticism as to the appropriateness of a measure that was based upon what the burden was in an ideal regulatory framework as opposed to one which considered how the regulation operated in practice as well as in theory. The more balanced approach of looking at regulation from both the *de jure* and the *de facto* perspectives is a great improvement.

Another significant development is the concentration on two major pillars: the regulatory framework (which considers the regulatory quality, as measured by transparency, predictability/certainty and clarity, as well the regulatory burden) and the provision of public services (such as institutional framework, infrastructure, provision of public services that enable better firm performance etc). The focus upon these two pillars, together with an assessment of how these pillars efficiently combine in practice, sensibly sets the boundaries for the scope of the approach. In combination with the nine topics identified in the life-cycle of the business, and the cross-cutting themes of digitalisation and sustainability, this approach should provide a comprehensive and realistic evaluation of the climate in which businesses operate.

We are, however, somewhat uncertain about the linkage between Figures 1 and 2 of the Pre Concept Note. The author(s) of the document do not seem to explain the linkage between the two pillars and the three characteristics of private sector development. For example, how does predictability of business regulation promote innovation, level playing field or sustainability? We are sure the links are there but perhaps they need to be better articulated.

We also note that the document emphasises the need to quantify indicators, but wonder how feasible it will be to quantify those factors in Figure 2 in an uncontroversial manner.

But our overall general conclusion is that this is a far superior model compared to its predecessor.

Turning specifically to the taxation element, we again believe the proposal in principle looks promising and is certainly a big step forward from the previous DB Paying Taxes indicator. It is clearly much more comprehensive and balanced, and as such greatly reduces the emphasis on the 'total tax contribution/ rate' indicator that remains part of the overall assessment framework. The focus on the quality of tax regulations and the indicators chosen also look appropriate and should lead to richer perspectives on regulatory impacts. Finally, and as noted above, moving away from the single hypothetical case study firm on which Paying Taxes was based, and adopting a mix of expert consultations, firm level surveys and, as needed, specific case studies, should enhance the realism of what is being observed and measured in practice.

All of these improvements will help to ensure a much more granular, comprehensive and relevant evaluation of the business environment as impacted by tax considerations. The proposed model picks up on key drivers of differences in the burden of the tax system, including complexity (legislative and administrative) and frequency of change/lack of stability. Most importantly, the changes to the contentious "total tax rate contribution (TTCR)" aspect of the indicator are sensible, and should help to avoid the race to the bottom and conflicts of interest that caused such controversy with the previous model.

That said, and again picking up on a general point made above, how all of the information is to be gathered and is brought together into a meaningful and objective benchmarking exercise remains somewhat unclear.

We appreciate that there is considerable work still to be done and in that context we have a few observations to make and issues to raise.

Social Security Contribution (SSC) Regimes

SSC regimes are clearly within the scope of the proposed assessment framework (e.g. total tax contributions) but there is no explicit recognition given in the Pre Concept Note to the fact that probably in at least half of the countries where these regimes operate they are administered (including the collection and enforcement aspects) by separate social security bodies, not the national tax administration. As such, in these countries (which tend to be the more advanced and developed economies) businesses have to deal with two revenue collection bodies, not one—both the social security body and the national tax body— for the purposes of complying with government revenue collection regulations in respect of employees' SSC and tax obligations. In federal systems this may be exacerbated if more than one level of government has agencies collecting or otherwise operating in this area of compliance. This is potentially (and in practice) burdensome for many businesses, especially the smaller ones, and is one of the reasons why many countries have integrated the collection of tax and SSC revenues within the national tax body.

In our view, the significance of this should not be downplayed. In many advanced countries (e.g. Austria, Belgium, Japan, and Korea), SSCs are a major source of government revenue, and some regimes are known to be characterised by multiple components (e.g. health, unemployment, and retirement) for both employers and employees that require their own computations etc.

To properly address this factor in the framework would, in our view, require appropriate recognition in all sets of indicators, including 1 (quality of tax regulations) and 2 (services provided by the tax administration body).

Employee's income tax withholdings (EITW)

Concerning total tax and contribution rate, the Pre Concept Note states that:

> This indicator measures the tax burden borne by businesses from paying three core taxes: profit taxes, consumption taxes, and social taxes and contributions.

Under this definition, EITW are excluded and that is appropriate, given they represent the tax liability of their employees, not the business itself.

However, imposing a withholding burden on employers in respect of their employees' income tax liabilities is clearly burdensome and we know that, viewed globally, there are highly varying approaches adopted for this aspect of collecting income taxes, for example:

1. Flat rate (largely final) withholding
2. Cumulative regimes (e.g. UK) calibrated to align with a progressive rate structure
3. Non-cumulative regimes (e.g. Australia) calibrated to align with a progressive rate structure.
4. End-of-year settlement regimes involving employees and employers (e.g. Japan)
5. No general withholding obligation on employers (e.g. Singapore and HK)

Reading the descriptive material for indicator sets 1 and 2 gives us impression that EIWT are not within the scope of the assessment. We don't think this is appropriate.

Indicator 2 (Tax Services of the Tax Administration)

The text for part 1 of this indicator set states:

> *Electronic systems for tax filing, payment, and assessment* – This indicator assesses the quality of the information and communications technology infrastructure of the tax administration, including the availability of online public services provided to taxpayers (e.g., e-filing and e-payment tax systems, taxpayer portals, pre-filled tax returns, and electronic self-service tools). It also looks at the extent of the interoperability between tax administration and other government institutions (e.g., cross-referencing, and automatic exchange of information) that reduces the need to request information from business that is already available otherwise. The proposed methodology will focus on collecting data on electronic services to look at the uptake of such systems (for e-filing and e-payment).

The highlighted sentence worries us because these measures were adopted in the prior DB series, in our view, in an unsatisfactory way. We also have concerns because they don't adequately capture all of the aspects raised earlier in the definition. Finally, we are aware that there is a level of conjecture between international bodies (e.g. IMF/ TADAT and OECD) as to what constitutes an "e-payment" and its measurement. This latter issue needs to be resolved as bodies such as these are the source of data which might end up in any BEE assessment.

International issues

One area that does not seem to be explicitly addressed in the taxation indicator, but which is mentioned in the Expert Panel Review, relates to the international/cross border implications of taxation. We know from

research that those firms with more cross border transactions and dealings across more countries (no matter what size business) incur higher compliance costs than those who operate solely in domestic markets. We didn't, however, really identify any specific part of the taxation component that consider this international aspect, although it may be implicit in some of the considerations mentioned.

We hope you find these comments useful and will be happy to discuss further if appropriate.

Thornton Matheson, Urban-Brookings Tax Policy Center – received on March 1

Comments on World Bank BEE Index – Taxes

1. General comments

Three indicators of administrative burden and one indicator of actual tax burden is likely disproportionate to those factors' importance to businesses. I suggest an expansion of actual tax burden measures and a consolidation of administrative measures, as detailed below.

2. Payroll taxes

Payroll taxes should not be included in the measure of business tax burden, since they are generally incident upon workers, not capital owners. This incidence is driven by the labor market, not public policy, and thus applies in most economies. Companies do incur costs administering the payroll tax, so those costs should be reflected, but in the tax administrative burden measures only.

3. VAT and other indirect taxes

These are distinct from profit taxes (see below), and in my opinion deserving of a separate tax burden measure.

A properly functioning VAT should also fall largely on consumers, not business owners. However, businesses can bear the VAT burden in four ways: (1) A portion of VAT does fall on business rents (returns above a normal rate), and this is appropriate even in a well functioning VAT. (2) If VAT refunds are not given promptly, VAT can burden companies, especially exporters, companies subject to reduced VAT rates, and companies making large, deductible capital investments. (3) If the VAT base contains exemptions for intermediate goods (such as financial services), then "cascading" or non-crediting of input VAT, will increase business costs. (4) Informality can increase the VAT burden on formal businesses that source inputs from informal businesses. Informal businesses pay VAT on some of their inputs, but don't charge it on their outputs, so as in the case of exemptions VAT is not credited and business costs are inflated.

This index should include the effect of other indirect taxes – e.g., fuel excises and transaction taxes – impacting business costs. There are also output taxes – e.g., royalties for natural resource producers and telecom excises for telecom operators - that could potentially be treated as burdening profits (by lowering the effective output price for the producer). But if you create a separate category for indirect tax burden, it probably makes the most sense to include output taxes in this category as well, since they are in fact indirect taxes.

4. Business income taxes

This is the chief and proper burden of the tax system on business owners and should be a separate component. It should include not only corporate income tax (CIT), but also personal income tax levied on the profits of non-incorporated businesses (if applicable), taxes on business property and assets, and any natural resource rent taxes (as distinct from royalties, which are indirect taxes).

Many developing countries have a simplified business tax for small businesses. For micro-businesses, this may be simply an annual license fee, while for slightly larger businesses, it is often a turnover tax on gross receipts. Since the BEE is oriented toward larger enterprises, this tax can likely be ignored. In

some countries, however, the boundary between the CIT and the turnover tax is poorly policed, so that even large enterprises may pay the turnover tax, which is generally levied at a much lower rate than the CIT. Just something to be aware of.

Thiago De Gouvea Scot de Arruda –DIME. Comment received via email on 1st March 2022.

First of all, congratulation to you and the team for putting together a great note - it's a really good summary on the most important dimensions on firm taxation. I can imagine the challenge to produce a new taxation approach for BEE.

Please find attached the pre-concept note with some comments throughout the taxation section.

For the benefit of my colleagues at DIME/DECRG, let me include one comment here in the body of the email. I believe that the "Transparency of tax administration" indicator provides the Bank with an excellent opportunity to engage with tax authorities on improving the quality of and access to microdata. When you describe the importance of "publication of annual reports on financial and operational performance", in the background I read "make sure tax authorities have robust systems to collect, clean and analyze the vast amounts of microdata available, and then make summaries of the most important findings public". In my experience, is not uncommon to see summaries of say VAT collected published by the IMF in a table, and then when we talk to the TA it's quite an obscure procedure to understand exactly how those numbers were produced. So in the same vein of the of your focus on "staff integrity assurance mechanism", I would encourage you to include in this section "data integrity assurance mechanisms".

Comments provided in the BEE pre-concept note file

1) Some additional and more recent evidence on taxes and firms' investment, profits and employment:
   - https://ericohrn.sites.grinnell.edu/files/local_bonus/GOSS_BONUS.pdf
   - https://ericohrn.sites.grinnell.edu/files/DPAD/DPAD_AEJ_Pol.pdf
   - Who Benefits from State Corporate Tax Cuts? A Local Labor Markets Approach with Heterogeneous Firms (with O. Zidar), American Economic Review, 106 (9): 2582-2624, September 2016

Updated reference for this paper: Technology, Taxation and Corruption: Experimental Evidence from Electronic Tax Filing (with Victor Pouliquen), American Economic Journal: Economic Policy, 14(1):341-72. February 2022. World Bank Policy Research Working Paper (2018)

2) Risk Based Audit - Recent evidence on the impact of Large Taxpayer Units: asri, M. Chatib, Mayara Felix, Rema Hanna, and Benjamin A. Olken. 2021. "Tax Administration versus Tax Rates: Evidence from Corporate Taxation in Indonesia." American Economic Review, 111 (12): 3827-71.

3) Transparency of tax administration - This indicator could be a good place to start moving towards better MICRODATA transparency.
For example, "publication of annual reports on financial and operational performance " can mean little if the underlying procedures to generate these reports are flawed. I don't know TADAT system that much, but pushing for robust procedural systems to collect, clean and analyze the vast amounts of data being generate by TAs, and then publish reports, seems like an important endeavour.
Another way to put this may be: tax authorities shouldn't be waiting for the IMF authorities to knock on their door and spend two weeks digging into data to come up with indicators. Transparency must mean that TAs develop their systems to produce and publicize data on their own.

4) Total tax and contribution rate - Are you going to consider dividend taxes on these? There's a pretty lively debate of whether dividend taxes affect i) the cost of capital of firms and ii) whether these CoC affects investment (e.g. https://eml.berkeley.edu/~yagan/DividendTax.pdf).

5) For this indicator, the data that Pierre is collecting and harmonizing, providing the distribution of effective tax rates for firms of different size, can be particularly good for you to benchmark the results from tax experts in a few selected countries. Including these benchmarks in the report would both make the tax experts' indicators more credible (since the effective tax rate measured using admin data can be considered the "ground truth") and also encourage more use of admin data in the future.

6) “This approach for the scope of taxes that are considered for TTCR is based on the fact that determining economic incidence of various taxes is not feasible since this would require data on price elasticity which is available only for a handful of countries. Therefore, for measuring consumption tax such as VAT in the TTCR, BEE will use the net tax actually paid by the business (i.e., after deducting input credit). For social taxes and contributions, as a proxy for economic incidence, BEE will include 50 percent of the total social taxes and contributions paid cumulatively by the employer and the employee.” - I think these sentences are somewhat contradictory. The first sentence states that "determining the economic incidence of taxes is not feasible". Then the third sentence states that "as a proxy for economic incidence, BEE will include 50% of total social taxes...", which is taking a stand on economic incidence. The decisions to attribute to firms 100% of the net VAT is also taking a stand on economic incidence. One suggestion would be to state that "determining economic incidence in every single country is a complex process that is not in the scope of this projects. Instead, we will make simplifying assumptions and apply a single methodology to all countries."

Comments on

BEE Business Insolvency

Martin Kornejew

March 22, 2022

1 BEE conceptual framework

The World Bank's *Business Enabling Environment* (BEE) project aims to evaluate the business environment for the private sector. The project focuses on conditions that

1. lie beyond the scope of private agents,
2. lie within the scope of national public authorities,
3. affect private entrepreneurship, innovation, equality of opportunities and sustainability but
4. are not covered by existing projects, e.g., *Global Economic Prospects* or *Human Capital Index*.

The BEE project envisions corresponding measurements across the globe on an annual basis, building and improving on the discontinued *Doing Business* project in accordance with the *External Panel Review*.

As per pre-concept note, the indicators shall derive from primary (survey) data and proxy i) relevant regulation, ii) non-law institutional factors affecting de-facto implementation and iii) overall, joint efficacy. Measures should also capture cross-firm externalities beyond effects on individual businesses.

2 Business insolvency

Incomplete contracting and frictions to private re-negotiation establish the necessity for bankruptcy legislation. But also outside bankruptcy, private businesses and creditors rely on the enforcement of debt contracts, foreclosure procedures and collateral law. The resolution of private business distress thus relies critically on regulation and public institutions, the efficiency of which affects not only ex-post reallocation of productive resources (prevention of zombie firms, business dynamism, innovation) but also credit market outcomes ex-ante (financial development, credit market customs such as reliance on collateral ect). This makes insolvency resolution a key topic in the BEE project.

2.1 Current concept

The concept promises a holistic yet feasible overview of bankruptcy qualities across jurisdictions. It covers different statutory aspects shaping all stages of bankruptcy procedures, ranging from commencement and creditor rights to final approval procedures. In addition, explicit measurement of institutional details moderating de-facto outcomes are a particularly welcome improvement over *Doing Business*. The wide-spread use of the precursor *Doing Business Resolving Insolvency* indices attests to the important role that the new indicators are bound to play.

2.2 Comments

My main comments relate to pillar C about the ultimate outcomes of bankruptcy procedures. In addition, the team may perhaps consider some minor amendments to pillars A and B.

Pillar C Any bankruptcy code has important economic effects through ex-ante expectations of credit market participants about ex-post outcomes. (Ma and Kornejew, 2022). At the time of writing the debt contract, recovery rates will be front and centre in the minds of creditors. Recovery rates are determined by a plethora of factors, many of which are well reflected in the concept note. However, it is impossible to measure all of them, so a *direct* elicitation of recovery rates would be a extremely valuable addition to section C. For example, the old *Doing Business* data featured recovery rates for *secured* creditors, followin the method of Djankov et al. (2008). In addition, it could be interesting—not least from an academic point of view—to also have information about the recovery rates of *unsecured* creditors (c.f., Hackbarth et al., 2007; Becker and Josephson, 2016).

Similarly, data on business outcomes—the fraction of filings ending up realising the going concern value vs. getting disbanded and sold piecemeal—should be captured in some form or another. The general tendency of a bankruptcy code to reorganise will be informative (c.f., Lian and Ma, 2021; Kermani and Ma, 2021). Whether these outcomes actually align with the (latent) viability of the business, however, is impossible to asses without a case-study design. Yet, the authors themselves note that this discriminatory power is a key performance measure of bankruptcy regimes. Why have indicators been stripped of any case-study element (previously present in *Doing Business*)?[1] To address short-comings of the *Doing Business* case study design, a randomisation over a *set* of cases at the survey stage (e.g.: inviable vs. viable vs. simple liability structure vs. complex liability structure and combinations thereof), could elicit a richer picture while maintaining international comparability.

A final remark regarding international comparability: Of course, firms will endogenously self-select into formal bankruptcy vs. private debt work-outs depending on the quality of bankruptcy procedures. For example, distressed firms with complex liability structures will be discouraged from filing for court supervision if bankruptcy is plagued by frictions and inefficiencies. As a result, average costs and durations over *actual* cases might even be *smaller* than in jurisdiction with good procedures that also process complicated, high-profile bankruptcies. Again, a case study approach could help here. In addition, the measure of the prevalence of out-of-court restructurings could help to appraise potential biases of the kinds described above.

Pillar A Indicator A.2 my include information about how the bankruptcy code handles bankruptcy finance. Bankruptcy finance is not only crucial for further operation, but also for preventing the loss of skilled employees and relations to supplier/customers, all of which are key to the business' going concern value. At the same time, rights of (senior) creditors to deny priming liens necessary to attract fresh funds can be consequential for bankruptcy outcomes (Janger, 2015).

Some countries offer no (explicit) restructuring option within their bankruptcy codes, with important implications for outcomes. The existence of code dedicated to reorganisation (e.g., Chapter 11 in the

[1] How exactly differs the current proposal of collecting data "based on assumptions underlining the defined company, including its type and size, as well as the value of claim" from a case study approach?

US) may be coded within indicator A.3. In addition, characterising voting procedures could enrich the indicator.

The concept covers creditor rights in indicator A.4. Given the central importance of creditor coordination in business bankruptcy, consideration of automatic stay provisions, corresponding time limits and possible loopholes may be desirable

The current concept so far does not consider bankruptcy protections for third parties, notably workers (c.f. Smith and Strömberg, 2005). Given the BEE mandate to consider effects to the private sector holistically, this could be a worth-while addition.

Pillar B Research has demonstrated that court capacity and *congestion* can substantially alter the de-facto implementation of bankruptcy code (Ponticelli and Alencar, 2016). Time between petition and actual commencement of proceedings appears to be a quantifiable proxy. The cyclicality of congestion may be a caveat here (Gilson, 2012).

Should indicator A.5 (about expertise of bankruptcy administrators, i.e., a non-statutory factor) be moved to pillar B?

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Aboubacar Fall

Please find below my comments on the pre-concept Note which I found very well structured with well elaborated content.

My comments are naturally based on my personal experience of both a law practitioner in Senegal and a former in-house counsel at the African Development Bank (AfDB) where I have been in charge of legal & judicial reforms as a means to improve private sector development.

It is important to note that the OHADA project launched in 1998 and which comprises 17 francophone African countries, was driven by the imperative necessity of improving the business environment in the former French colonies and ultimately attracting more foreign investment.

The project was built on two pillars , namely (i) modernizing the commercial laws (company law, insolvency, security, swift recovery of commercial claims etc) and (ii) promoting efficient and credible dispute resolution mechanisms ,mainly through arbitration. With respect to the latter, a Common Court of Justice & Arbitration (CCJA) was created which aimed at harmonizing the application of OHADA laws (called Uniform Acts) by national courts.

OHADA member countries including Senegal have been prompted to adapt their commercial laws and judicial system to these overarching objectives.

In 2010 a post review of the implementation of the OHADA reform was conducted in all the member countries which lead to the following findings:

1) some substantive progress was achieved through the the adoption of new commercial laws by the member countries and their inclusion in the local commercial code;

2) However, courts functioning was not as efficient as intended by the OHADA proponents. Indeed, court decisions lack uniformity in their interpretation of the Uniform Acts. Further, ill trained judges in commercial matters including the lack of specialization contributed to the increase of corruption based decisions thereby provoking businesses defiance against the judicial system.

To fix the dysfunctioning of the court based dispute resolution system, OHADA countries reinforced the role of arbitration and mediation. Indeed, the Uniform Act relating to Arbitration was revisited and improved and a new Uniform Act on Mediation was adopted in 2018.It is worth noting that some countries such as Senegal have adopted their own Arbitration & Mediation Center as well as a Law on Mediation.

Despite these invaluable efforts, I do believe that national governments should engage in significant policy reforms to include (i) digitalisation of the court system; (ii)training of judges on the new technologies, including Bar associations,training judges as well as lawyers in mediation and other ADR mechanisms . These reforms should be undertaken in close collaboration the local private sector associations which voice need to be heard in order to bring about enabling business environment;

Further, with respect to international best practices, OHADA, member countries (which all are parties to the 1958 New York Convention on the Recognition & Enforcement of the Foreign Arbitral Awards) should ratify the Singapore Convention on the Recognition and Enforcement of Mediation Decisions.

I remain at your disposal should you need to further develop any aspects of my short comments.

David Fairman

Many thanks for the chance to comment on the draft. My own expertise is in ADR, and not primarily commercial, but I know enough on the commercial side to be dangerous.

Briefly, I think this is a good start, but there seems to be some confusion of public and private ADR provision in the draft. The draft rightly notes (a.(2) on p.44) the need to assess the quality of public regulations authorizing ADR and establishing legal enforceability of agreements reached through ADR. However, Part c on ease of resolving a commercial dispute (p.46) references only court-related indicators. Many countries have strong private ADR sectors. These are worth assessing explicitly, on indicators such as the following:

1) volume of commercial cases resolved through private ADR (arbitration and mediation), perhaps as a percentage of commercial cases litigated

2) satisfaction rates as captured by ADR centers and any independent academic research

3) time and cost to resolution via private ADR vs. litigation

Hope this is helpful and wish you success in developing sound indicators for both public judicial and private ADR resolution of commercial disputes.

Regards,

David

—

David Fairman

Managing Director, Consensus Building Institute

Associate Director, MIT-Harvard Public Disputes Program

William A. Reinsch

Thank you for the opportunity to review and comment on your document. I have not had time to read the whole thing, but I did review the trade section as well as the dispute resolution section, which is an integral part of any assessment of trade policy.

Having represented primarily U.S. multinational companies for 15 years, I have some understanding of their expectations, but I am not in a position to judge whether theirs are similar to their counterparts in other countries, so I will inevitably be providing an American perspective. My general comment is that there are three over-arching (and related) issues that companies look for in evaluating business conditions in other countries: rule of law, corruption, and stability of government policy. As your paper notes, commercial disputes are inevitable, and companies look for judicial and administrative dispute resolution systems that are transparent, efficient, and objective. Those are generally found in states that have established rule of law principles and an independent judicial system. When you evaluate dispute resolution, I think it will be important to look not only at the structures that are in place but whether there is an underlying rule of law foundation pursuant to which they operate and whether they are truly independent.

As I said, I did not read the entire paper, but in parts I reviewed, I did not see corruption mentioned, and I think it is important it explicitly be an assessment factor, both with respect to dispute resolution and with respect to trade facilitation. Because of U.S. law (the Foreign Corrupt Practices Act), U.S. companies are particularly constrained in their behavior that some others are not, which can disadvantage them, but the more important issue is the corrosive effect corruption has on the operation of an economy. I am confident you are familiar with the literature in this area, but you might find it useful to look at some of the work done in the past several years by the Center for International Private Enterprise (CIPE), which has focused a lot of attention on issues surrounding corrosive capital.

The third element is policy stability. Democracies have elections, and, as a result, policies change, but companies doing business in another country look for continuity in basic government policies on matters like rule of law, privacy, and taxation.

With regard to specific comments on the various elements of assessment outlined in the trade section, I have no criticisms or other comments. I think you have done an excellent job of identifying what countries need to do to be successful trading partners. It would be interesting to know more about how you plan to measure some of the elements you lay out, as some of them are highly subjective, but that is always an issue in any evaluation of this kind.

Lin Lin

Associate Professor, Faculty of Law, National University of Singapore

The new indicator is comprehensive and well-designed. Congratulations on this achievement!

Regarding the differentiation of "SOEs VS. private companies", and "domestic companies VS. foreign entities", What is the definition of SOEs? There are different types of SOEs in different jurisdictions according to different criteria. There are generally wholly state owned enterprises, state controlled enterprises and state participated enterprises. There are also legal definitions of SOEs in some countries. For example, 'SOEs' in China include: *"(1) enterprises in which government agencies own 100% of the shares (wholly state-owned enterprises), and enterprises in which government agencies and the wholly state-owned enterprises directly or indirectly own in aggregate 100% of the shares; (2) enterprises in which government agencies and the enterprises described in paragraph (1), individually or jointly, own in aggregate more than 50% of the shares and in which one of them is the largest shareholder; (3) subsidiaries in which an enterprise described in paragraphs (1) and (2) own more than 50% of the shares; and (4) enterprises in which a government agencies or an enterprise described in paragraphs (1) and (2) owns less than 50% of the shares, but is the largest shareholder, and is able to exercise effective domination through shareholders' agreements, articles of association, board resolutions or other arrangements. "*See Qiye Guoyou Zichan Jiaoyi Jiandu Guanli Banfa (企业国有资产 交易监督管理办法) [Measures for the Supervision and Administration of the Transactions of State-Owned Assets of Enterprises] (promulgated by the State- owned Assets Supervision and Administration Commission (SASAC) and Ministry Of Finance (MOF), Jun. 24, 2016, effective June 24, 2016) Art 4, available at http://lawinfochina.com/display.aspx?id=26008&lib=law&EncodingName=big5.

Likewise, what is the definition of "domestic companies"? How do you define "domestic companies"? Is it by registered venue, governing law or the place of company transaction?

It would be prudent to provide definitions of these concepts in the footnote to avoid confusion, or to provide explanation/indication under "unfairly differentiating between enterprises according to ownership forms".

I hope the above feedback helps. Please feel free to reach if you have further question.

Frederic Meunier

From: Wosgien, Maximilian (BNotK) <m.wosgien@bnotk.de>
Sent: Tuesday, March 15, 2022 8:34 PM
To: Frederic Meunier
Cc: 'María Jesus Mazo Venero'; Dr. Jens Bormann (Notare-Ratingen); Meier, Maria (BNotK)
Subject: AW: World Bank Group - Consultation Phase for the Business Enabling Environment - Business Entry and Business Location
Attachments: 20220315_BEE Questionnaire_en.docx; FATF Recommendations 2012.pdf; Risk-Based-Approach-Legal-Professionals.pdf; CELEX 32017L1132 EN TXT.pdf

Dear Mr. Meunier,

First of all, we would like to thank you again for consulting with us on the new Business Enabling Environment project during the videoconference on March 2nd. In our view, this was a highly constructive exchange that we would be happy to continue. As discussed with Jens and María Jesus in that videoconference, attached we are sending you a list of questions for your kind consideration in the new project.

These questions are meant to highlight some of the information needed to assess relevant aspects of the regulatory framework for **business entry** and **business location**. These questions have to be read in connection with what we discussed in the videoconference and with our written contribution that we circulated at the end of February. *For instance*: A number of questions deal with the **reliability of business (and land) registers**. Only if correct and complete company information is easily accessible through reliable business registers, third parties can safely enter into agreements with companies and subsequently enforce claims against the company itself or individual shareholders. This is essential for the functioning of a modern economy. However, the information in business registers is only correct and reliable if there is a high standard of input control by gatekeepers such as register courts and/or notaries. The questions on "reliable business registers" aim at gathering the relevant information in this regard.

We are, of course, happy to discuss these proposed questions and the intent behind them at any time. We could also provide more detailed information and explanations. Developing a common framework with indicators for adequately assessing the business environment in various economies worldwide is a highly complex task.

Further to our discussion, we are also sending you a number of documents, namely:

- **On ML/TF prevention**: (i) International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation by the FATF; (ii) FATF Guidance for a Risk-Based Approach for Legal Professionals; (iii) Good Practices on the Prevention of Money Laundering and Terrorist Financing in the Notarial Sector by the UINL; and

- **On company law**: the so called EU Codified Directive on Certain Aspects of Company Law.

In particular the Codified Directive contains provisions on business registers and their reliability. See, e.g., Art. 10 that makes clear that EU Member States shall either have a system of preventive administrative/judicial control in place to ensure the reliability of business register or provide for notarization of the company formation documents to achieve that same goal.

We will provide you with further relevant laws, guidelines etc. that we come across.

Please do not hesitate to contact us at any time should you have any questions.

Kind regards,
Maximilian

***

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Betreff: RE: World Bank Group - Consultation Phase for the Business Enabling Environment - Business Entry and Business Location

Dear Jens,

Thank you very much for sharing with us your comments ahead of our meeting.

We acknowledge the receipt of the written document and we look forward to talking with you soon.

Kind regards,

Frederic

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Sent: Monday, February 28, 2022 5:26 PM
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Subject: AW: World Bank Group - Consultation Phase for the Business Enabling Environment - Business Entry and Business Location

[External]

Dear Frédéric,

Please find attached in preparation of our video meeting on March 2 my remarks on the BEE Pre Concept Note.

Looking forward to see you (virtually) on Wednesday.

Best regards,
Jens

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Pre-Concept Note
Business Enabling Environment (BEE)
February 4, 2022

Feedback and comments from Teresa Rodríguez de las Heras Ballell
Submitted on March 8, 2022

J. Business Insolvency

My general assessment on the new approach to assessing the business and investment climate in economies worldwide proposed by the WBG in the BEE is very positive.

The following comments and suggestions are focused on the motivation, structure and approach, and the indicators for business insolvency as described in pages 53-56 of the pre-concept note for the BEE project as provided on February 24, 2022.

Sets of indicators

1). The distinction between the three set of indicators is clear and well-founded. However, two considerations should be made.

First, there are interplays between the different set of indicators that might be relevant in the final assessment. As an illustration, efforts to create an enabling framework for MSMEs' insolvency have not only focused on setting out specialized proceedings and simplified and fast-track proceedings (regulatory pillar), but also (are or might be focused) on tailoring procedural solutions, implementing technological applications, or even adapting the infrastructural schemes supporting the insolvency regimes to the special features of MSMEs (public services pillar). Such an intercorrelation might be considered in the BEE.

Second, the third pillar (ease to resolve) might take into consideration, at least in the conceptualization stage, factors other than cost and time. The availability of templates, standard forms or, for instance, legal aid for MSMs may significantly impact on the "ease to resolve" and, above all, how companies/creditors perceived the complexity of the insolvency regime and the expected net value.

Quality of regulations for insolvency proceedings

2). Should different insolvency proceedings be available in a jurisdiction, the clarity in the scope of application and the compliance of the specific requirements is critical to enhance legal certainty and, therefore, reduce the overall cost of the insolvency. That might be relevant if an insolvency regime provides for sector-specific/size-specific/type-specific insolvency regimes. Uncertainties may arise from the definition of the scope or the application of a simplified regime. Therefore, clarity and predictability of possible insolvency regimes is an indicator (feature of an indicator) to appreciate.

From a different angle – that might be outside the scope of the BEE report and its aims, so it is mentioned here just for your convenience -, it might be considered the impact that the emergence of new business models providing regulated-like services may have in determining which insolvency regime is applicable (e.g. the applicable of bank resolution and liquidation regimes to non-bank platforms).

Quality of institutional and operational infrastructure

3). The preference for specialized bankruptcy court is very sensible, but it should not fully ignore other structural/organizational models with similar aims and equivalent results – specialized sections, specialized judges, case-allocation solutions, etc.

4). On court automation and public availability of information, three comments:

- In general, the implementation of digital technologies to enhance all the stages of the insolvency proceedings should be considered and positively assessed. Not only electronic communications and submissions through a dedicated platform, but also personalized or targeted communications to facilitate notices and acknowledgment of receipt, interaction within the platform among parties and authorities to reduce times, and even possible automation of certain tasks/decision-making need to be observed.

- Interoperability of platforms, registries and other insolvency-related systems is critical. The mere availability of a dedicated platforms for the submission of electronic documents do not always guarantee that proceedings are less burdensome and streamlined. On the contrary, lack of interoperability among systems, lack of interconnection, or a

low level of data-based automation may lead to highly efficient proceedings, even if they are electronic. It would be advisable to convey in the indicator this message that an electronic/digital system *per se* does not necessarily enhance effectiveness, unless it is consistently embedded in the overall system.

- Publicity-providing models may amply vary (registry, databases, cloud-based systems, document docketing systems, digitalized systems, etc). To that end, it would be very valuable to understand whether those models are document-based or data-based. The latter ones increase the possibilities for automation, searches, and aggregation, and provide more actual knowledge. That will be of great importance to assess the real "interoperability of services for insolvency proceedings".

5). Digital transition provides significant gains in costs and times, streamlines processes, and enhances efficiency, but its quality strongly depends upon the quality and reliability of data – all data feeding the system. If possible, it will be of value for the assessment to understand which are the data sources feeding the platforms, the communication systems, the databases compiling information on the debtors' assets, etc (e.g. provided/verified by court, collected from official sources, provided or generated by parties, machine-generated). The reliability of the data infrastructure will support the efficiency of the insolvency system as the digital transition continues.

LABOR

Giuseppe Bertola

The overall approach is very welcome, less one-sided than Doing Business and nicely inclined to discuss measurement issues.

When defining and implementing the indicators it would be useful in my view to keep in mind that regulation generally addresses two issues: market imperfections (information, access barriers, market power) and redistribution (towards politically influential segments of society, which may be a democratic poor majority or powerful rich lobbies). Redistribution can underlie production inefficiency (those who gain get a larger slice of a smaller pie).

In the project outline Competition comes last but should not be least: incumbents in the private sector do not like it, but development and productivity of the private sector as a whole require it.

Specifically on Labor,

Competition is not mentioned. Unionization clearly plays a role, and monopsony in the labor market is increasingly viewed as an important issue.

It is nice to see that (social) protection of workers will be assessed alongside employment and wage rigidities.

Note however that the higher productivity of economies where workers are more protected mentioned at 2.a.(1) is not causal from the latter to the former. If protection of workers increases their welfare but reduces their productivity, it is a luxury more affordable in economies where productivity is higher for exogenous reasons (or is jointly determined with protection by underlying historically determined features, such as social trust and administrative capability).

This generally makes it difficult to interpret the indicators and used them in empirical work, and the problem is exacerbated when there are many indicators as in this project: multi-sided is good but if there are more indicators than countries, no degrees of freedom are left for regressions.

This would make it advisable to preserve some time-series comparability with the DB indicators, in the hope of being able to exploit information from country-specific reforms.

As mentioned, adding indicators is dangerous, but it seems that those on Financial Services only deal with firms' access to them. Households' access to finance (credit cards, mortgages) can make low levels of social protection acceptable.

On measurement,

It seems that it will be mostly based on surveys of firms and other actors, as is the custom at the WB.

This is unavoidably subjective (firms see their own side of the issue, and it is hard to give a voice to would-be entrepreneurs excluded by entry barriers) and difficult to do transparently: users will always suspect that the results are massaged to fit preconceived ideas or assuage powerful countries, especially when the result do not fit their own preconceived ideas.

Also, comparability is hard to achieve on the basis of subjective judgements in many different languages. Doing Business was asking questions to experts about e.g. job security legislation in specific firm situations what would it cost to fire some number of employees in a firm of a certain size). This was far from ideal, but at least was clearly (if debatably) defined.

The OECD used a different approach (on fewer indicators and countries) to produce their labor and product market regulatory indicators: rank countries in terms of objective statistics (checked with member country representatives) on a variety of dimensions, then average the ranks. This approach (which happens to originate in a 1990 paper I wrote) produces more easily understood indicators, unfortunately not comparable over time, and might be adapted to your exercise in some cases.

D. Labor

1. Motivation

Labor markets, along with the policies and institutions that shape them, play a key role in private sector development. Employment protection legislation – the regulation of hiring and dismissal of workers – matters for all firms and employees regardless of the sector they operate in. 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. From the perspective of employees, employment protection legislation can help them obtain job security in a safe workplace, protection from discriminatory practices as well as social protection. As the world evolves and many countries face a growing workforce and changes in the composition of labor, it is important for countries to update their regulations so that the labor market is inclusive while allowing firms to run their businesses efficiently, while complying with internationally recognized labor standards.[62] Many studies point to the association between rigid labor market regulation and higher levels of unemployment (especially among vulnerable groups[63]) and informality[64], lower levels of employment, along with reduced levels of productivity[65] and economic growth.[66]

Public policies and services matter too. Unemployment insurance schemes, healthcare plans, retirement pensions, public employment services [labour taxes, vocational training, health and safety provisions] all influence the interaction between employees and employers. Without protection, employed individuals face many risks, including out-of-work poverty.[67] However, if protections are too taxing on firms' budgets, they may have unintended negative effects and further encourage informality, as they alter the incentives of employers to hire workers formally. The combination of market flexibility with broad and effective social protection encourages firm formalization and decreases both employer and employee vulnerability to shocks.[68]

To better assess the labor market, the BEE indicators will capture the segmentation arising from differences in regulations applying to different contractual arrangements (permanent vs. temporary work) or types of workers (migrant vs. non-migrant), and from the lack of enforcement (formal vs. informal sector). BEE will also assess some aspects of labor disputes, as better compliance with mandated benefits makes it attractive to be a formal employee, inducing informal workers to move to the formal sector.[69]

PM Pedro Martins (NovaSBE)
Informal sector will also be influenced even if indirectly...

PM Pedro Martins (NovaSBE)
Perhaps not clear: how would legislation influence firms' attraction of skilled labour?

PM Pedro Martins
Perhaps interesting citation: Pierre Cahuc, Pauline Carry, Franck Malherbet, Pedro Martins (2022) "Employment Effects of Restricting Fixed-Term Contracts: Theory and Evidence", CEPR DP 16875, January

PM Pedro Martins
In?

PM Pedro Martins
Perhaps also considering "false" service provision contracts, which sometimes are disguised employment relationships?

a. Quality of labor regulations

This set of *de jure* indicators will measure the regulation of employment, applying to businesses, in terms of (1) workers' protection, and (2) restrictions on hiring, working hours and redundancy. Data for these *de jure* indicators will be collected through expert consultations with labor lawyers. No case study will be used to collect these data, but some assumptions may be included to ensure comparability of data across countries.

(1) *Workers' protection* – This indicator assesses whether the applicable regulatory framework includes good practices promoting a safe, secure, and non-discriminating workplace environment. Economies where employees feel protected, and their rights respected, tend to have higher levels of productivity.[71] The workers' protection indicator will measure regulations that guarantee employee protection and decent working conditions in accordance with international labor standards. These areas will cover the availability of minimum wage and equal remuneration for work of equal value, non-discrimination at the workplace (race, color, religion, sex, age, or national origin), workers' right to organize and collective bargaining, safe and healthy working conditions, and the right to annual leave and family leave. This indicator will build on applicable International Labor Standards drawn up by the ILO, in relation also to the 2030 Agenda for Sustainable Development and previous research on good practices conducted by the World Bank Group individually, and in cooperation with OECD, ILO, and other institutions.[72]

(2) *Employment restrictions* – This indicator will assess flexibility in hiring, work scheduling, and dismissal of employees. Restrictions in the regulation of employment can prevent businesses to respond to changes and economic shocks, lead to misallocation of companies' resources and leave some

PM Pedro Martins
A possibly important additional dimension is the scope for collective bargaining to adjust statutory provisions and the extent to which CB does do that: businesses in dialogue with trade unions or other union representatives can shape several of the regulations that they face in the labour market

PM Pedro Martins
Statutory MW only or MWs from collective bargaining too?

PM Pedro Martins
Perhaps better to write "Employment law restrictions"?

categories of workers vulnerable (young, female or less experienced workers, in particular) [increasing labour market segmentation]. This indicator will build on OECD, IMF, and World Bank research on labor market flexibility.[73] The flexibility in hiring will be measured across different types of contracts and probationary periods. Working hours will be measured through working hours per day/week, restrictions, and premiums for work during irregular working hours, such as night work or work on rest days [also minimum overtime premiums?]. Rules and statutory cost on dismissals will be measured through notification and approval requirements, as well as through the regulation of notice period and severance payment.

b. Adequacy of public services for the labor market

This set of indicators will provide selected *de facto* measures of public services affecting the private sector with respect to: (1) workers' social protection, (2) public employment services and (3) individual labor dispute resolution. Data for these indicators will be collected through expert consultations with labor lawyers, labor bureaus, and labor ministries, and can be corroborated by desk research.

(1) *Workers' social protections* – This indicator will assess aspects of social protections available to workers, with a focus on unemployment insurance, healthcare, and pension. For instance, it will determine the availability, type and level (e.g., duration and amount) of unemployment insurance, regardless of the type of contract~~.~~ . Similarly, the indicator will assess the availability of health care and pension as an employee benefit for different types of workers, including access of informal workers to social security.

(2) *Public employment services* – This indicator will assess public employment services that promote participation in the labor force (and training/retraining) and help workers match to employment opportunities (and help firms recruit workers), including but not limited to employment services, job search assistance (and monitoring), job training programs, and employment subsidies. The indicator will also measure the extent of digitalization of public employment services through the assessment of digital job-seeking platforms. These platforms can take different forms, including online vacancy databases or workforce sharing platforms that connect businesses through a temporary workforce exchange.[74]

(3) *Individual labor dispute resolution* – This indicator will assess the availability (and efficiency?) of public services provided for resolution of individual labor disputes arising from day-to-day workers' grievance and complaints.[75] It will also assess the availability of administrative bodies and/or government programs that educate workers about their rights (and employers about their responsibilities). This will serve as a proxy for the quality and efficiency of public institutions, such as

of labor) that provide consultations, administrative guidance and settlement of labor disputes between employers and employees.

c. Ease of employing labor

This is a set of *de facto* indicators that will measure how efficiently labor regulation and public services are implemented in practice, informing on the realization of the policy objectives (e.g., flexibility for businesses, protection of basic rights for employees, and access to the job market for the unemployed). More specifically, by relying on the experience of firms and expertise of local practitioners, it will measure the enforcement of labor and social protection laws as well as the efficiency and coverage of public employment services for job seekers. The indicators will also assess the *de facto* availability and frequency of labor inspections as well as the efficiency of public employment centers.

Questions about compliance with working hours, non-wage costs, and labor inspections will be addressed to firms because such questions directly relate to their everyday operations. Hence, firms are better positioned to provide high-quality data in these areas. 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. This is because firms may either be reluctant to respond due to the delicate nature of an issue (discriminatory practices) or simply have little experience to comment on certain topics (quality of training programs for unemployed). In such cases, we assume that expert consultations would be a more reliable source of data.

PM **Pedro Martins**
I suggest that the costs regarding subjective or performance dismissals (as opposed to economic dismissals) are also considered

PM **Pedro Martins**
Social security contributions by employers and employees may also be a relevant dimension

PM **Pedro Martins**
I would also consider the provision of labour market information (e.g., understanding which skills are in greater need to adjust training resources accordingly) – see more references in my report on '2020 Labour Market Vision: Labour Market Information Systems for the New Decade', Socieux+, 2019.

PM **Pedro Martins**
Another dimension may be the development of partnerships with the private sector and the not-for-profit sector in PES activities – PES can be small but active if making use of these partnerships

PM **Pedro Martins**
And vacancy registration

PM **Pedro Martins**
"employing and training labor"? Different countries have different environments for the training of workers, including the involvement of both the public and private sectors. These environments can also contribute greatly to enabling business, by letting firms draw on more skilled workforces or have greater incentives to train their employees. See my review for several references: 'The Economic Implications of Training for Firm Performance', Oxford Research Encyclopedia of Economics and Finance, Oxford University Press, 2022.

PM **Pedro Martins**
This is very interesting and a very useful contribution

PM **Pedro Martins**
On the efficiency of PES, the involvement of human resource managers and temporary work agencies may be useful

PM **Pedro Martins**
One could argue that firms would be relatively knowledgeable about PES training quality

Andrea Albanese, Ph.D.

LISER - Luxembourg Institute of Socio-Economic Research, Labour Market Department

D. Labor

1. Motivation

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Public policies and services matter too. Unemployment insurance schemes, healthcare plans, retirement pensions, public employment services all influence the interaction between employees and employers. Without protection, employed individuals face many risks, including out-of-work poverty.[67] However, if protections are too taxing on firms' budget, they may have unintended negative effects and further encourage informality, as they alter the incentives of employers to hire workers formally. The combination of market flexibility with broad and effective social protection encourages firm formalization and decreases both employer and employee vulnerability to shocks.[68]

To better assess the labor market, the BEE indicators will capture the segmentation arising from differences in regulations applying to different contractual arrangements (permanent vs. temporary work) or types of workers (migrant vs. non-migrant), and from the lack of enforcement (formal vs. informal sector). BEE will also assess some aspects of labor disputes, as better compliance with mandated benefits makes it attractive to be a formal employee, inducing informal workers to move to the formal sector.[69]

[62] (i) Wandner, Stephen A., David E. Balducchi, and Christopher J. O'Leary. 2018. "Public Employment Policy for an Aging Workforce." *Gerontology and Geriatric Medicine* 4: 1-13; (ii) Malo, Miguel. 2018. "Finding proactive features in labour market policies: A reflection based on evidence". ILO Future of Work Research Paper Series. ILO, Geneva.
[63] (i) Montenegro, Claudio, and Carmen Pagés. 2003. "Who Benefits from Labor Market Regulations?" Policy Research Working Paper 3143. World Bank, Washington DC.; (ii) Kahn, Lawrence. 2012. "Labor Market Policy: A Comparative View on the Costs and Benefits of Labor Market Flexibility." *Journal of Policy Analysis and Management* 31: 94-110; (iii) Kugler, Adriana, Juan F. Jimeno, and Virginia Hernanz. 2005. "Employment Consequences of Restrictive Permanent Contracts: Evidence from Spanish Labor Market Reforms." Discussion Paper 657. Institute for the Study of labor (IZA), Germany.
[64] (i) Sharma, Siddharth. 2009. "Entry Regulation, Labor Laws and Informality." Working Paper 48927. World Bank, Washington, DC; (ii) La Porta, Rafael, and Andrei Shleifer. 2008. "The Unofficial Economy and Economic Development." *Brookings Papers on Economic Activity* 39: 275-352; (iii) Loayza, Norman, Ana Maria Oviedo and Luis Serven. 2012. *The Impact of Regulation on Growth and Informality: Cross Country Evidence*. Washington, DC: World Bank.
[65] (i) Martin, John, and Stefano Scarpetta. 2012. "Setting It Right: Employment Protection, Labour Reallocation and Productivity." *De Economist* 160(2): 89-116; (ii) Bassanini, Andrea, Luca Nunziata, and Danielle Venn. 2009. "Job Protection Legislation and Productivity Growth in OECD Countries." *Economic Policy* 24(58): 349-402.
[66] Loayza, Norman, Ana Maria Oviedo and Luis Serven. 2012. *The Impact of Regulation on Growth and Informality: Cross*

indicator will build on OECD, IMF, and World Bank research on labor market flexibility.[73] The flexibility in hiring will be measured across different types of contracts and probationary periods. Working hours will be measured through working hours per day/week, restrictions, and premiums for work during irregular working hours, such as night work or work on rest days. Rules and statutory cost on dismissals will be measured through notification and approval requirements, as well as through the regulation of notice period and severance payment.

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Andrea Albanese
Yes, but notice that for example in Belgium until 2013 there was a distinction between blue collar and white collars jobs for the EPL.
https://www.mvvp.be/belgium-abolishes-the-differentiated-termination-treatment-of-blue-and-white-collar-workers/

Andrea Albanese

Blanchard, O., & Landier, A. (2002). The perverse effects of partial labour market reform: fixed-term contracts in France. *The Economic Journal*, *112*(1999), 214–244. Retrieved from http://onlinelibrary.wiley.com/doi/10.1111/1468-0297.00047/full

Andrea Albanese

Ichino, A., & Riphahn, R. T. (2005). The effect of employment protection on worker effort : absenteeism, Journal of the European Economic Association, 3: 120–143.
doi: 10.1162/1542476053295296

Engellandt, A., & Riphahn, R. T. (2005). Temporary contracts and employee effort. *Labour Economics*, *12*(3), 281–299.
doi:10.1016/j.labeco.2003.11.006

Andrea Albanese
Note that a part of the literature argues that less EPL reduces the average employment spell, which may decrease firms' investment in human capital and therefore productivity (Belot et al., 2007) and also make firms less selective in the choice of the matches (Lagos, 2006).

Belot, M., Boone, J., & Van Ours, J. (2007). Welfare-Improving Employment Protection. *Economica*, *74*(295), 381–396. doi:10.1111/j.1468-0335.2006.00576.x

Lagos, R. (2006). A model of TFP. *The Review of Economic Studies*, *73*(4), 983-1007.

Andrea Albanese
Yes, the OECD has a well-know set of index on EPL

Andrea Albanese
Besides generosity of the safety net, you may look at eligibility criteria too

Dr. Anke Hassel

Hertie School of Berlin

Thank you for asking for my feedback on the report on "Business Enabling Environment" in the area of labor.

In the field of labour there is a fine balance between necessary and productive labor protection through policies (employment protection, labour standards, minimum wages and collective bargaining) and restrictive practices (where management faces barriers of employing workers effectively). Productive protection of workers and restrictive practices can be based on the same policies: workers' voice at the workplace is a productive force in dynamic sectors of the economy but can also turn into restrictive practices in state-owned enterprises or in situations of industrial conflict.

I think your report should mention and analyse this situation in a bit more detail and reflect the fact that depending on context and situation good policies can turn into bad policies. There is no single policy in the area of labour regulation that is by definition beneficial or harmful. Minimum wages are frequently positive to protect workers and raise productivity but they can harm, if set too high or for school leavers. Social protection is essential for workers, but if the costs of social protection (social insurance contributions) are set too high, business will suffer.

Therefore just looking at indicators alone is not necessarily helpful. You mention many potential indicators and give no indication how to weigh them or how to cluster them. It is also not clear how you interpret them: I assume that worker protection is positive and employment restriction rather negative. With regard to public services and enforcement of workers' rights and dispute solution, it is unclear how to interpret them. If the German government seriously enforced all health and safety regulations and investigated violations against labour rights many businesses in Germany would not exist. How would you interpret such a finding?

In summary, I would be more explicit and more reflective in order to address the concerns mentioned above. I would not collect a large number of indicators and build complex indices as individual indicators have different effects in different context. You might want to assess the quality of labour regulation based on expert opinions but should also include trade union experts in this assessment.

Maria Paz Anzorreguy, Director for ILO Coordination, International Organisation of Employers (IOE)

Luis Rodrigo Morales, Senior Adviser, International Organisation of Employers (IOE)

Some general comments by the IOE team:

- Reliance on experts or lawyers to inform some of the data collection: While in principle this is fine, it is worth noting most experts and lawyers are not necessarily neutral. In fact, most legal practices are built on the stand of either being "workers' representatives" or "business lawyers". While professionalism should ultimately prevail, it is probably a good idea to consider balancing out some of their views.
- Approaching firms directly for some of the data is also a welcome step. However, some firms (especially smaller ones) may not have the requisite resources and/or time to collate data for the report. Moreover, some may have an incentive to "colour" the data or present only the version that does not reflect poorly on them. To mitigate this potential risk, it may be prudent to involve organised business structures to verify some of the collected data. Dispute resolution tribunals and/or labour market research firms may also be used to validate the data.
- Data collected from government departments and labour inspectorates should also be tested against the experiences of businesses (and workers). Organised business and labour formations can assist.
- Form vs. substance: There are instances where countries may have the best laws on paper, but which are simply either not enforced or their impact is not felt. I accept that the experiences of firms and practitioners (under *c. Ease of employing labour*) will highlight the real state of affairs.
- Social dialogue: While this aspect may be beyond the scope of the BEE, I believe the existence or absence of structural arrangements to accommodate the voices of social partners in making employment regulations (for hiring, dismissal and social protection) can contribute to the overall assessment of a country's attractiveness or lack thereof.

1. Motivation

Labor markets, along with the policies and institutions that shape them, play a key role in private sector development. Employment protection legislation – the regulation of hiring and dismissal of workers – matters for all firms and employees regardless of the sector they operate in. From the perspective of firms, well-designed legislation can help them create employment, attract skilled labor and adapt to economic shocks and to changes in economic conditions and technology. Furthermore, it can ease the transitioning from the informal to the formal sector. From the perspective of employees, employment protection legislation can help ~~them obtain job security in a~~employability, safe and healthy workplace conditions, protection from discriminatory practices as well as social protection. As the world evolves and many countries face a growing workforce and changes in the composition of labor, it is important for countries to update their regulations so that the labor market is inclusive while allowing firms to run their businesses efficiently, while ~~complying with~~effectively implementing internationally recognized labor standards.[62] Many studies point to the ~~association~~ connection between rigid labor market regulation and higher levels of unemployment (especially among vulnerable groups[63]) and informality[64], along with reduced levels of productivity[65] and economic growth.[66]

Public policies and services matter too. Unemployment insurance schemes, healthcare plans, retirement pensions, public employment services all influence the interaction between employees and employers. Without protection, employed individuals face many risks, ~~including~~ such as out-of-work poverty.[67] However, if protections are too taxing on firms' budget, they may have unintended negative effects and further encourage informality, as they alter the incentives of employers to hire workers formally. The combination of market flexibility with broad and effective social protection encourages firm formalization and decreases both employer and employee vulnerability to shocks.[68]

To better assess the labor market, the BEE indicators will capture the segmentation arising from differences in regulations applying to different contractual arrangements (permanent vs. temporary work) or types of workers (migrant vs. non-migrant), and ~~from~~ the lack of enforcement (formal vs. informal sector). BEE

1 **IOE**
It should also consider transition policies towards formalization.

2. Indicators in the area of Labor

BEE uses a set of three indicators in the area of labor: (a) the quality of labor regulations (regulatory pillar); (b) the adequacy of public services for the labor market (public services pillar); and (c) the ease of employing labor which assesses how the two pillars (regulatory and public services) contribute in practice to the efficient functioning of labor markets from the perspective of both the firm and the employee.

The indicators will measure labor regulations and public services and administrative costs and barriers, as they apply to different types of workers in different contractual arrangements, including but not limited to permanent, fixed-term employment, self-employed, and foreign workers. This is to understand how the policy and practice vary depending on the type of workers, as well as how countries address labor market segmentation.

In contrast to the former *Doing Business* Employing Workers topic[70], BEE will consider more explicitly the perspective of employees. It will offer a more balanced view, by including indicators on workers' protection (unemployment insurance, healthcare, pension), decent working conditions (rights at work, social dialogue, and others) and public services, in addition to the data on labor market flexibility. Another important addition is the efficiency component which will collect data directly from firms to understand how rules and regulations are applied in practice. Finally, unlike *Doing Business* the BEE indicators will include different types of firms and workers, including workers on different types of employment contracts.

a. Quality of labor regulations

This set of *de jure* indicators will measure the employment regulation ~~of employment~~, ~~applying~~ applicable to businesses, in terms of (1) workers' protection, and (2) restrictions on hiring, working hours and redundancy. Data for these *de jure* indicators will be collected through expert consultations with labor lawyers. No case study will be used to collect these data, but some assumptions may be included to ensure comparability of data across countries.

(1) Workers' protection – This indicator assesses whether the applicable regulatory framework includes good practices promoting a safe, secure, and non-discriminating workplace environment. Economies where employees feel protected, and their rights respected, tend to have higher levels of productivity.[71] The workers' protection indicator will measure regulations that guarantee employee protection and decent working conditions in accordance with international labor standards. These areas will cover the availability of minimum wage and equal remuneration for work of equal value, non-discrimination at the workplace (race, color, religion, sex, age, or national origin), workers' right to organize and collective bargaining, safe and healthy working conditions, and the right to annual leave and family leave. This indicator will build on applicable and up to date ~~International~~ international ~~Labor~~ labor ~~Standards~~ standards drawn up by the ILO, in relation also to the 2030 Agenda for Sustainable

IOE
Will this include the assessment on the easiness or complexity of formally registering employees, including temporary workers. i.e. for social security purposes, or for portability of rights.

IOE
How will the index address the employees perspective? And if included, how will it determine which unions participate in data collecting?

IOE
it may be prudent to involve organised business structures to verify some of the collected data. Dispute resolution tribunals and/or labour market research firms may also be used to validate the data.

IOE
Different workers categories might not be equivalent in different countries. Will this include specific definitions?

IOE
•Reliance on experts or lawyers to inform some of the data collection: While in principle this is fine, it is worth noting most experts and lawyers are not necessarily neutral. In fact, most legal practices are built on the stand of either being "workers'

IOE
While the regulatory framework can be in line withe ILO conventions, its effective implementation would be difficult to assess. ILO is actually carrying out this assessment as custodian of the SDG indicators.

Development and previous research on good practices conducted by the World Bank Group individually, and in cooperation with OECD, ILO, and other institutions.[72]

(2) *Employment restrictions* – This indicator will assess flexibility in hiring, work scheduling, and dismissal of employees. Restrictions in the regulation of employment can prevent businesses to respond to changes and economic shocks, lead to misallocation of companies' resources, hamper entrepreneurship (SMEs) and leave some categories of workers vulnerable (young, female or less experienced workers, in particular). This indicator will build on OECD, IMF, and World Bank research on labor market flexibility.[73] The flexibility in hiring will be measured across different types of contracts and probationary periods. Working hours will be measured through working hours per day/week, restrictions, flexible arrangements and premiums for work during irregular working hours, such as night work or work on rest days. Rules and statutory cost on dismissals will be measured through notification and approval requirements, as well as through the regulation of notice period and severance payment.

(1) *Non-wage labor costs*. Hiring and firing costs, and non-wage labor costs can affect employment creation and labor relations dynamics.

IOE
The possibility to widely negotiate labor regulations via collective bargaining should be consider, as it enables tailored solutions to the evolution of production in different economic activities and prevents conflict.

b. Adequacy of public services for the labor market

This set of indicators will provide selected *de facto* measures of public services affecting the private sector with respect to: (1) workers' social protection, (2) public employment services and (3) individual labor dispute resolution. Data for these indicators will be collected through expert consultations with labor lawyers, labor bureaus, and labor ministries, and can be corroborated by desk research.

IOE
The cost and complexity of affiliation would be important to assess.

(1) *Workers' social protections* – This indicator will assess aspects of social protections available to workers, with a focus on unemployment insurance, healthcare, and pension. For instance, it will determine the availability, type and level (e.g., duration and amount) of unemployment insurance, regardless of the type of contract, Similarly, the indicator will assess the availability of health care and pension as an employee benefit for different types of workers, including access of informal workers and independent contractors to social security.

IOE
skills matching is a prerequisite

(2) *Public employment services* – This indicator will assess public employment services that promote participation in the labor force and help workers match to employment opportunities, including but not limited to employment services, job search assistance, job training programs, and employment subsidies. The indicator will also measure the extent of digitalization of public employment services through the assessment of digital job-seeking platforms. These platforms can take different forms, including online vacancy databases or workforce sharing platforms that connect businesses through a temporary workforce exchange.[74]

IOE
Pay specific attention to apprenticeships programs.

IOE
This should include training subsidies for the private sector.

(1) *Productivity, innovation and sustainability incentives.* As a cross cutting issue, policies and public services designed to promote private sector investment in innovation, specifically regarding productive processes and productivity have a positive impact on working conditions boosting productivity, competitiveness and employment creation.

(2) *Interoperability of employment services, subsidies, and training programs.* (as included in other topics, the link and vertical-horizontal cooperation between agencies and policies should be assessed).

(3) *Individual and collective labor dispute resolution* – This indicator will assess the availability of public services provided for resolution of individual labor disputes arising from day-to-day workers' grievance and complaints.[75] Assess judicial processes as well as administrative courts and alternative dispute resolution systems such as mediation and conciliation services. It will also assess the availability of administrative bodies and/or government programs that educate workers about their rights. 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.

IOE
Collective labor conflict management is also key to the business environment, it should be addressed by specific indicators.

c. Ease of employing labor

This is a set of *de facto* indicators that will measure how efficiently labor regulation and public services are implemented in practice, informing on the realization of the policy objectives (e.g., flexibility for businesses, administrative cost (bureaucracy), protection of basic rights for employees, and access to the job market for the unemployed). More specifically, by relying on the experience of firms and expertise of local practitioners, it will measure the enforcement of labor and social protection laws as well as the efficiency and coverage of public employment services for job seekers. The indicators will also assess the *de facto* availability and frequency of labor inspections as well as the efficiency of public employment centers.

Questions about compliance with working hours, non-wage costs, and labor inspections will be addressed to firms because such questions directly relate to their everyday operations. Hence, firms are better positioned to provide high-quality data in these areas. 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. This is because firms may either be reluctant to respond due to the delicate nature of an issue (discriminatory practices) or simply have little experience to comment on certain topics (quality of training programs for unemployed). In such cases, we ~~assume~~ consider that expert consultations would be a more reliable source of data.

IOE
How will the experts be selected? There should be an adequate balance to ensure the firms perspective is considered. Namely, by a balanced representation of unions/employers organizations.

(1) The efficiency of the labor regulations should be analyzed also taking into account also individual and collective conflict levels.

[5] ILO Recommendation No. 130 (1967) states that a complaint may arise over "any measure or situation which concerns the relations between employer and worker or which affects or may affect the conditions of employment of one or several workers in the undertaking when that measure or situation appears contrary to provisions of an applicable collective agreement or of an individual contract of employment, to works rules, to laws or regulations or to the custom or usage of the occupation, branch of economic activity or country, regard being had to principles of good faith".

(2) The index should also address the time-cost efficiency of the dispute resolution mechanisms available. (Considering the number of cases solved in mediation processes, backlog of court cases, times and costs of different instances etc.).

(3) The efficiency of employment/training services can be assessed by talent gaps and shortage occupation lists.

Gordon Betcherman University of Ottawa

Thank you for inviting me to comment on this pre-concept note. I have read through the labor section, as well as the introduction explaining the motivation for the project. I think this is a very good initiative-- benchmarking systems are clearly of value as shown by the interest generated by DB over the years, while addressing valid concerns with DB regarding data gathering, safeguards, transparency, priority on de jure measures, etc.

With respect to the labor section, here are my comments.

- **Value of the exercise**. The efforts to develop a more balanced approach are laudable. It is good to include public services alongside regulation and it is also a good innovation to seek out de facto measures along with the de jure ones.
- **Component (c) not clear**. Regarding the overall structure, components (a) and (b) are clear and appropriate, However, component (c) seems less clear and I am not sure how much it will add to the first two. I understand the concept of (c) is to assess how efficiently regulations and public services are implemented and that this is the common structure being used in the BEE approach but there seems to be duplication with component (b) and perhaps the implementation of labor regulations could be handled as part of (a).
- **Sub-national measures important**. I am assuming that sub-national measures will be calculated where appropriate given that labor laws and policies vary by jurisdiction in many countries.
- **Informal sector employers**. Employer surveys play an important part and I had questions about how these will be carried out. I read that the WB Enterprise Surveys will be useful, and I agree. But they will need to be extended in the labor area to meet the demand for de facto evidence. Also I didn't see evidence that the surveys would cover the informal sector. If you are just relying on formal firm survey data, an important perspective will be missing.
- **Treatment of EPL in motivation**. While not directly relevant to the index itself, the motivation section raised two concerns for me. First, there is an initial emphasis on EPL which makes the reader think that this is what the Labor measures are going to be about. In fact, when you read the rest of the motivation and the details on the components, you see that labor is being much more broadly treated. Second, on the literature on EPL, I found that you presented the association between the rigidity of labor regulations and unemployment, informality, growth and productivity as much more definitive than is actually the case. The research is more tentative than you convey. While there are certainly studies supporting your statements, the magnitude of effects is often small, there are also a lot of studies that find no relationship, even in some cases relationships going the other way, and especially in the case of growth and productivity, there is not a lot of evidence to begin with. As researchers have shifted their focus from simple cross-country regressions to more sophisticated methodologies, it has become clear that the impacts of labor regulations like EPL are more complicated than the conventional wisdom a decade or two ago. I notice that, throughout the Labor section, the citations tend to be quite old. Supporting footnotes 63-66 do not include any source more recent than 10 years ago. You may want to update this literature and also your characterization of the main findings.
- **Gig economy and home-based work**. These were not mentioned in the note. But regulating these work forms and providing protection for workers in these jobs is an emerging issue for labor policy-makers. Have you thought about whether and how they might be incorporated?
- **Quality of labor regulations**. Reading this sub-section, I had the feeling that 'Workers protection' was being conceived of as measures where the more you have, the better. While 'Employment restrictions' was characterized in the opposite way, with less as better (even the titles of the two components suggest this). But the effects of each can operate both ways. While measures you include in employment restrictions can constrain the flexibility of employers as is emphasized, they also can be important protections for workers. At the same time, measures like the minimum wage, collective bargaining, and workplace health and safety can offer protections for workers, but they also can have important consequences for the efficiency of business operations. Furthermore, the effects of all of these measures are not linear. That is why, in the 2013 WDR, we used the plateau and cliffs metaphor. All of this led me to wonder how scores on the Quality of labor regulations would be interpreted.

- **Adequacy of public services**. The list identified for consultations does not include employers or labor organizations. Yet I think these stakeholders would have important insights into all three areas covered under public services. In terms of workers social protections, financing is not mentioned but this is important both for ensuring adequate resources are available for the plans and because social insurance contributions can have significant impacts on labor demand. Here too I was wondering how scoring will be done and what would constitute a 'good' score. On the quality of public employment services, the write-up emphasizes digitization and information but there are many other factors that are relevant for assessing these services such as staffing, coverage of offices, links with employers, contracting arrangements with private deliverers, etc.
- **Ease of employing labor**. As mentioned above, this component is not so clear to me. Enforcement of labor law and social protection is clear. The efficiency of public services is less clear. The adequacy of public services in component (b) would seem to already incorporate the efficiency dimension and since the method of data collection is the same as in (c), i.e., consultation, what additional information will be included in this component? On compliance with various labor laws, the note indicates that information will be collected by employers since they are best placed to provide this information. However, employers may have their own interests in gauging compliance and relying on them alone may not generate objective measures.

Comments by Manuel García Huitrón

Congratulations on revamping the DB indicators into the new BEE indicators, particularly for including the pensions topic in the measurements. I have only a reduced set of comments at this early stage of the project. The comments may feel too general, but they are those that I think are the most useful for the BEE design exercise at this juncture. Much more can be said with more details and a set of proposed indicators at hand.

My recommendations below focus on the relevant perspective for the BEE project, namely, private sector development, in the context of employment protection legislation and from the viewpoint of employers and employees. However, it should be kept in mind that pensions are broader than those about labor markets and private sector development. To use an analogy, we could say that pensions are like diamonds. Each side of the octahedral honeycomb form of a diamond (known as a "carat") resembles one of the many channels from which pensions influence economic decisions and the plethora of perspectives that can be adopted to approach the topic. There is a micro, a macro, a financial, a behavioral, a general equilibrium, a partial equilibrium, an intragenerational, an intergenerational, a labor (including formal versus informal), a fiscal, a debt sustainability, among other relevant perspectives.

Most importantly, starting from the status quo, most if not all design changes or reforms have non-trivial distributional implications. No wonder pension design and reform matters are usually hotly debated and attract the public interest. Issues in pension design and reforms potentially trickle down on many aspects of the economy, including, for example, fiscal, financial, labor, and welfare implications for individuals/nations. Furthermore, the pension topic pertains not only to the working life of individuals but to the time when people are not working anymore: when they retire.

Focusing on the private sector development angle is like going from a multidimensional object (like the diamond) to a one-dimensional world (one of the diamond's carats). Henceforth, lots of care and knowledge about pensions should be put when selecting the indicators to avoid sending the wrong messages. A first recommendation is to be precise about what is intended with indicators and be very clear about what they mean and what they do not mean. This is something that I remember the DB reports tried to do in their initial "About the Methodology" section.

Secondly, in pensions, there are many ways to peel a cat. No single design is always universally better for all countries or even one country over time.[1] Pension systems are usually analyzed in terms of three objectives: (i) adequacy (or social sustainability), (ii) coverage, and (iii) financial sustainability (or integrity)[2]. There are tensions or tradeoffs between these features[3]. For example, a reform that may increase coverage (number of people covered by the scheme) may decrease the long-term financial sustainability of the pension system has specific characteristics or may increase it under other designs. Under the current design, Brazil is an example of the former, while Chile of the latter. Increasing coverage may be consistent with private sector development, but depending on which type of pension system we might focus on, this may or may not contribute to long-term productivity or economic growth. In general, if increasing coverage also implies increasing savings, it may create a virtuous cycle with private sector development, productivity, and economic growth. Some assumptions are implicit in that line of reasoning, but it would be consistent with the World Bank, IMF, IDB, and OECD messages about pensions.

Another example might be around contributions. Comparing countries A and B regarding the level or % of contributions would be a spurious exercise. The impact of increasing contributions depends on the structure of labor markets. Imagine Colombia increasing contributions where the contribution rate is already close to 20% and parafiscal costs are already remarkably high. In the short term, such a measure surely dislocates labor markets even more (increase informality), while in the long-term, our basic economics tells us it may not even matter where the legal incidence lies. The economic incidence depends on the relevant elasticities. So, what might look good for workers in the short-term might not be in the long term for them or the economy. There is a huge debate, with no straightforward way out, about whether contributions should decrease in Colombia instead of increasing. That would help solve the informality problems, so the argument goes. There is merit to that argument, but it would also decrease savings and deteriorate the adequacy of pensions. As said, there is no straightforward way out, and it would be wise to avoid having one of the indicators showing "the right" direction.

These types of debates are abundant in pensions. Therefore, a second recommendation is to avoid any indication that an increase or decrease in a specific indicator may somehow be always and, at all moments, the way to go for a particular country.

All that being said, there is space to include indicators that are neutral or at least where the tradeoffs between objectives are minimal and, in that way, noncontroversial in its policy interpretation:

- Compliance indicators of mandated benefits—already mentioned, and it has to do with the quality of institutions related to pensions. This indicator is crucial in the context of expected labor market disruptions amid the advent of innovative technologies and the gig economy. In a nutshell, the self-employed (formal or informal) are bound to increase in importance because such disruptions to labor markets are expected to disintegrate traditional salaried relationships (See here and here). The good news is that modern technology, big data, and predictive analytics may enhance contribution collection and enforcement.
- Indicators related to the presence of a multi-pillar pension structure as promoted by the World Bank:
    1. Whether there is a minimum pension (De Jure: Yes or No) and whether it is universal or not (some types of workers are excluded).
        - Depending on the design, formal and informal are included or excluded, same for gig/self-employed or salaried.
        - Labor laws that mandate protection to workers immersed in the digital economy and gig work through platforms would go a long way regarding coverage and adequacy of pensions for these increasingly relevant groups.
        - In addition, the universality of minimum pensions is consistent with the ILO recommendation of a minimum floor. The BEE note points out, with good reason, how important it is to be compatible with ILO directives. This one is low-hanging fruit.
        - Besides being a De Jure issue, it is also amenable to a De Facto assessment, as many countries exclude de facto workers who have not contributed a minimum number of years (vesting rules).
    2. Is there a savings component in the pension design (De Jure: Yes or No)
    3. Are there any tax incentives to promote voluntary savings?

A cross-cutting topic

That compact set of indicators can be disaggregated to adopt a gender dimension. A gender dimension is paramount to pensions. The OECD recently published a landmark report on this matter, and the results are shocking. For instance, in the Netherlands, a country ranked number 2 in the Mercer-CFA global pensions index, the gender gap is one of the largest in the OECD, according to that report. Now, take the case of Latin America. Women in LAC devote less time to remunerated work (only 54%), earn 18% less, retire four years earlier, and live six more years than men in retirement. Such a combination is the perfect recipe for lower pensions. The design of pension systems can replicate, amplify, or reduce these gaps in participation, earnings, and longevity differences. For example, the legal retirement age is lower for women in ten countries in the Latin American region.

Therefore, I would urge the BEE team to consider the gender dimension in terms of the Labor indicators to the extent possible. At the minimum, the legal retirement age should be the same for women and men, and the mortality tables used to compute pensions should not be specific to men or women (this would induce a subsidy in the right direction, that is, from men to women). These matters are amenable to qualitative indicators. Unfortunately, the OECD pension gender gap is not available for all countries, but they are planning to expand the number of countries, and it is not so hard for an expert to create a new one or replicate it.

Note that I did not recommend using the simple average indicator showing pensions adequacy (known as the replacement rate) for the reasons abovementioned, but that the gender gap in pensions is based on the *difference* of that indicator between men and women. Now you have an indicator that is relevant and noncontroversial. This same trick, if you like, can be applied to other areas of labor laws related to pensions.

I hope these comments are helpful, and I would be thrilled to follow up later in the process and help in any capacity.

Manuel

COMMENTS FOR THE PAGES 42-47 (DISPUTE RESOLUTION) of the "Pre-Concept Note. *Business Enabling Environment (BEE).* February 4, 2022"

By
Judge Charles Brower
[Private Practice]
(Received: March 13, 2022)

Dear Daniela,

Many thanks for the invitation to comment on pages 42-47, encompassing the "Dispute Resolution" portion of the Business Enabling Environment consultation paper, which portion I have read, thought about and comment now below.

I do agree in general that the overall concept and approach of the "Dispute Resolution" portion of the paper is sound and complete. It touches all of the aspects of a system in which "The Rule of Law" is to prevail, which is so necessary for a successful, inviting economy. Thus my particular comments deal with issues of emphasis within the overall concept and approach.

The paper, in my view, places almost its entire weight on improvement of domestic, national judicial systems of States, which definitely are very important, while spending less, indeed insufficient, effort on the importance of international arbitration, mediation and conciliation in encouraging foreign investment. Even the references, which definitely are important, at 2.a. (p.44), to the UNCITRAL Model Law on International Commercial Arbitration, the UNCITRAL Model Law on International Commercial Conciliation, and the New York Convention on the Recognition and Enforcement of Arbitral Awards, appear to me to be mentioned within a fundamentally domestic court context.

The reason I suggest more emphasis on purely international dispute resolution, predominantly by means of international arbitration, but also to a far lesser extent via international mediation and conciliation, is because the favored choice of alien investors in a foreign host State is NOT to rely on domestic courts of the host country, almost, if not universally, because of fear of what even the best foreign courts might produce. No foreign investor wants to be subject to the domestic courts of its host State, partly for fear of being hurt by the "home court advantage," but mostly because under the present international arbitration system both parties have an equal share in constituting the (usually) three-member arbitral tribunal, each party appointing an arbitrator and the two parties participating equally in the appointment of the Tribunal President, Chairperson or Presiding Arbitrator. To the extent that alien investors are precluded from making that choice, whether by operation of host State law, lesser negotiating strength, or otherwise, the risk factor in the pricing of their investment will rise. Every foreign investment must be approved by the investor's management, often the Board of Directors or equivalent, and for approval it must have an acceptable return on investment. The higher the uncertainty of having recourse to what the investor regards as an acceptable forum for the resolution of any future dispute, the higher must be the risk factor embedded in the pricing. Therefore the poorer the prospects a potential foreign investor sees that any dispute will be handled by a genuinely independent and impartial body that will indeed conscientiously apply the chosen governing law, the more it will cost the recipient of the investment, or, worse still, the investment will simply not be made.

Thus, in my view, to the extent that the paper under study is intended to be a guide, on the one hand, for potential foreign investors, and on the other, for States desiring to attract foreign investment, it must much more strongly state the reasons for truly international means of dispute resolution.

Once more, thank you for the opportunity to express my views as requested, and all the best for the success of this project.

Charles N. Brower

COMMENTS FOR THE PAGES 42-47 (DISPUTE RESOLUTION) of the "Pre-Concept Note. *Business Enabling Environment (BEE).* February 4, 2022"

By
Dr. Claudia Escobar Mejía
[George Mason University]
(Received: March 14, 2022)

Estimada Daniela, he revisado el documento con atención. Me parece que está adecuado y que se señalan aspectos que son fundamentales para el tema de resolución de conflictos. Considero que sería oportuno incluir un indicador sobre nivel de corrupción en la judicatura y la certeza legal. He visto que han tomado en consideración el tema de independencia de las cortes, pero también sería necesario analizar el tema de registros públicos. Muchas veces existen formas de manipular la información que está en los registros y esto genera muchos problemas comerciales.

Es necesario tomar en consideración que en algunos países de la región los códigos procesales en el área civil y mercantil no se han actualizado desde los años 60 o 70 que hay reformas importantes pendientes para hacer que los procesos judiciales sean más agiles. Si lo estiman oportuno sería necesario analizar si los procesos judiciales son engorrosos, formalistas o son ágiles y permiten resoluciones de forma rápida.

Espero estos comentarios sean de utilidad.

Saludos

Claudia

Translation to English

Dear Daniela, I have carefully reviewed the document. It seems to me that it is appropriate and that aspects that are fundamental to the issue of conflict resolution are pointed out. I think it would be appropriate to include an indicator on the level of corruption in the judiciary and legal certainty. I have seen that you have taken into consideration the issue of independence of the courts, but it would also be necessary to analyze the issue of public records. Many times, there are ways to manipulate the information that is in the records, and this creates many commercial problems.

It is necessary to take into consideration that in some countries of the region the procedural codes in the civil and commercial area have not been updated since the 1960s or 1970s, and that there are important reforms pending to make judicial processes more agile. If you deem it appropriate, it would be necessary to analyze whether the judicial processes are cumbersome, formalistic, or agile and allow for quick resolutions.

COMMENTS FOR THE PAGES 42-47 (DISPUTE RESOLUTION) of the "Pre-Concept Note. *Business Enabling Environment (BEE).* February 4, 2022"

By

Juan S. Mora-Sanguinetti, Ph.D.[1]

[Senior Economist (Banco de España-Eurosystem) & Lawyer (Madrid Bar Association)]

(This version: March 8, 2022)

GENERAL COMMENT ("DISPUTE RESOLUTION")

Thank you very much for allowing me to send comments and contributions to the BEE. The section on "Dispute Resolution" is well written and makes references to the main debates on the subject. Congratulations.

On a general note, I think that, inevitably, the BEE results will be compared in the future with the main "alternative" sources. That is, analysts will use the BEE results and those from alternative sources at the same time and in a complementary way (as each perspective provides different pieces of information). This has traditionally been the case with the Doing Business - Enforcing Contracts results.

Consequently, in order to clarify the "playing field", it could be valuable if the pre-concept note would make more reference, at the beginning, to the main statistical sources on justice/dispute resolution mostly used in the literature and to the alternative methodologies. In other words, a paragraph or sentence as a "database review" would be useful.

It is worth mentioning at least the OECD and CEPEJ databases which are, in fact, similar to each other, but constructed with a different methodology than the Doing Business project - Enforcing Contracts indicator[2]

These general references are as follows:

- OECD Civil Justice Project. The reference to the complete project is as follows:
  - Palumbo, G., Giupponi, G., Nunziata, L. and J. S. Mora-Sanguinetti (2013). "*The Economics of Civil Justice: New Cross-country Data and Empirics*", OECD Economics Department Working Papers, No. 1060, OECD Publishing, Paris, https://doi.org/10.1787/5k41w04ds6kf-en
- CEPEJ-European Commission for the Efficiency of Justice (2018)[3]. «*European judicial systems. Efficiency and quality of justice. Edition 2018 (2016 data)*». CEPEJ STUDIES n.º 26.

SPECIFIC COMMENTS BY SECTION OR PARAGRAPH ("DISPUTE RESOLUTION")

[1] The views expressed are those of the author and should not be attributed to the Banco de España or the Eurosystem.

[2] I am aware that you make a reference in footnote 146 to the OECD Civil Justice Project. On the other hand, on page 44, you mention the CEPEJ.

[3] This is just the reference of the 2018 report (as an example). Reports for other years, including a partial release for 2020 have been already published. https://www.coe.int/en/web/cepej

H. Dispute resolution

1. Motivation

In both developed and developing economic systems, commercial disputes inevitably occur. When these disputes cannot be resolved properly, adverse economic outcomes might arise for the private sector.[139] This makes a well-functioning judicial system a key part of a healthy business environment. Such a judicial system requires efficiency and quality. First, time- and cost-effective mechanisms for resolving disputes are indispensable for private sector development. Excessively long and expensive proceedings may defeat the very purpose of litigation, making it unattractive and inaccessible. In the literature, a strong correlation has been established between judicial efficiency and facilitated entrepreneurial activity.[140] Slow court systems are associated with smaller firms and costlier bank financing.[141] Evidence also suggests that under a more effective court system businesses tend to have greater access to finance and borrow more.[142] It equally finds that firms operating in areas with less congested civil courts experience a larger increase in the use of secured loans.[143] Fast judiciaries are also associated with higher levels of domestic and foreign investment.[144] Whenever investors know that in case of non-performance of an obligation their claim will be considered in a timely manner, they have more incentives to deploy additional capital.[145] Further, enhancing the efficiency of the judiciary can strengthen competition and foster innovation.[146]

The first sentence could be supported with an additional footnote referring to "fundamental" studies. As an example (among many others):

- Coase, R. H. (1960). "The problem of social cost". *The Journal of Law and Economics*, 3, pp. 1-44.
- North, D. C. (1990). "*Institutions, institutional change and economic performance*". Cambridge University Press, Cambridge.

As for the bibliography on impacts, I would suggest adding some additional references, based on research recently published in journals:

- Extra references with respect to the subject "entrepreneurial activity" - "entrepreneurship" (footnote 140).
  - García-Posada, M. y J. S. Mora-Sanguinetti (2015b). «Entrepreneurship and Enforcement Institutions: Disaggregated Evidence for Spain» *European Journal of Law and Economics* 40 (1), 49-74.

- Extra references with respect to the subject "Smaller firms" (footnote 141).
  - García-Posada, M. and J. S. Mora-Sanguinetti (2015). «Does (average) size matter? Court enforcement, business demography and firm growth». *Small Business Economics* 44 (3), 639-669.
    - This piece of research uses a sample of 460,000 firms combined with judicial data. Alignment with the best judicial practice within Spain would result in an increase in the average firm size between 0.6 and 2.8%.

- Extra references with respect to the subject "Domestic and foreign investment" (footnote 144).
  - Dejuán, D. and J. S. Mora-Sanguinetti (2021). «Which legal procedure affects business investment most, and which companies are most sensitive? Evidence from microdata». *Economic Modelling* 94, 201- 220.
    - This piece of research was done at the microdata level, exploiting information from 653,289 firms (combined with judicial data). Judicial (in)efficacy has significant impacts over firm investment.

As for other impacts of justice that can be addressed in this paragraph, it could be mentioned that a well-functioning justice system has a positive impact on real estate markets (legal certainty increases the rental rate, helps to put more rental housing on the market).

- Casas-Arce P and A. Saiz (2010). "Owning versus renting: Do courts matter?" *Journal of Law & Economics* 53(1):137–165
- Mora-Sanguinetti, J. S. (2012). "Is judicial inefficacy increasing the weight of the house property market in Spain? Evidence at the local level". *SERIEs, Journal of the Spanish Economic Association* 3 (3). 339-365

On the other hand, a well-functioning justice system supports a more efficient operation (greater effectiveness) of labor regulations:

- Jimeno, J. F., Martínez-Matute, M. and J. S. Mora-Sanguinetti (2020). "Employment Protection Legislation, Labor Courts, and Effective Firing Costs". *IZA Journal of Labor Economics* 9(1). DOI: https://doi.org/10.2478/izajole-2020-0002

There is also a list of papers by subject available in Box 1 of the OECD Civil Justice Project:

- Palumbo, G., Giupponi, G., Nunziata, L. and J. S. Mora-Sanguinetti (2013). "*The Economics of Civil Justice: New Cross-country Data and Empirics*", OECD Economics Department Working Papers, No. 1060, OECD Publishing, Paris, https://doi.org/10.1787/5k41w04ds6kf-en

> Efficiency and quality of commercial dispute resolution rely on adequate public services. A great deal of disputes between private firms eventually necessitates court involvement, thereby underscoring the importance of establishing a robust institutional framework.[151] Recent research has emphasized that not only solid *de jure* rules but also strong *de facto* judicial institutions are required for economic growth.[152] As demonstrated by the pandemic, one essential feature that can help create better institutions in the current context is their digitalization.[153] Introducing relevant e-services thus carries a promise of making the dispute resolution process more efficient and fairer, to benefit the private sector.[154]

The two references mentioned above [in the general commentary: Palumbo et al. 2013 and CEPEJ (2018)] discuss the digitization of justice, the different digitization strategies and their effects on the effectiveness of justice.

A suggestive result of the OECD Civil Justice Project is that the digitization of justice is enhanced if the capacity to use technology by users of the justice system (businesses/citizens/litigants) also increases.

If I may add my own "output", I analyze the topic in this recent book.

- Mora-Sanguinetti, J. S. (2022). "*La factura de la injusticia. Sistema judicial, economía y prosperidad en España*". Tecnos. Madrid.

> ***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).

First of all, I think it is very necessary to clarify the reasons why this type of conflict (a commercial dispute) is chosen for analysis over other possible alternatives. This clarification would be useful both for economic analysts and for lawyers who take the BEE as a reference.

A "commercial dispute" is, from a legal point of view, a "civil dispute", as opposed to a "criminal/penal" dispute or a public law dispute. With greater or lesser difficulties, the differences between the civil, criminal and administrative jurisdictions are clear in almost all jurisdictions worldwide.

There are many reasons to prefer the analysis of a "commercial dispute" (or, more generally, a civil/private dispute) to its alternatives. I mention at least two: civil judgments (and their law) are often supplementary to the rest (thus providing useful information for the entire dispute resolution system of a country). On the other hand, the results are much more comparable at the international level (they have been analyzed more intensively by the Law & Eco literature).

Some references (defending the use of commercial/private/civil disputes for the analysis in preference to other possible alternatives):

- Dejuán, D. and J. S. Mora-Sanguinetti (2021). «Which legal procedure affects business investment most, and which companies are most sensitive? Evidence from microdata». *Economic Modelling* 94, 201- 220.
- Mora-Sanguinetti, J. S. and N. Garoupa (2015) "Do lawyers induce litigation? Evidence from Spain, 2001-2010". *International Review of Law and Economics* 44, 29–41See also Palumbo et al. (2013).

Second, as for elements "(a), (b) and (c)", we must remember that judicial efficiency [e.g., the slowness or cost of functioning of the judicial system... factor (c)] is the result of two large groups of factors: "supply of judicial services" [the design, resources and means of judicial bodies, their technification, the number of judges, etc... partially your factor (b)], and "demand for judicial services" (litigiousness, the functioning of the lawyering market, determinants of firms' behavior). "Demand" and "supply" are interrelated using the instruments made available by regulation [which would be element (a) in your approach]. I believe that further methodological clarification would be helpful to the reader.

A mention (maybe a footnote) that the effectiveness/perceived efficacy of justice depends as well on the level of litigiousness of the country (as demonstrated at 1% level in statistical terms in other studies) would be useful, even though it is probably not the focus of the BEE to study the "demand" side in depth.

- In terms of methodology, it is worth mentioning the references proposed above. [Palumbo et al. (2013) and CEPEJ (2018).

a. Quality of regulations for commercial dispute resolution

This set of indicators will focus on the quality of legislation that pertains to both in-court processes and alternative dispute resolution (ADR) mechanisms to serve as a reliable proxy for the topic in question. This is primarily a *de jure* set of indicators that will look at provisions that promote efficiency and quality alike. Specifically, it will determine whether domestic laws follow a set of internationally recognized good regulatory practices intended to make resolving disputes effective and fair. In addition, when relevant legal

(1) *In-court litigation processes* – The first indicator will focus on the quality of regulations applicable to in-court litigation processes. Provisions related to both efficiency and quality will be targeted. For example, this indicator will measure whether commercial (or civil, where applicable) procedure legislation establishes timeframes for different stages of commercial litigation and whether the judge and litigants can be held accountable for not respecting them. In this vein, it will equally examine whether the regulations provide for holding a pre-trial conference – a practice aimed at clarifying the scope of a dispute from the very beginning. Aspects of enforcement of judgments will be covered as well, with an assessment of whether there are time standards within which judgments should be executed and what types of assets can be seized by an enforcement agent.

Please note that the reference to "*internationally recognized good regulatory practices*" is a difficult and delicate statement that may partially threaten reliance on BEE when it comes to "in-court litigation" (I am much less concerned about the case of best practices in ADR, which do follow much more international standards and can be more directly compared).

The comparison of legal systems or practices in terms of "in-court litigation" generated numerous criticisms of the Doing Business project, undermining confidence in the project in many Roman-French legal family economies. More generally, it is worth recalling the criticisms of the well-known paper by Arruñada (2007). Other references to this debate are, for example, Ménard and Du Marais (2006) which is focused on litigation/enforcement.

- Arruñada, B. (2007). "Pitfalls to Avoid when Measuring the Institutional Environment: Is "Doing Business" Damaging Business?". *Journal of Comparative Economics*, 35(4), 729-747.
- Ménard C. and B. Du Marais (2006). Can we rank legal systems according to their efficiency? in *New Frontiers of Law and Economics*. Saint Gallen Schulthess.

Consequently, whenever possible, I would propose that the BEE try to measure the effectiveness of justice based on "neutral" indicators: trial length, cost and predictability, as is preferably done by other sources (which try to avoid the problem of having to choose a "benchmark" or "best practice").

- See references above to Palumbo et al. (2013) (OECD Civil Justice Project) and CEPEJ.

When it is necessary to resort to benchmarks, these should also be as "international" as possible. Avoid relying on a single intellectual source/single legal family sources.

Likewise, I would always be cautious about the validity of comparing legal systems from different legal families.

b. Adequacy of public services in commercial litigation

(1) *Institutional framework* – Academics generally agree that the quality of institutions plays a key role in how disputes are resolved.[157] For example, commercial dispute resolution can be impacted by such institutional arrangements as specialization of judges, extent of formalism and independence of the judiciary.[158] This indicator will capture those aspects by looking at the existence of specialized courts/chambers at both first instance and appeal levels, presence of small claim courts and types of services provided by ADR centers. 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.

There is currently a wide academic debate on the goodness or ineffectiveness of judicial specialization. In particular, in the USA, academia increasingly doubts that specialization always yields efficiency gains.

There are some articles that do find positive results from specialization (particularly in the case of commercial disputes), provided that the specialization is deep/detailed.

- Palumbo, G., Giupponi, G., Nunziata, L. and J. S. Mora-Sanguinetti (2013). "*The Economics of Civil Justice: New Cross-country Data and Empirics*", OECD Economics Department Working Papers, No. 1060, OECD Publishing, Paris, https://doi.org/10.1787/5k41w04ds6kf-en

However, many other studies find that specialization is counterproductive in some cases.

- Garoupa, N., Jorgensen, N. and P. Vázquez (2010), "Assessing the Argument for Specialized Courts: Evidence from Family Courts in Spain", *International Journal of Law, Policy and the Family*, Vol. 24, Núm. 1, pp. 54-66.
- Voigt, S. y N. El-Bialy (2013), "*Identifying the Determinants of Judicial Performance: Taxpayers' Money Well Spent?".* Working Papers. https://ssrn.com/abstract=2241224 y http://dx.doi.org/10.2139/ssrn.2241224

With all of this I simply call attention to the fact that this is an issue under debate that is important to treat with care.

c. Ease of resolving a commercial dispute

(2) & (3) *Time and cost to resolve a commercial dispute* – The second and third indicators will be dedicated to the time and cost needed to resolve a commercial dispute, providing specific estimates for different parts of litigation when a firm decides to go to court. 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. The cost indicator will assess expenses and fees generally incurred in commercial litigation by a good faith party: attorney fees, court fees, expert fees, and enforcement fees, as well as whether any of them can be recovered from the losing party.

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

A very important element of discussion at the time when the Doing Business - Enforcing contracts results were available, is that they did not coincide with the "hard" data from official statistics (the Doing Business-Enforcing contracts indicators were largely based on perceptions). In other words, the Doing Business - Enforcing contracts results often did not coincide with the CEPEJ or OECD results.

For example, the "common law" legal family was on average better than the "Roman/French law" legal family in all sources. However, the official data (no longer perceptions) placed certain countries such as France or Spain (around 274 days in first instance courts following official French or Spanish data) better than England-Wales (trial length of 350 days in first instance following official UK data). Likewise, the difference between legal systems, when analyzed with hard data, are not as great as those shown by the Doing Business.

Again, with this, I stress the importance of "perceptions" being taken as a really useful source, but with due caution. On the other hand, I recognize that many matters can only be assessed today through surveys and perception studies.

- Palumbo, G., Giupponi, G., Nunziata, L. and J. S. Mora-Sanguinetti (2013). "*The Economics of Civil Justice: New Cross-country Data and Empirics*", OECD Economics Department Working Papers, No. 1060, OECD Publishing, Paris, https://doi.org/10.1787/5k41w04ds6kf-en

SURUHANJAYA SYARIKAT MALAYSIA
COMPANIES COMMISSION OF MALAYSIA
(Agensi di bawah KPDNHEP)

INPUT ON PRE-CONCEPT NOTE REGARDING THE BUSINESS ENABLING ENVIRONMENT (BEE)

1. This input is prepared in response to the Pre-Concept Note on Business Enabling Environment (BEE) which was discussed with members of the Corporate Registers Forum (CRF) during a consultation session held on 8 March 2022.

2. During the discussion, the CRF members were invited to provide feedback/comments/input on the Pre-Concept Note by 15 March 2022.

3. The World Bank highlighted that the BEE aims at improving investment and business climate in particular towards promoting innovation and entrepreneurship, increasing market equality and ensuring general sustainability of economies in a long term. It was also highlighted that the intended output of the BEE is a benchmarking exercise to provide a quantitative assessment for private sector development.

General Observations

4. The Companies Commission of Malaysia (the Commission) shared the World Bank's view that a conducive business environment based on good public policies and regulations will incentivize the start-up of new firms, facilitate exisiting businesses, create new job opportunities and encourage the transition from informal to formal economy.

5. Hence, the Commission is of the view that it is critical for the assessments to be reflective of both policies/regulatory framework as well as the efficiency in the implementation of those policies/regulations. The choice of indicators, the component and criteria for the assessment is important to reflect the business environment in which a firm should grow and thrive.

6. The Commission supports that whilst it is important for economies to be scored based on the assessment of the indicators, the ranking amongst the economies should be avoided. The outcome of the assessment should encourage economies to improve the business environment within their jurisdictions and not to compete with other economies. After all each economy is unique and faced with its own set of challenges. It is our view that the outcome of the assessment should be used as best practices or model for other economies to follow in their journey towards creating a better business environment.

Input and comments on the Pre-Concept Note

7. The input provided herein is limited to the parameters in which the involvement of the Companies Commission of Malaysia (the Commission) is significant as far as the assessments are concerned. The parameters of the input are in respect of the following indicators:
    - Business entry (which was built on the Starting a Business indicator)
    - Financial services – secured transaction
    - Business insolvency (which was built on the Resolving Insolvency indicator)

Business entry (which was built on the Starting a Business indicator)

8. The Commission applauds the move that the World Bank will not differentiate the procedures to start a business based on gender. It is also noted that the assessment will cover business entry for both domestic and international firms. The Commission notes that the efficiency of processes and procedures for business entry remains the same as previously assessed under the Starting a Business indicator.

9. The Commission makes the following observations for consideration:

   (i) The Commission notes that the World Bank has yet to decide on the definition of domestic and foreign firms for the purposes of measuring the regulatory framework for start-ups. In this regards, the Commission wishes to draw the attention of the World Bank that the BEE should focus on the business environment to facilitate the growth of MSMEs[1].

   Rather than defining the domestic and foreign firms which could lead only to a particular set of definition, the Commission urges the World Bank to consider the perspective of MSMEs in the respective economies in setting a business. Therefore, the form of business entity does not necessarily confine only to limited companies as businesses may also choose to set up a business by way of sole proprietorship, partnership or equivalent. The Commission is of the view that indicator should measure the processes of formalising a business entity regardless of the type of the business entity. The Commission observes that the use of

[1] According to the World Bank report, SMEs account for the majority of businesses worldwide and are important contributors to job creation and global economic development. They represent about 90% of businesses and more than 50% of employment worldwide. Formal SMEs contribute up to 40% of national income (GDP) in emerging economies.

case study assumptions in the previous Starting a Business indicator has its disadvantages and therefore should be avoided. This is because the assumption only focuses on certain definition of business entity which carries out specific activity and therefore fail to consider the reality of business activities in the relevant economy such as online businesses. It is our view that assumptions should only be used for specific requirements involving specific sector or activity e.g. environmental licencing.

(ii) The Commission notes that the indicator focuses on the quality of regulations and the efficacy of the processes and procedures towards in setting up a business entity to allow for its full operation. In this regards, the Commission is of the view that there should be clear a distinction between the processes at the business registry and those involving other relevant licensing agencies. The distinction is necessary because in many cases, businesses can operate as the requirements with other agencies only arise at a later time.

(iii) Whilst sharing of data is pertinent for the efficiency of subsequent licensing procedures, a unified registration procedures with different agencies at the point of registration or incorporation may not be necessary in all cases. For most businesses, no further licensing such as environmental licensing or premise license is required before a business could operate. It is undeniable that regulations and related issue on environment is critical, but the the licensing processes and procedures need not necessarily be linked with the incorporation process. Case in point, the Covid-19 pandemic has significantly pushed entrepreneurs to conduct online businesses which need not necessarily require any physical premises and the licences required to operate from a premise.

(iv) The Commission notes that the indicator will also assess the availability of electronic system to exchange information in the process of setting up and operation a business. The Commission is of the view that the assessment on this indicator should also consider the legal requirements in the jurisdiction where the obligations to register with other agencies only arise at a later stage. In other words, what is important is the avaialability of the electronic system to exchange of information regardless when the information is consumed.

Financial services – secured transaction

10. The Commission supports the assessment of the component on secured transaction which assesses the existence of an integrated legal framework and the rules regarding the enforcement of security interests in movable assets in an economy.

Business insolvency (which was built on the Resolving Insolvency indicator)

11. As per our earlier observations, the focus of the BEE should be on MSMEs and therefore, the business insolvency should also take into consideration the insolvency procedures by business entities other than companies e.g. insolvency rules relating to sole proprietorships or partnerships.

Companies Commission of Malaysia
18 March 2022

WCO Technical Comments on WB's BEE (Business Enabling Environment)

No	Section Sub-section	Page	Suggestions to change a text	Any comment
1	F.2.a	32	Data for this de jure indicator will be collected via expert consultations with trade economists, trade lawyers, and e-commerce lawyers, **as well as customs and other agencies** and can be corroborated by desk research through readings of the law.	While collecting the data via expert consultations, it is recommended to consider consultations with the Customs and other regulatory agencies
2	F.2.a.	32	Include **"security"** after 'public safety'	It is important to protect not only public safety but also public security.
3	F.2.a	32-33	a. Quality of regulations for international trade in goods and e-commerce	Under the five components, it would be also good to cover measures to assess the level of "**cross-sectoral regulatory gaps/issues**" that hinder trade facilitation and coordination among border agencies.
4	F.2 , a(1) - a(5)	33	No proposed change in the text but further clarification is needed as explained in the section of comments Reference here is given to the components related to *Quality of regulations for international trade in goods and e-commerce*	Is it possible to share the actual calculation method? In case of a quantitative indicator, how is it calculated? Which is the formula/scale and the measure unit envisaged? The description should be narrowed down while identifying clear and concrete variables for measurement. Considering the fact that assessment will be based on quantifiable indicators, It is crucial to have the concrete measurement unit(s) which will give clear indications to the feasibility of collecting the data and credibility to the implementation status of the anticipated result. The vvariables that only indicate a yes/no state will not lead to the objective assessments. **These observations apply to all the components/indicators**
5	F.2. a.(1)	33	Include "**Harmonized Systems (HS) Convention**"	HS is very important toll for international trade. As HS is updated every 5-6 years, keep updating is also important.
6	F.2.a.(1)	33	Include "**WCO SAFE Framework of Standards to Secure and Facilitate Global Trade**"	The SAFE FOS has been updated regularly and the latest version is SAFE 2021. http://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/frameworks-of-standards/safe_package.aspx#:~:text=WCO%20tools%20to%20secure%20and,to%20promote%20trade%20facilitation%20worldwide
7	F.2. a.(1)	33	Include **"multinational environment agreements such as Basel conventions, Stockholm convention and Rotterdam convention.**	Basel convention and other international instruments are very important instruments for environmentally sustainable trade.

8	F.2. a.(1)	33	"**environmental goods**" are not quite sure. If there is no clear definition, it should be deleted.	Is there any global or well-quoted definition of "environmental goods"? APEC agreed on 54 items, but it is for only APEC members. https://www.apec.org/press/news-releases/2021/0311_mag
9	F.2.a.(2)	33	Include "**WCO Cross-Border E-Commerce Framework of Standards" and "WCO Immediate Release Guidelines**"	These tools provide important guidance on standards and practices for facilitating e-commerce. http://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/frameworks-of-standards/ecommerce.aspx
10	F.2, a(3)		*(no specific suggestions)*	It might be useful to develop measures capturing if the regulatory framework is conducive of **Circular economy objectives**, and set clear distinctions between waste and recyclable materials and more generally environmentally sensitive goods and goods having a potential positive impact on environment.
11	F.2.a.(3)	33	*(no specific suggestions)*	Just wonder if anti-dumping issues, cross-border waste disposal etc. should also be addressed within this point.
12	F.2, b(1) – b(6)	34	No proposed change in the text but further clarification is needed as explained in the section of comments. Reference here is given to the components related to *Quality of public services for the facilitation of international trade in goods*	Is it possible to share the actual calculation method? In case of a quantitative indicator, how is it calculated? Which is the formula/scale and the measure unit envisaged? The description should be narrowed down while identifying clear and concrete variables for measurement. Considering the fact that assessment will be based on quantifiable indicators, It is crucial to have the concrete measurement unit(s) which will give clear indications to the feasibility of collecting the data and credibility to the implementation status of the anticipated result. The vvariables that only indicate a yes/no state will not lead to the objective assessments. **These observations apply to all the components/indicators** Just to give an example which covers only one aspect of this component/indicator ➢ Annual variation in the total number of AEO (Authorized Economic Operator) having a valid status, excluding the AEO recognized through MRAs ➢ Calculation method: (# AEO $_{t}$ - # AEO $_{t-1}$)/ # AEO $_{t-1}$

				In the description it is mentioned: *"Measuring the criteria, applicability and the benefits of these programs will build on the data collected by the WCO, as customs agencies report key design aspects of their AEO and Customs Compliance programs."* **It should be discussed and agreed if the WCO Secretariat is eligible to share the data not available in the public domain.**
13	F.2.b.(1)	34	*(no specific suggestions)*	Often not having a website isn't the problem, but the maintenance of the information in a timely manner is a challenge for countries. Also whether there is a procedure in place for ensuring the accuracy and integrity of the publicly available information
14	F.2.b.(1)	34	Instead of "Advance notification of regulatory change", consider the rate of taking into account the comments/feedback received for the said policy change	Otherwise, the practice becomes formalistic without impact, the purpose of this prior notification is to allow for those stakeholders impacted an opportunity to comment
15	F.2.b.(2)	34	i.e., whether the trader is able to submit the same information only once, whether the automated system eliminates face-to-face interaction	Assessing the impact of what the electronic systems aim to achieve might offer more telling assessment than what features the platform has,
16	F.2.b.(2)	34	Include "**WCO Single Window Interactive Map (SWIM)**"	The WCORAMMAP-SWIM online platform is a collection of different types of informative map. It is designed to provide quick and user-friendly information on various international instruments impacting on international transactions, as well as information on progress with WCO Members' Single Window environments and trade facilitation measures.
17	F.2.b.(3)	34	Consider the hit rate, effectiveness of the risk assessment/targeting.	I imagine countries would be protective of the criteria applied for risk-based selectivity
18	F.2.b.(3)	34	(3) Risk management – assesses the availability and features of an integrated risk management system, measuring the level of risk and information sharing, integration, inclusiveness, coordination in a risk assessment matrix, as well as the criteria applied and use of risk-based selectivity	Alternate suggestion would be to consider "Compliance Management (CM)" as one of the 6 components in place of "Risk Management (RM)". CM is the overall framework under which RM is part of it. RM does intend to manage risk by targeting the high-risk actors in the international trade supply chain but at the same time it does encourage by addressing risk to improve compliance with the relevant laws and regulations. On the other hand, there are lot of Compliance based measures/programs in place which are of paramount importance like special or simplified procedures for Compliant traders. However, it is noted that (4) Border Agency Program does have elements regarding Compliance.
19	F.2.b.(4)	34	Include "**WCO Compendium of Authorized Economic Operator Programmes**"	Compendium has been updated annually. http://www.wcoomd.org/en/media/newsroom/2020/december/now-available-aeo-compendium-2020-edition.aspx#:~:text=The%20WCO%20has%20published%20the,MRAs)%20signed%20between%20Customs%20administrations.

20	F.2.b.(4)	34	(4) Border agency programs – assesses the availability and characteristics of AO/AEO schemes and other customs and border agency programs which provide benefits for traders, such as Post-Clearance Audits, education and outreach programs for the trading community and expedited shipments. Measuring the criteria, applicability and the benefits of these programs will build on the data collected by the WCO, as customs agencies report key design aspects of their AEO and Customs Compliance programs.	Border agency programs – assesses the availability and characteristics of AO/AEO schemes and other customs and border agency programs which provide benefits for traders, such as simplified/special Customs procedures, Post-Clearance Audits, education and outreach programs for the trading community and expedited shipments. Measuring the criteria, applicability and the benefits of these programs will build on the data collected by the WCO, as customs agencies report key design aspects of their AEO and Customs Compliance programs.
21	F.2.b.(5)	34	Include "**WCO Coordinated Border Management Compendium**"	Coordinated Border Management is ultimately about cross-border regulatory agencies within the same country, as well as like-minded cross-border regulatory agencies across borders, putting in place official measures, mechanisms and communication channels to ensure that regulatory processes are streamlined and effective. http://www.wcoomd.org/en/media/newsroom/2020/december/wco-publishes-updated-version-of-the-cbm-compendium.aspx
22	F.2.b.(5)	34	Consider participation in **one stop border post (OSBP) initiatives**	See the case in Tanzania. https://www.tra.go.tz/index.php/one-stop-border-post-osbp#:~:text=Definitions,and%20enter%20the%20adjoining%20State.
23	F.2.b.(6)	35	(6) Trade infrastructure – assesses the availability, quality, and efficiency of essential physical infrastructure for trade, including road and railway transport networks, maritime transportation, seaports, bonded warehouses, and border checkpoints. This component will build on the WBG's Logistics Performance Index by expanding on specific measures not covered by that index.	General Comment: How would "infrastructure" be assessed given the diverse level of development? Also, depending on the scale of economy, volume of international trade, population etc., requirements level of infrastructure or scope of infrastructure required will be diverse. How would one take these aspects into consideration to achieve a fair assessment?
24	F.2.c.	35	The heading could be revised to include goods in transit: "Efficiency of……..handling goods in transit." A 6th indicator could be added: "Time and cost of transit"	Transit is important for landlocked countries
25	F2. c	35	Data for this de facto indicator will be collected via representative firm-level surveys, **as well as customs and other agencies** and can be corroborated by administrative data, for example, Time Release Study data.	While collecting the data, it is recommended to consider consultations with the Customs and other regulatory agencies
26	F.2.c. (2nd sentence of 1st Para)	35	Inefficient customs clearance procedures, inadequate coordination between border agencies, ineffective implementation of border agency programs,……...	**Cumbersome** customs clearance procedures, inadequate coordination between border agencies, ineffective implementation of border agency programs,……...
27	F.2.c.	35	(3) Time and cost to comply with export requirements (4) Time and cost to comply with import requirements (5) Time and cost to engage in e-commerce	What about "distance" - Time, Cost and Distance? May be, it will be a complex element.
28	F.2. c(3),	35	No proposed change in the text but further clarification is needed as explained in the section of comments. Plus further suggestions are provided for disaggregation purposes.	*While measuring the overall component/indicator it is advisable to consider the disaggregation for the time taken according to* **responsible actor (business, other government agencies,**

	c(4), c(5)		Reference to Time and cost to comply with export requirements , Time and cost to comply with import requirements , Time and cost to engage in e-commerce	**Customs);** m**ode of transport (air, sea, land, rail) and type of operators (such as AEO)**
29	F.2.c.(3) & (4)	35	Include "**WCO Time Release Study Guide**"	See the related article. https://mag.wcoomd.org/magazine/wco-news-87/new-version-trs-guide/
30	G 2 a-c		Not clear if the collection of **customs duties** is out of the scope	Customs duties or other taxes collected by Customs administration is addressed in which part of this exercise.
31	Appendix II	65	Replace the words "Customs programs" with "**border agency programs**" and add in the two rows where this appears "such as AO/AEO schemes and other programs that provide benefits to traders"	"border agency programs" is the wording used in section F.2.b and F.2.c. The wording of the appendix should be consistent with the text of section F.2. Taken out of context the term "border agency program" does not provide clarity of the nature of the programme, hence a brief clarification is needed.

World Bank Group : Business Enabling Environment (BEE) Pre-Concept Note

Comments by the ILO

Key points

1. Measuring the soundness of labour regulations from the perspective of the individual enterprise is too narrow and is bound to misguide the policy conclusions that will be drawn from such measurement. What is beneficial for an individual enterprise is not necessarily beneficial for workers, sustainable and long-term private sector development, or sustainable economic growth.

2. The proposed BEE's labour index embodies a tension between the objectives of an individual firm and the mandates of the IFC (private sector development) and WB (reduced poverty and inequality). The proposed BBE indicator recognizes this tension and proposes "to consider different indicators that address these different perspectives". This is not viable. The BEE should only include and assess indicators from the perspective of overall private sector development (and ultimately, reduced poverty and inequality). This will imply:

- dropping the inclusion of certain indicators or re-assessing how they are benchmarked
- including critical missing indicators (OSH, paid leave for illness, care and training, etc.) that support overall objectives

3. The data envisioned to be used for the BEE does not include any data collected from workers or workers' organisations. This opens the BEE up for misjudgements about the actual situation on the ground in many countries. There is a large body of scholarly literature showing the inefficiency of not only self-reporting compliance of enterprises with labour standards but even third-party independent auditing.

4. Some of the data the BEE claims is "missing" is actually compiled and published by the ILO (NORMLEX and ILOSTAT).

5. Overall, the BEE sets out to analyse regulations, the assessment for which it arguably does not have the adequate or necessary data and employs forms of analysis that cannot be performed with the data it aims to collect. Furthermore, the BEE assumes that at least some, if not all, aspects of labour regulation have a negative impact on businesses and private sector development. This assumption is problematic as it does not take into account the vast literature on the positive impact of effective labour market regulation on productivity, informality, economic growth and sustainability.

6. The BEE as outlined in the pre-concept note is gender-blind and does not take into account diversity and inclusion aspects of regulations and their positive impact on economic growth.

7. The indicators are blind to workers in the informal economy and self-employed workers and therefore can't capture how successful policies and regulations are at encouraging formalisation. This is key for private sector development, especially in the BEE's focus area of Micro and Small Enterprises, as 90% of them are in the informal sector.

8. From a social protection perspective, the new BEE framework could be further strengthened and made more comprehensive if the following 4 issues can be addressed:

1) social protection is seen as an integral part of workers' gross earnings and not as a tax on labour

2) the indicators assessing social protection are more comprehensive and strategic

3) specific indicators are included to measure how well the social protection and employment and labour market policies are integrated to promote the formalization of the economy; and

4) the indicators capture the extent to which countries are creating an enabling business environment beyond firms employing salaried workers and including the formalization of self-employment with adequate labour and social protections.

9. The indicators should be broadened to provide a better understanding of the wider, more complex conditions that determine a business environment. For example, the Donor Committee on Enterprise Development proposes commonly agreed definitions on private sector development. There is also new research on results measurement of Business Environment Reform, including Theory of Change, coming out of the DCED Working Group on BER. This work could be included to broaden the concept of BEE as defined in the pre-concept note.

Detailed comments

The overarching objective versus the proposed approach of BEE

The mandate of the World Bank is to end extreme poverty and to promote shared prosperity by increasing the incomes of the poorest 40% of people in every country. The IFC's mandate is "to promote economic development by supporting productive private enterprise in its developing member countries." The objective of the BEE indicators will be to "provide a quantitative assessment of the business environment for private sector development" through the publication of granular data. The note refers to three characteristics of private sector development: whether innovation and entrepreneurship are fostered; whether equality of opportunities among market participants is increased; and whether the general sustainability of the economy is supported in the long term. It explains how the data "will be used to: (1) to advocate for policy reform and (2) to inform economic research and specific policy advice". The stakes are undeniably high.

The pre-concept note states that:

> *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. Recognizing that there is a tension between the cost to individual firms and the benefits to the whole economy, BEE will include different indicators that address these different perspectives.*

Unfortunately, with respect to labour, such a dual approach is not possible. Labour (human beings) and the labour market (a social institution) is distinct from other considerations in the proposed index. The private sector benefits when individual firms have a reliable source of electricity, when ports and rail networks function properly, when there is transparency in customs regulations, when an enterprise can go to a one-stop shop to register a new business. The overall economy and society benefit as well. But do all these parties' benefit when workers can be called in to work or asked to work overtime at a moment's notice, or when a worker can be dismissed at-will with no justification given, even for off-hours activities? [1] They do not. The individual business might benefit from this flexibility, at least in the short term, but the same cannot be said for the worker who may have other outside commitments (childcare, studies, transport issues), for the other enterprises who ought of moral certitude do not make these claims on its employees, or for the labour market or society as a whole that loses out when a worker drops out of school or the labour force because of irregular scheduling.

The regulations imposed on individual businesses to restrict irregular scheduling, overtime and dismissal are done to shape firm behaviour towards outcomes that are beneficial to individual workers but also to broader economic and societal objectives. To take just one example, working excessive hours (more than 48 hours per week) for an extended period of time is

[1] The authors may want to read Elizabeth Anderson (2017) *Private Government* which documents cases of American employees being dismissed for off-work activities because of moral objections on the part of their employers, but more importantly explains the constraints imposed on workers in the contemporary American workplace.

associated with a higher incidence of industrial accidents but also increased morbidity. [2,3] Assigning a premium to overtime forces individual enterprises to organize production in a way that is beneficial to multiple parties beyond their immediate needs.

The point is that the perspective of the individual enterprise should be removed from the BEE exercise, since what is good for one enterprise may not be good for all. The authors know this is true, otherwise environmental regulations would be included.

Measuring the soundness of labour regulations and institutions from the primary perspective of enterprises driving private sector development is too narrow and is bound to misguide the policy conclusions that will inevitably be drawn from such measurement. Particularly at a time when climate change adaptation, digital transition, and other drivers of transformative change call for regulation providing re-alignment of private incentives and public policy objectives, another, if disguised, call for de-regulation would not be appropriate. Private sector development is shaped by the rule of law, not the other way around.

Flawed assumption on the effect of regulation on businesses

Prior to the introduction of minimum wage and OSH laws in the US in the early 20th century, there was no incentive for factory owners to ensure that aisles were free from clutter, that air circulated well or that workers weren't physically exhausted. With workers being paid by the piece, it didn't matter how inefficient they were – they were paid for what they produced regardless of how long it took. When a minimum wage and OSH standards were imposed, employers were forced to reorganize production (the introduction of aisles and small-batch work stations) and invest in machinery to boost productivity. The benefits of such regulations to economic development and welfare were clear. [4] More arguments can be made about the positive externalities from labour regulation.

The development of the indicators appears to be informed by a limited selection of studies pointing to a correlation between rigid labour market regulation and higher levels of unemployment (especially among vulnerable groups) and informality along with reduced levels of productivity and economic growth. Not only is this assumption negated by numerous concrete examples of national practice, but there is no acknowledgment of literature pointing to positive impacts of effective labour market regulation (i.e. in line with International Labour Standards) on productivity, informality, economic growth and sustainability, nor any assessment of the impact of ineffective regulation or deregulation in increasing vulnerabilities for workers.

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[2] A. E. Dembe et al., 'The Impact of Overtime and Long Work Hours on Occupational Injuries and Illnesses: New Evidence from the United States', *Occupational and Environmental Medicine* 62, no. 9 (1 September 2005): 588–97, https://doi.org/10.1136/oem.2004.016667.

[3] Frank Pega et al., 'Global, Regional, and National Burdens of Ischemic Heart Disease and Stroke Attributable to Exposure to Long Working Hours for 194 Countries, 2000–2016: A Systematic Analysis from the WHO/ILO Joint Estimates of the Work-Related Burden of Disease and Injury', *Environment International* 154 (1 September 2021): 106595, https://doi.org/10.1016/j.envint.2021.106595.

[4] J. Berg and D. Kucera (2008) "Labour institutions in the Developing World: Historical and theoretical perspectives," in J. Berg and D. Kucera, eds, *In Defence of Labour Market Institutions: Cultivating Justice in the Developing World*, ILO and Palgrave MacMillan.

Important assumptions are derived from the papers listed in footnote 73. These studies take specific perspectives and can be somewhat limited to build indicators for global comparisons. For example:

- The paper on Local Employment Services (2011) is based on few advanced OECD countries (Belgium, Canada, Denmark and the Netherlands) concerning policy flexibility for design and implementation, which have little or no relevance for most developing countries, particularly low-income countries.
- The IMF (2012) paper tests 1985-2008 data on labour market flexibility indicators (hiring, firing) on unemployment assuming one way causality. To test the data, the results emerge from considering minimum wages from the WB DB data on Difficulty of Hiring which gives lower ratings to countries with a higher minimum wage; Hiring and firing regulations are based on WEF data that gives a lower rating to countries in which the free hiring and firing of workers is impeded by regulation; Centralized collective bargaining is also based on WEF data that assigns ratings higher for countries with a more decentralized bargaining process; mandated cost of hiring is based on the WB DB data on the cost of all social security and payroll taxes and the cost of other mandated benefits including those for retirement, sickness, health care, maternity leave, family allowance, and paid vacations and holidays associated with hiring an employee; Mandated cost of worker dismissal is also based on the WB's Doing Business according to the cost of the requirements for advance notice, severance payments, and penalties due when dismissing a redundant worker
- The WB paper (2014) examines the impact of minimum wages and employment protection legislation and finds small effects on employment but derives strong policy conclusions that they can generate undesirable impacts if they are established in ways that exacerbate the labour market imperfections. On many of these issues, the literature can be inconclusive, but the paper makes strong conclusions on policy implications.

Generally, while the indicators are said to include international labour standards in their analytical framework, they seem, at the same time, to be driven by the assumption that a country observing these international labour standards could fall under the category of countries whose legislation could be considered too "rigid", negatively impacting the country's ranking under the indicators and serving as a basis in favour of policy reforms towards less "rigidity". Furthermore, labour regulations are presented as the unique and only source of regulations that prevent businesses to respond to changes and economic shocks, leading to misallocation of companies' resources. However, there are many other very important factors that determine the ability of firms to adjust to shocks. Assigning the transmission mechanism of firms' inability to adjust to shocks and economic changes on labour regulations is not only inaccurate but would produce inaccurate conclusions. Finally, there are studies showing that international labour standards and regulation are associated with higher FDI and trade flows, in turn associated with higher employment and higher productivity (see Kucera and Sarna 2006 to name one).

The World Bank and the ILO co-authored a paper on general principles that can guide the design of labour relations in 2015, which is not mentioned in the pre-concept note (Balancing Regulations) and reads as follows:

The report suggests that there are general principles that can guide the design of labor regulations. For instance, in terms of employment contracts, it is important to ensure convergence in the types of benefits and protections that workers receive, regardless of the length of time they spend with a given employer. For minimum wages, it is necessary to keep regulations simple and transparent, and to reduce discretion by having an independent body that periodically assesses the level of the minimum wage and its economic and social impacts. Regarding dismissal procedures, the report recommends giving flexibility to firms in the management of human resources, as long as there is appropriate advance notice, an adequate system of income protection, and efficient mechanisms to detect and sanction discrimination. Finally, for severance pay, the recommendation is to rely more on unemployment benefit systems that reduce employees' risk of not receiving payments if their employers face liquidity constraints or go out of businesses.

Further evidence was well captured in the World Development Report 2013 on Jobs, i.e. empirically, EPL has smaller (or no) effects on labour market efficiency than often implied in these debates (though they tend to entail some distributional impacts). A similar story can be told in the case of minimum wages (which tend to have weak effects on labour market efficiency but do help reduce poverty and inequality). Therefore, given the ambiguous empirical evidence, the basis for undertaking an assessment of these indicators is weak, and complex to say the least.

Apart from some minor references, the proposed approach does not capture the overarching importance of various results of regulations that matter for employers, such as the availability of a skilled workforce; retention of staff (turnover), etc. As heard from one Indian garment producer, the EPL in the country, which is highly restrictive on paper, is the least of their concerns. In fact, they were far more worried about reducing staff turnover and ensuring that they meet the standards set by international buyers.

The proposed BEE is, therefore, still placed in a narrow view that the main issue for employers is flexibility, which stands in contrast to even the results of the World Bank's Enterprise Surveys. These surveys emphasize that a far larger share of enterprises identify an inadequately educated workforce as a major constraint in comparison with labour regulations.

Economy	Percent of firms identifying labour regulations as a major constraint	Percent of firms identifying an inadequately educated workforce as a major constraint
All Countries	10.6	20.4
East Asia & Pacific	6	12.2
Europe & Central Asia	9.7	23.9
Latin America & Caribbean	19.2	28.6
Middle East & North Africa	10.2	20.4
South Asia	9.8	20.2

Sub-Saharan Africa	10.3	16.3

Source: Explore Topics (enterprisesurveys.org)

The approach for the BEE needs to be, therefore, motivated by a comprehensive, but clearly articulated, perspective on what constitutes effective labour marker regulations. Such a framework would explicitly cover the worker and employer dimensions and provide a conceptual basis to any assessments.

Missing from the indicator are employment contracts or the capacity of the regulatory system to correctly capture and protect employment relationships (WBG, 2015). Inadequate capturing can lead to the labour market externalizing costs and thus market failure from a public policy perspective.

Regarding the specific regulatory framework that will be applied in the section on labour, it is not clear what the "internationally recognized topic-specific best practices" (p. 5) are. Is this a reference to international labour standards?

De facto vs de jure assessment of workers' protections

A more comprehensive approach should be used to assess whether workers' protections are effectively in place – de facto (to be consistent with the de jure indicators covering both workers' protection and employment restrictions).

Questions about compliance should be directed to labour inspectorates instead of firms (or should at least include some feedback from inspectorates) and can also be evaluated through labour force data (e.g., percentage of workers who earn below the minimum wage). Firms may not be entirely forthcoming about their compliance with regulations; at a minimum the source should be triangulated with other sources. There is a large body of scholarly literature showing the inefficiency of not only self-reporting compliance with labour standards but even third-party independent auditing (see for example Locke 2013, Barrientos and Smith 2006, Kuruvilla 2021 to name just a few). There is absolutely no hope to obtain "high quality data" on compliance on these issues through firm-level surveys. If the BEE wants to be credible in this domain, a different methodology will need to be employed. For this reason, the views of both employers and workers (and their representatives) should be taken into account when analysing the de facto effects of labour regulations and policies. For instance, from a worker perspective, key issues include whether they receive a payment slip, are paid at or above minimum wages, receive their salary regularly and are compensated for overtime, or receive the correct severance pay.

In terms of the latter, a World Bank study showed that, in the case of Indonesia, only "one-third of workers entitled to severance pay report receiving it, and on average workers only collect 40 percent of the payment due to them". This country has one of the most generous severance pay requirements in the world (under the Manpower Law), which would make it, from a de jure perspective, a labour market with very high restrictions to firing workers. However, in practice, workers were not receiving these supposedly generous payments – how would a divergence between de jure regulations and de facto outcomes be captured in such an assessment? The ILO promotes social dialogue as a means to identifying these issues – see, for example, the ILO/IFC Better Work Programme.

Regarding the perceived data gap which the BEE is aiming to fill (p. 3), the ILO already fills this gap regarding labour. The ILO produces and publishes a comprehensive set of data and statistics (both de jure – NORMLEX, and de facto – ILOSTAT), including for example statistics on social protection coverage. Especially in light of the shortcomings of the methodology, the added value of the BEE indicators on labour is unclear.

How would de jure indicators be jointly assessed and communicated from both a business and worker perspective? In fact, this is not possible unless a robust analysis is undertaken with adequate consultations and data on the de facto outcomes. The proposed approach recognizes that worker protection also matters, while acknowledging the difference between de jure regulation and de facto implementation of laws. Nonetheless, it is not clear how the assessments will be made, leading back to a fundamental problem with the DB indicators, namely, how to assess flexible versus strict labour markets, which entails potentially contradictory assessments for the same indicators. For example, a country without protection from unfair dismissal would be seen as having flexible regulations on firing employees (as it was in DB). However, this would, at the same time, imply that the country has weak (or, rather, no) worker protection. Another example is the minimum wage: on the one hand, a high minimum wage can be (narrowly) interpreted as a restriction on employment, while, on the other hand, it represents greater worker protection (if complied with).

Lack of workers' voices and use of existing data reflecting workers' voices

It is stated that BEE will explicitly consider the perspective of employees, by including indicators on workers' protection and public services (p. 22, 23, 25). But it appears that data would be collected only from firms or local experts and would not include surveying employees to gather their views. In addition, firm level surveys are only carried out among formal firms. The indicators will not capture perspectives around informality, which is a stated objective of the labour indicators. Data sources that give workers' perspective on these issues and others (e.g., discrimination) should also be included, as this is a rich source of information and does not contradict the overarching goal of private sector development. For example, the European Working Conditions Survey, covering EU-27, provides a vast array of information concerning the social and physical environment of the workplace. Consideration should be given to relying on workers' organizations and the ILO supervisory system as sources of information. Representatives of governments, workers' and employers' organizations should be consulted since the issue of "quality of labour regulation" and the aim "to advocate for policy reform" (p. 2) are matters for social dialogue. Women's rights groups and organisations representing marginalised populations should also be included in these consultations. Finally, paying experts a fee for their consultation creates the potential for a conflict of interest.

Lack of gender and diversity aspects

While noting that the document has deliberately decided to leave gender issues outside of its analytical framework, the absence of such a transversal policy driver and indicator as gender is regrettable as the development of an enabling environment for business should not only integrate but also promote gender-responsive approaches. The same is true for other diversity and inclusion issues, such as disability. There are important gender dimensions that need to be

captured in the labour indicators, which should also be assessed through the collection of data on de facto outcomes (e.g. parity in wages, access facilities and training, harassment in the work place, etc.).

Lack of dimensions on formality/informality and non-employee workers

Greater emphasis should be given to designing indicators which can help assess to what extent employment and social protection policies and legal frameworks are integrated and how successful they are in promoting the formalization of economies, enterprises and labour markets.

While the document refers to formalization incidentally, the formalization angle regrettably does not appear to be a main vector driving the primary objective of guiding policy reforms worldwide. The informal economy comprises more than half of the global labour force and more than 90% of Micro and Small Enterprises (MSEs) worldwide. Creating an enabling environment for sustainable business should not and cannot ignore such a major phenomenon. Rather, policy advocacy aimed at promoting reforms should have at its core the promotion of mechanisms that focus on fostering formalization of the economy and notably of MSEs as these structures concentrate the bulk of the global workforce and the potential for significant productivity gains and economic growth. The BEE could have placed a much stronger focus on designing indicators measuring the success of formalization policies generally and of those designed specifically for the MSEs. Currently, the draft makes only one reference to these key economic structures in the chapter on insolvencies, while these structures are those which would benefit from an enabling business environment the most.

It would have been useful to consider MSEs special needs also in the sections dedicated to labour, social protection and taxes. Where successfully integrated, employment and social protection policies oriented towards formalizing micro-economic structures and their workforce (by way of simplified registration modalities and publicly subsidized single-window mechanisms for the payment of taxes and social security contributions by these structures) have shown great potential in allowing businesses to grow, increasing productivity, protecting the workforce and generating an overall positive fiscal result in the medium to long-term.

In addition, self-employment forms a large part of the reservoir where the informal and low productivity labour is concentrated, notably in the context of developing countries. The current scope of the indicators appears to be limited to measuring the efficiency of business environments from the point of view of enterprises employing salaried labour, a more inclusive approach – one measuring also how enabling the business environment is for self-employment and entrepreneurship benefitting from adequate labour and social protections – would have been preferable. Promoting labour market and social protection policy reforms which can generate a positive cycle of sustainable economic and social development should therefore also be aimed at enabling those who are self-employed to formalize and grow (potentially mutating into tomorrow's formal MSEs) while benefitting from decent work and adequate social protections.

Too narrow definition of social protection and its financing

Firstly, while social protection is addressed in the chapter dedicated to labour, social security contributions are considered part of the enterprises' tax burden by the chapter on taxation (protections that are "too taxing on firms' budget"). However, the overall burden of social insurance contributions is not only shared by employers but also by workers themselves (and government general revenue providing complementary resources). From that perspective, worker and employer social security contributions form an integral part of workers' gross earnings. They should therefore not be seen as a tax on labour. Rather, social insurance contributions represent a part of the wage which is deferred and due in the case of certain contingencies established by law such as sickness, unemployment, maternity, employment injury, invalidity or old age.

Conceptually, this point has great salience as it entails a number of consequences, including with regard to the design of the indicators as well as the type of advocacy made in the case of policy reforms. How comprehensive (and protective) a social protection system is, and the scale of resources dedicated to its operation, represent a delicate societal balancing act and are often the result of decades of negotiations resulting in complex law-making processes. While these processes of course duly take into account the needs of businesses and the development of the private sector, they also take into account many other public policy imperatives. As an essential public institution that is founded on solidarity, the ILO emphasizes that social protection can therefore not be subsumed to a tax that business is arguably paying for employing labour and which could be lowered solely for the purpose of creating a more favourable environment for business. Economic risks cannot be entirely absorbed by social protection systems, and even less so when the aim is to reduce companies' contributions.

Secondly, while the draft document recognizes that social protection forms part of employment protection legislation in the broader sense, it fails to recognize social protection in all its dimensions and only focuses on a small selection of life-cycle contingencies, as established by international social security standards, and more specifically by the ILO Social Security (Minimum Standards) Convention, 1952 (No. 102). We understand of course that indicators cannot be exhaustive (as noted in the document). Rather, the indicators could map how many of the 9 branched established by Convention 102 exist nationally, and then maybe focus on a select number of branches (perhaps those that are the most widespread worldwide, to allow robust comparisons).

Therefore, beyond taking into account the protection in case of unemployment, health care and old age, the indicators should also include the other 6 life-course contingencies recognized since 1952 as necessary in order for social protection systems to be comprehensive, namely indicators in respect of sickness, employment injury, maternity, disability, survivor's benefits as well as the allowances paid to families for the maintenance of children.

Lack of reference to SDGs and wider UN agenda

The SDGs are only mentioned in the "workers' protection" segment of the labor component in the following terms: *"This indicator will build on applicable International Labor Standards drawn up by the ILO, in relation also to the 2030 Agenda for Sustainable Development"* (p. 23), with no further explanations.

The UNSG Common Agenda calls for a more comprehensive measurement of economic growth. A shift away from the classical measurement of economic growth could be considered for the BEE to reflect this.

Quality of labour regulations and employment restrictions

The pre-Concept Note states on Quality of labour regulations that "some assumptions may be included to ensure comparability of data across countries" (p. 23), but there is no reference to what those possible assumptions may be. This should be clarified.

The relevant thresholds for labour regulations, below which it is unacceptable for governments to go, for example on minimum wages, hours of work, severance pays and social security, should be made explicit.

The distinction between positive "workers' protection" and negative "employment restrictions" is misleading. For example, it is unclear why minimum wages are included in the first category and the regulation of working hours is placed in the second one, while appropriate regulation of working time is an important component of decent working conditions and productivity, which are mentioned under "workers protection".

Moreover, it is impossible to locate the frontier on institutional dimensions given the country-specific contexts and complexity of the regulations being assessed. For example, in the case of a minimum wage, the frontier would not be defined by a country without a minimum wage (full flexibility) or one with an unrealistically high minimum wage. As outlined by the ILO Convention 131 on minimum wage fixing (1970), the level of the minimum wage shall be fixed by taking into account both:

- the needs of workers and their families, taking into account the general level of wages in the country, the cost of living, social security benefits, and the relative living standards of other social groups; and
- economic factors, including the requirements of economic development, levels of productivity and the desirability of attaining and maintaining a high level of employment.

Due to the multidimensional and country-specific nature of minimum wages (and other labour market institutions, such as employment protection legislation), it would be infeasible (or inherently, too complex) to assign a score in relation to a frontier.

This leads back to the intrinsic problem with assessing these regulations. The aim of effective labour market regulations should be to build a fair, inclusive and productive labour market that offers both benefits to employers and workers, while sharing the risks among all parties. Taking a reductionist perspective on regulations will not provide such a framework and is unlikely to yield the right information for investors, which increasingly base their decisions on a range of factors (such as availability of a skilled workforce and compliance with core labour standards if the firm originates in such places as the EU).

(1) Workers' protection

According to the concept note, this indicator will build on "applicable international labour standards drawn up by the ILO" (p.23). There is no indication of what "applicable" standards are. Does this refer to Conventions in force in the country concerned, or does it include all up-to-date standards as defined by the ILO Governing Body? To make this indicator more meaningful, it would at least need to refer to the reports of the ILO's supervisory mechanism on the application of standards.

The footnote makes only reference to the 1998 Declaration of Fundamental Principles and Rights at Work, which is an ILO instrument but does not have the status of a standard. In addition, two categories of principles and rights at work (the prohibition of child labour and forced labour) are not mentioned.

The list of prohibited grounds of discrimination leaves out one of the seven grounds expressly listed in ILO Convention No. 111, i.e. political opinion. What is the rationale for this? At the same time, other grounds could be mentioned such as disability, health, sexual orientation and gender identity. Consideration should be given to assessing the existence of regulation addressing violence and harassment at work (e.g. regulation that clearly defines companies' responsibilities are beneficial for both workers and companies).

There seems to be mixing of what the indicators should measure in relation to: jobs - and the different segments of workers (young, women, etc); or firms (investment, operational costs, other variables?) - and the different segments of firms. For example, on minimum wages, on what issues should the indicators be evaluated?

(2) Employment restrictions

It is not made explicit how the rules on dismissals will be evaluated. It would be necessary to define what the indicators are and whether the protection against unjustified dismissal is going to be considered a "restriction" on employment. It is quite common for dismissal and compensation rules to be assessed without taking into account whether the dismissal is justified or unjustified. In the latter case, the evaluations, especially those concerning compensation, should be different from those that regulate the rules and compensation of justified dismissals.

Furthermore, it is unclear why reference to International Labour Standards (ILS) is only made in relation to workers' protections and not also in the paragraph on employment restrictions. ILO supervisory bodies' comments and observations of ILS should be considered to assess the quality of regulation.

The claim that employment restrictions in terms of hiring/firing and work scheduling/working time leave some categories of workers vulnerable (young, female, or less experienced workers, in particular) may require further consideration and nuancing. Another way of assessing this is that ineffective or "light touch" legislation may increase vulnerabilities.

In addition, frequency of labour inspections is grouped under ease of hiring and seems to be assumed more as a burden and data would be collected from firms which are likely to respond negatively about it. There is no doubt that cumbersome, inefficient, and under poor governance conditions, labour inspection can be an important BE barrier but this is not what is targeted

under the indicators, the implication being that all labour inspection is a burden. What mechanisms should be used to ensure good working conditions? These issues are built on the conclusions of the papers listed on footnote 73 which are based on conclusion about negative effects from labour market flexibility indicators (hiring, firing), impact of minimum wages and employment protection legislation.

Adequacy of public services for the labour market

(1) Workers' social protections

It is not clear why social protection is approached as a public service This gives the impression that social protection should be mainly shouldered by the State and not be based on employment. The concept note hints at this when it warns against social protection being "too taxing on firms' budget" (p.22). In addition, social protection includes other important protections such as those related to maternity and invalidity/disability, which are not mentioned in the note.

The concept note also mentions "informal workers' access to social protection". It is unclear what "access to social protection" refers to in this case. Does it refer to social protection floors, as embedded in ILO Recommendation n°202 (R202), or to access to social insurance or to other contributory employment-based schemes (including through more comprehensive formalization policies)? These options are not equivalent in terms of the protection they provide, equality of treatment and so on. Access to a floor of protection can be a very positive provision if it is applied as set in R202 regarding eligibility and if it is considered as a first step towards higher levels of protection. Providing a floor of protection to informal workers for "life" is unfair, non-equitable, deprives workers from other protections, increases labour market segmentation and incentivizes informality. As such floors would probably be funded through tax revenues, this would mean transferring the costs that employers should assume towards society at large.

Additionally, it is unclear why this is addressed as a *de facto* measure, which here means "expert consultations with labor lawyers, labor bureaus, and labor ministries, and can be corroborated by desk research". This is problematic for two reasons: Firstly, the existence of appropriate legal entitlements and frameworks is essential in this area, hence it should also take into account *de jure* data. The availability of the protections listed depend both on relevant legal measures and their application.

(2) Public employment services

Some important labour market *institutions* are actually *private* services (e.g. collective representation and, in some countries depending on the labour relations model, collective bargaining; private employment agencies; OSH services; private social insurance; availability of legal representation; availability of arbitration services; support services to undertake due diligence …). One could usefully refer to Section IV of the Job Creation in Small and Medium-Sized Enterprises Recommendation, 1998 (No. 189) (development of an effective service infrastructure). In addition, the public services mentioned are in relation to active labour market policies, but e.g. labour inspection (barely mentioned) is a passive public service in the sense

that it is aimed at protection rather than promotion. Hence, many public services are not covered by this indicator.

Public employment services (PES) do aim to promote labour market matching between demand and supply – and in that sense influence the business environment and the ability of employers to have the necessary skilled labour to perform adequately. However, PES also have other goals, such as promoting inclusion and equity in the labour market, which are complex factors, often driven by different contexts. Public services are public goods that play a key role in reducing women's disproportionate share of unpaid care work, in particular its drudgery dimension. Childcare and other care services funded by social protection or general taxations would be particularly relevant as active labour market policies, especially for women. Explicit mention of "accessibility" in underserved areas and by marginalized groups, such as indigenous peoples and workers in the informal economy, and "consideration of women's unpaid care work" could be considered among the criteria for good regulatory practices.

Hence, the benchmarking of public employment services is very tricky at the global level given the diversity across the world, which is determined by country-specific conditions (level of development, societal and work culture, digital infrastructure, market development for the employment services ecosystem actors, etc.). In the EU, where countries are at a more comparable level of development, there is formal benchmarking and learning (aka "benchlearning") governed by an EU Directive and monitoring mechanism. However, such an approach is not feasible at the global level. Methodologically, it is not meaningful or appropriate to benchmark Comoros and France using the same framework.

Moreover, in many countries, advanced and developing alike, PES has low coverage in the labour market – hence the concept of employment services ecosystem: meaning coordinated actions of different players in the labour market. the lack of a strong PES may not signal unavailability of employment services, nor the fact that firms are failing to acquire labour efficiently. Employment services may be provided by other actors in the labour market with support of the government – financial or otherwise. Perceptions of labour lawyers, and even other actors, are likely to be negative because of the general prejudice against PES. In developing and emerging countries there are no incentives for employers to use PES. Even where PES is relatively good, employers, in most cases, are unwilling to use them for many reasons, including avoiding transparency in recruitment. Understanding the success of employment programmes, including the ALMPs mentioned, requires a careful assessment/evaluation of a range of programmes, including those that are not only operated by the ministry of labour (since some of the largest programmes are implemented by other ministries and government agencies).

In addition, it will be very difficult to rely on labour lawyers to gather information "on the experience of firms and expertise of local practitioners" to assess the "efficiency and coverage of public employment services for job seekers". Labour lawyers do not play a major role in this area.

It is intended to use digitization as an indicator, specifically the existence of "digital platforms" for job search. It is not defined what these platforms consist of, although it is noted that they can take "different forms". Perhaps the note only refers to online employment agencies. However, one of the examples used ("workforce sharing platforms that connect business through a temporary workforce exchange") seems to refer to the broader platform economy. Greater specificity would be welcome.

Overall, PES is not a good measure of the business enabling environment due to methodological challenges (including sources of information) and the difficulty of having clear benchmarking criteria.

(3) Individual labour dispute resolution

The reasons for using the availability of public services for dispute resolution and of administrative bodies and/or government programmes that educate workers on their rights as a proxy for quality and efficiency of public institutions are unclear. This is also a very narrow assessment of the quality and efficiency of these institution. Issues like independence and budgets of such institutions, the number of labour inspectors per 1000 workers, or length of proceedings and outcomes of for claimants, and role of trade unions in supporting individual claimants would speak more directly to the quality and efficiency of available institutions for labour dispute resolution.

This indicator should also be balanced with considerations of real (vs. exigent) social dialogue. Is faster labour dispute resolution always better? Or would a satisfaction index be a better indicator?

Ease of employing labour

The title does not really cover the content. We suggest simply “efficient functioning of the labour market” with the explanation that efficiency will be considered from the perspective of both employers and workers (rather than employees).

Even if private sector development is measured from the perspective of SMEs, progress does not merely depend on de-regulation. The enabling environment for this type of company in terms of “ease of employing labour” is not exclusively defined by how easy or flexible the rules are but by the level of support that is available to them from private or public sources to comply with labour standards – e.g. temporary subsidies to tide over minimum wage increases; temporary reductions in employer social security contributions for vulnerable groups (youth, people with disabilities); business support services to advise on workplace risk assessments (key to OSH) or reasonable accommodation requirements for people with disabilities. For example, mandatory employment quota’s for people with disabilities, often accompanied with a levy for non-compliance are routinely perceived as a “tax” but in many countries still the best available option in the absence of a support structure for “reasonable accommodation”.

Similarly, access and ease (e.g. to digital systems, access to property rights) vary across size of firms. Hence, the utility of this exercise for policy purposes would rest on the ability to disaggregate access or ease issues. For example, SMEs have different access issues than larger enterprises. Conclusions pertaining to the private sector as a whole can fail to identify where inefficiencies and market failures lie and run the risk of being too abstract for policy makers.

Questions

Regarding the aim to uphold “transparency and public availability of granular data, and replicability of results”, besides publishing the pilot data collected in summer 2022, what will be the procedure to access and analyse data in the actual BEE rollout?

The private sector is presented as monolithic, essentially reduced to profit-driven enterprises of an indeterminate size. The social and solidarity economy and other private initiatives that do not have profit as their main motive but still contribute to sustainable development and economic growth do not seem to fit the frame of “innovation and entrepreneurship”. Will their ease of doing business be measured?

What is the relative priority of “innovation and entrepreneurship” as a public policy objective over other public policy objectives such as inclusion, cohesion, and resilience?

With increasing structural inequalities, which are eroding the foundations of economic growth, “equality of opportunity” will not be enough for private sector development. What about equality of treatment and equity of outcome?

In order to ensure sustainability in the long term, would private sector development not depend on the capacity of the private sector to internalize costs associated with broader concerns such as climate change adaptation, impact on biodiversity, social cohesion?