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Guidelines Nº 9

Business environment reform guidelines

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Acronyms and abbreviations

ADR	Alternative Dispute Resolution
AU	African Union
BEE	Business Enabling Environment
BER	Business Environment Reform
BERF	DFID Business Environment Reform Facility
BizCLIM	ACP Business Climate Facility
BizCLIR	USAID Business Climate Legal and Institutional Reform
CIBER	Competitiveness Impacts of Business Environment Reform
COMESA	Common Market for Eastern and Southern Africa
DB	World Bank Doing Business survey
DCED	Donor Committee on Enterprise Development
DEVCO	Directorate-General for International Cooperation
DFID	UK Department for International Development
DP	Development Partner
EAC	East African Community
ECOWAS	Economic Community of West African States
EEAS	European External Action Service
EFSD	European Fund for Sustainable Development
EIP	External Investment Plan of the European Union
FCAS	Fragile and Conflict Affected State(s)
GCI	World Economic Council Global Competitiveness Index
ICF	Investment Climate Facility for Africa
ICR	Investment Climate Reform
IFC	International Finance Corporation
IFI	International Financial Institution
IGD	Inclusive Growth Diagnostic
MSME	Micro and Small and Medium Enterprise
NEPAD	New Partnership for Africa's Development
OHADA	Organisation for the Harmonisation of Business Law in Africa
PEA	Political Economy Analysis
PSD	Private Sector Development
PSE	Private Sector Engagement
SADC	Southern African Development Community
SB4A	Sustainable Business for Africa
SSA	Sub-Saharan Africa
TA	Technical Assistance
TORs	Terms of Reference
UNCTAD	United Nations Conference on Trade and Development
UNDP	United Nations Development Programme
USAID	United States Agency for International Development
WB	World Bank
WTO	World Trade Organization

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Introduction

Since the 2015 Addis Ababa Action Agenda and Conference on Climate Change in Paris, a shift in the role of the private sector in development cooperation has occurred. Ending poverty will depend on different factors and an important one is the creation of viable business and productive jobs and their contribution to inclusive and sustainable growth. These aspirations are reflected in the United Nations' Sustainable Development Goals (SDGs).

EU policy documents reflect in turn this shift in the approach to development cooperation: the Africa-EU Alliance for Sustainable Investment and Jobs[1], the External Investment Plan[2] and the Consensus for Development (2017)[3].

The improvement of the investment climate and business environment reforms (BER) have therefore become important and recurrent elements of EU actions in development cooperation, along with the numerous existing interventions in support of private sector and trade development at micro, meso and macro levels. In addition, the overarching EU policy of European Economic Diplomacy affords the opportunity to inject high level political and policy dialogues with content relevant to improving the business and investment climate.

This document intends to be a practical, easy-to-use and up-to-date guidance on Business Environment Reform (BER). It should help to prioritise, design and implement BER interventions in partner countries, with an inclusive, pro-poor, gender and rights-based approach. It is presented as follows:

- Chapter I presents the key concepts behind BER, its rationale and historical background, and the standard grouping of areas, the business environment drivers, that are to be addressed for reform.
- Chapter 2 delves into each of these ten drivers, providing a definition, an illustration and a set of tools and resources.
- Chapter 3 presents sector-specific and value-chain BER interventions. Those require a 'vertical' approach, as they cut across different areas as addressed in Chapter II. For each, there is a description, examples and tools and resources.
- Chapter 4 addresses cross-cutting issues that need to be incorporated into BER, such as gender, MSMEs or informality. For each, there is a description, examples and tools and resources.
- Chapter 5 is a step-by-step guide for BER diagnostic, detailing the steps from a first assessment to the presentation of recommendations for reform.
- Chapter 6 introduces elements of BER measurement and evaluation.

1 https://www.un.org/esa/ffd/wp-content/uploads/2015/08/AAAA_Outcome.pdf
2 https://unfccc.int/sites/default/files/english_paris_agreement.pdf
3 https://ec.europa.eu/europeaid/sites/devco/files/european-consensus-on-development-final-20170626_en.pdf

Chapter 1

Key concepts: investment climate, business environment and business environment reform

INVESTMENT CLIMATE

The investment climate is the overall context for investment in an economy, namely all the factors which a prospective investor (domestic or foreign) may take into consideration before investing. The investment climate also includes the business environment, shown in the middle of Figure 1.1.

The investment climate is much broader than the business environment, and as noted above, interventions to analyse and improve the investment climate in a country potentially include all areas of EU development assistance.

The recently issued '**Handbook on improving the investment climate through EU action**'[1]present the **key drivers of investment climate** in further detail.

Key drivers of investment climate

- Macroeconomic stability and governance drivers
- Human centred drivers
- Business environment drivers

THE MACRO LEVEL: STABILITY AND GOVERNANCE DRIVERS

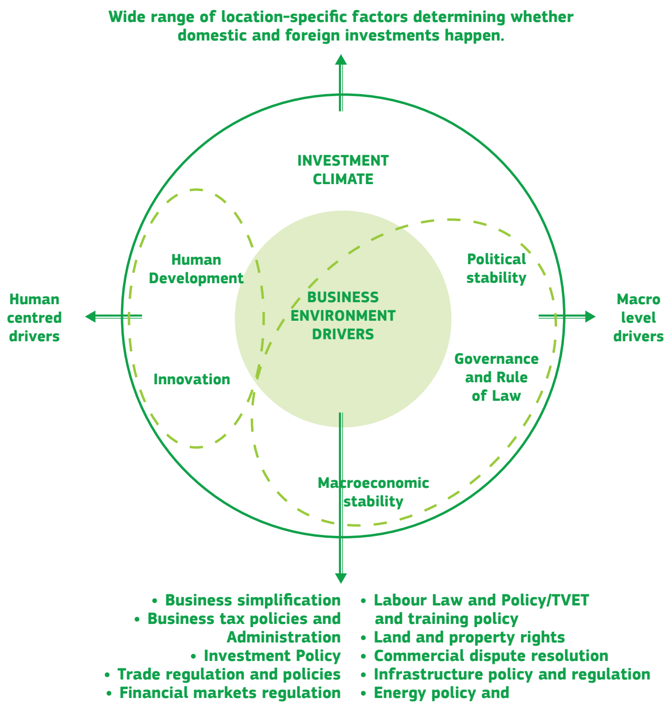
Macroeconomic stability

Stable macroeconomic policies are a crucial part of the investment climate, since they anchor the expectations of economic actors and contribute to lowering the risk of doing business by providing a more secure and predictable environment for private sector in making investment decisions. This includes the level of public budget balance, domestic revenue mobilization, public debt, monetary and price stability, external accounts, country credit ratings, as well as tax evasion, tax fraud, and illicit financial flows.

Strengthening **debt management capacities** is needed to ensure public debt sustainability over the medium term, given that the public debt/GDP ratio has risen significantly in many countries over the past decade.

Strengthening of public finance management can address critical issues which directly affect investment

Figure 1.1: Investment Climate and link with Business Environment



[1] Handbook on improving the investment climate through EU action. Implementation of Pillar 3 in the integrated approach of the External Investment Plan', DEVCO/C4, February 2019

and have a direct impact on private enterprises. This covers the selection and maintenance of public investments, as well as asset monitoring. A competitive transparent and accountable public procurement system is also crucial to ensure quality and value for money of public investment, and it has important potential for the development of local private enterprises.

The quality and capacity of public institutions is an essential determinant for the business environment. Weaknesses in expenditure management often lead to build up of arrears to suppliers with invoices remaining unpaid for prolonged periods. This is particularly constraining for small local enterprises with limited capital endowment whose existence may be put at risk. On the other hand, governments particularly in Sub-Saharan Africa face challenges with complex Public Private Partnership arrangements to finance growing infrastructure needs for the SDGs[2]. This may result in significant cost overruns, renegotiation of contracts or even abandonment of certain projects. Capacity building in public finance management is therefore an important area for the improvement of the business environment.

Transparent budget execution with public access to essential budget documents and reports, effective internal control and external audit systems are needed to combat corruption and to create confidence of private investors.

Strengthening **domestic revenue mobilisation** is at the core of securing public resources required for a well-functioning state and the provision of essential public services such as education, health, infrastructure, which are key to improve a country's investment climate. This also includes **fighting tax evasion, tax avoidance** (e.g. by tax base erosion and profit shifting) **and illicit financial flows**[3]. Tax certainty and ease of paying taxes are essential for businesses, while governments must ensure obtaining appropriate revenue from economic activities in their jurisdiction.

International cooperation to prevent tax base erosion, profit shifting, and on increasing the transparency of financial flows are essential in this context. The EU is encouraging this process through its **External Strategy for Effective Taxation**, which contains measures to promote tax good governance globally and to engage with third countries to counteract abusive tax practices.

Environment and social risks are increasingly recognized as a threat to the economic and financial system. This includes for example costs resulting from weather-related natural disasters, lower profitability of companies most exposed to climate change or highly dependent on dwindling natural resources, or risks associated to poor working conditions and growing inequalities. Integrating those risks and promoting sustainability is therefore an important driver element of macroeconomic stability.

Political stability

A **stable and transparent political environment** provides a sound foundation for economic development that makes it less risky to invest and reduces the cost of establishing and running a business.

If investors fear expropriation of assets, revocation of incentives, labour unrest, civil dissent, or inability to deal with natural calamities, they will be disinclined to invest. Investors request a predictable legal environment minimizing discretionary decision making and have to be confident that investments are safe.

Experience shows that investors make assessments of political and security risks even before considering other factors. Without reliable political, parliamentary and judicial institutions and processes, risks of violence, instability and even insurgency increase, and the state's capacity to maintain its borders and control its territory can be put at risk. Political transitions from long-term dictatorial rule are also fraught with uncertainty. For this reason, considerations on electoral processes, human rights, the security sector and the exercise of fundamental freedoms cannot be divorced from other investment climate issues. All have a demonstrable impact on transparency and accountability and ultimately on business 'confidence' and the attractiveness of any country for any, especially long-term, outside investment.

[2] See references related to PPPs under Functional area 9 Infrastructure policy and regulation in these guidelines.

[3] At international level, the EU supports initiatives such as OECD Base Erosion and Profit Shifting (BEPS) Inclusive Framework, or the Global Forum on Transparency and Exchange of Information for Tax Purposes that increase transparency and contribute to the fight against tax evasion, tax avoidance and illicit financial flows

Governance and rule of law, justice, anti-corruption

Good governance is a crucial element for attractive investment conditions. Respect for the **rule of law** is a prerequisite for upholding rights (such as the principle of non-discrimination) and obligations of people and business and for establishing trust in the legal system of a country. The existence of an **independent, impartial and efficient national justice system** is the essence of the rule of law. Well-functioning national justice systems are beneficial for the economy[4]. Where judicial systems guarantee the enforcement of rights, creditors are more likely to lend, foreign investors are more likely to invest in a market, firms can rely on their contracts, businesses are dissuaded from opportunistic behaviour, transaction costs are reduced, corruption risks are lessened, and innovative businesses are more likely to invest.

Corruption has a negative impact on business productivity, investment, profitability and growth, by increasing transaction costs and discouraging domestic and foreign investments. The effective investigation, prosecution and adjudication of criminal cases of corruption is crucial. Efforts to streamline administrative procedures to limit discretionary powers, and the introduction of codes of conduct, play an important role in curbing corruption in public administration. Corruption can also have a significant cross-border dimension and is increasingly linked with illicit financial flows linked to activities such as trafficking.

HUMAN-CENTRED DRIVERS

Human development

In this regard, **human development** aspects have to be included in the analysis, i.e. as an undertaking of enlarging people's choices via building human capabilities, so that people can influence the processes that shape and improve their life. Investors looking for opportunities will consider these elements. The basic dimensions of human development are long and healthy life, education and knowledge and decent standard for living.

The quality of human capital is a key factor in improving productivity of labour force that can be considered as a decisive factor for inclusive growth. All people need to grow up in healthy, safe environments and be stimulated to develop their basic knowledge and skills, essential personal and social competencies and fundamental values, including social cohesion and equitable schooling. The essential role of governments and the public sector to provide basic services, to regulate and outsource social services or parts thereof effectively in order to provide equitable and universal access to key social services, is to be underlined.

Innovation

Innovation and innovation policy help to enhance productivity and competitiveness and to drive economic progress. Innovation is also a human-centred driver, related to creativity, to the invention of new ideas, products, technologies, social and business processes.

Innovation requires complementary actions or policies to achieve high potential returns and to further incentivize investments. Governments should strengthen public administration, government agencies and public research institutions to build managerial and organizational capabilities and eliminate physical, human and knowledge capital barriers to support innovation. Conducive innovation policies and regulatory and institutional framework can incentivize adoption of new technologies, creation of industrial and innovation clusters and improve the quality of research, and commercialization of innovative products and services. International partnering and in particular with European industrial and innovation clusters could be strengthened. Fundamental is also the existence of a proper legislation for the protection and enforcement of Intellectual Property Rights, to promote innovation as well as enable the diffusion and market-uptake of R&D results. Climate change adaptation, boosting green economy and protecting country's biodiversity requires innovative solutions and cost effective and sustainable patterns of production. This is particularly important in countries most reliant to natural resources and where populations live in exposed areas in precarious conditions and ill equipped to adapt

[4] See 2018 Justice Scoreboard; IMF, the World Economic Forum 'the Global competitiveness report 2013–2014'; World Bank 'Doing Business 2014'; 'Fostering growth in Europe now' (18 June 2012); OECD Economic Department Policy Notes n° 18 of June 2013 'What makes the civil justice effective?' and OECD Economics Department Working Papers n. 1060 and 'the Economics of Civil Justice: new cross-country data and empirics'

financially or institutionally. Innovation can help incorporating sustainability throughout business operations, including fostering low-carbon climate resilient investments, and transform environmental challenges into market opportunities including via digital tools.

Supporting entrepreneurship and capacity development of private sector, including through development of business development services and business skills, is also a key element of an improved investment climate. Promoting social innovation and social entrepreneurship is an important element of this process. Social innovation and collaborative (digital) networks, are promising tools to boost participation by the public and civil society in the design and management of the local economic development. It boosts ownership of transition and change by local communities and helps them to turn these evolutions/innovations into entrepreneurial opportunities. By means of distributed collective and bottom-up knowledge, investment in such projects can strengthen even more direct democracy and participation in economic initiatives, as showed by the social enterprise model.

The rapid spread and scale up of digital technologies and services has global implications and creates opportunities for domestic and foreign investments. Unlocking digital opportunities requires the deployment of digital infrastructure projects, linking especially remote regions or land-locked countries. To support the development of a regulatory environment conducive to public and private investments in digital connectivity, governments should prioritise actions for the harmonisation of policy, legal and regulatory frameworks on Information and Communication Technologies[5].

BUSINESS ENVIRONMENT DRIVERS

The **business environment** is comprised of the legal, regulatory, policy and institutional frameworks that govern and influence business activity in an economy. The business environment includes the administration and enforcement mechanisms established to implement government policy, as well as the institutional arrangements that influence the way key actors operate (e.g. government agencies, regulatory authorities, courts and business membership organisations)[6].

Business environment reform (BER) denotes regulatory, legal, policy and institutional reforms intended to improve the business environment — in other words reforms that improve the functioning and sustainability of markets and reduce transaction costs and risks associated with starting, investing in, operating and closing a business[7].

Scholars and practitioners have typically defined functional areas in order to better structure Business Environment Reform (BER) interventions. Based on existing literature and international experience on this matter, ten functional areas have been defined in these guidelines and in the Handbook on improving the investment climate.

This list of ten functional areas (Figure 1.2) has been developed to help prioritise and organise BER interventions and it is not intended to be comprehensive[8]. They are presented in more detail in Part II.

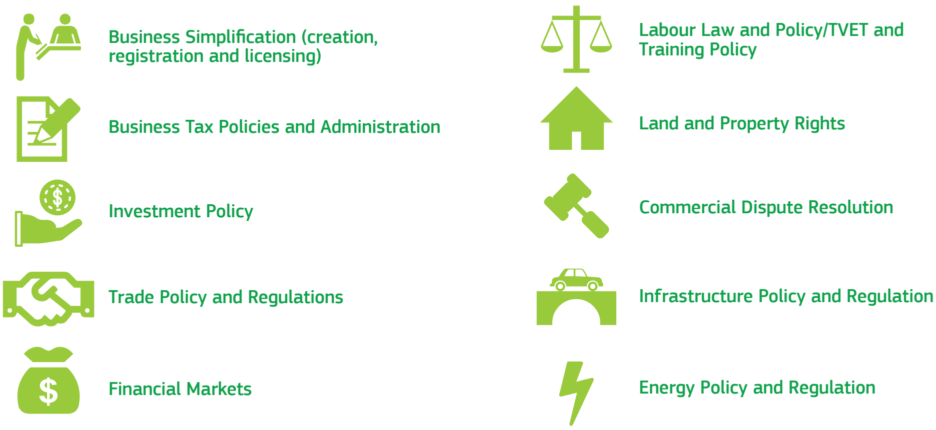
5 Relating to the African continent, see the Staff Working Document 'Digital4Development: mainstreaming digital technologies and services into EU Development Policy', SWD(2017)157. In the Neighbourhood, far-reaching initiatives put in place by the EU, such as the EU4Digital Initiative in the Eastern Partnership, aim at deeper regional integration through the elimination of roaming tariffs, investment in broadband connexions, and regulatory convergence in the areas of e-Trust, e-Commerce, e-Security, e-Health, e-Skills and e-Innovation

6 Based on the Donor Committee for Enterprise Development (DCED) definition set out in DCED, Supporting Business Environment Reforms: Practical Guidance for Development Agencies, 2008: https://mk0pucugovigmfo935pf.kinstacdn.com/wp-content/uploads/DonorGuidanceEnglish.pdf

7 Adapted from the World Bank Group's definition of 'investment climate reform', see World Bank, Investment Climate Reforms: An Independent Evaluation of World Bank Group Support to Reforms of Business Regulations, 2015. This definition is in line with the European Commission's Communication 'A Stronger Role of the Private Sector in Achieving Inclusive and Sustainable Growth in Developing Countries' (2014).

8 Number of these drivers might be brought together in one comprehensive government framework, called Integrated National Financing Framework (as a result from the Addis Ababa Action Plan). It maps the landscape for financing sustainable development at country-level and lays out a financing strategy to implement targeted policies and reforms in order to reach the SDGs

Figure 1.2: BER Functional Areas



AN INTRODUCTION TO BUSINESS ENVIRONMENT REFORM (BER)

As earlier mentioned, BER denotes regulatory, legal, policy and institutional reforms intended to improve the business environment. It aims to reduce the costs and risks of business activity by improving poor government policies, laws and regulations, and by stimulating competition through new market entrants (DCED, 2008).

When donor agencies support BER in partner countries, it is typically through technical assistance (TA) to public sector actors such as government agencies, the legislature and the courts, as well as private sector actors such business membership organisations. Many developing and transitioning countries also undertake BER in the absence of donor support.

Where BER interventions are specific to a sector or sub-sector, a number of additional functional areas of regulation will also be relevant. For example, in the agricultural and agribusiness sector, reforms to improve the regulation of seed varieties, fertilisers and tractor import may all be part of the business environment (see Part III).

In order to better structure BER interventions, practitioners and scholars have identified a number of 'functional areas', as earlier mentioned[9].

At all levels it is key that social and environmental externalities are reflected, so as to align the drivers of investment and private sector development with the conditions for long term sustainable growth and zero net negative impact on natural resources.

BER=ICR=BEE strengthening

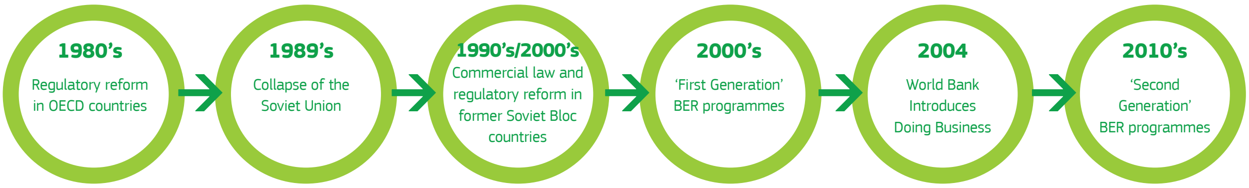
While the Commission and most bilateral donor agencies use term **business environment reform**, the World Bank group uses **investment climate reform** and USAID uses **strengthening the business-enabling environment**. These terms are interchangeable. The World Bank's use of the term 'investment climate reform' causes confusion given that it refers to BER, and not the much broader set of interventions aimed at strengthening the investment climate.

EVOLUTION OF BER FROM THE 1980'S TO TODAY

BER finds its origins in regulatory reform initiatives in OECD countries, including the 'regulatory guillotine' in Sweden and the development of regulatory impact analysis (RIA) in the US (Figure 1.3).

9 The DCED guidelines identify nine functional areas, which although some of the elements are common, have a smaller scope. Interestingly though they include 'Broadening Public-private dialogue processes' as one of them. For the purpose of DEVCO work, ten functional areas which are considered to be the main drivers for business environment improvement have been identified and are presented in part 2 of these guidelines

Figure 1.3: Historical and Intellectual Origins of BER



The collapse of the Soviet Union created massive demand for legal and regulatory reform across Eastern Europe and Eurasia and the donor community supported BER initiatives across the region.

The enlargement of the European Union has led to the adoption of the 'EU acquis' which is the accumulated legislation, legal acts, and court decisions which constitute the body of European Union law. It is a remarkable example of reforms done by the countries including business environment related reforms.

In the development cooperation sphere, the World Bank developed its Doing Business methodology, which has played a critical role in BER in developing and transitioning countries across the world. BER initiatives in the 1990s and 2000s — 'first generation programmes' — tended to be large-scale, top-down programmes targeting national level laws and regulations. Many of these were structured around Doing Business. As illustrated throughout these guidelines, BER has evolved considerably, with 'second generation programmes', increasingly combining bottom-up with top-down approaches, linking BER with specific sectors, sub-sectors and value chains, and integrating cross-cutting issues.

WHY SUPPORT BER IN PARTNER COUNTRIES?

The business environment has a significant influence in the development of the private sector in a country and therefore on economic growth and the generation of livelihoods and jobs. Development agencies design and fund interventions to support BER in developing and transitioning countries to increase investment and innovation by businesses and the creation of more and better jobs. BER does this in the following ways[10]:

- Reducing business costs: to increase profits (possibly leading to increased investment) or increasing market share (and thereby output and employment);
- Reducing risks and improving predictability: poor or frequently changing government policies, laws and regulations pose a risk for businesses, thus reducing the value of capital and the number of attractive investments in that market;
- Promoting new business entry and increasing competition: laws and regulations to support capacities and means of entrepreneurs (training, financial); to enable access to production factors and infrastructure (such as human capital, energy or transport);
- Promote positive social and environmental externalities contributing to long-term sustainable growth and to Sustainable Development Goals (SDGs)

THE DIFFERENT LEVELS AT WHICH BER TAKES PLACE

The Donor Committee for Enterprise Development (DCED)[11] distinguishes Levels of constitutive elements of BER — Key programme partners, Policy and legal framework, Regulatory and administrative framework, Institutional arrangements — and levels of intervention — Regional, National, Subnational and Sectoral-. In these guidelines, BER interventions at sectoral and value chain levels are further developed in Part III.

[10] Based on DCED, 2008: 'Supporting Business Environment Reforms: Practical Guidance for Development Agencies' and DEVCO comments

[11] The Donor Committee for Enterprise Development (DCED) forum for learning about the most effective ways to create economic opportunities for the poor, in line with the SDGs — based on practical experience in Private Sector Development (PSD). Its members include the EU, governmental and philanthropic organisations as well as multilateral agencies

National level

The most common level for BER is at the national level: supporting the national government and legislature to strengthen national policies, laws and regulations and institutions such as regulatory agencies and courts to implement and enforce such policies, laws and regulations. National level BER also involves private sector stakeholders such as business membership organisations, and workers' organisations. At this level, BER has the potential both to inform and to benefit from European Economic Diplomacy[12].

Subnational level

With the increasing regulatory power of subnational authorities such as provincial, regional and local government, reformers are increasingly focusing on BER at the subnational level. Programmes in the past have been successful at encouraging competition to improve the local business environment among sub-national jurisdictions, as well as piloting reforms at the local level which then can be duplicated and adapted more broadly.

Resources: BER at the subnational level

- Simon White, Beyond National Business Environment Reform: A Review of Donor Agency for Regional and Local Business Environment Reform (DCED August 2016)
- World Bank's Doing Business subnational reports
- World Bank Group, Simplification of Business Regulations at the Sub-National Level: A Reform Implementation Toolkit for Project Teams (2006)

Sector level

One of the major trends in BER interventions in developing countries in recent years has been for reformers to combine conventional, 'top-down' or 'horizontal' reforms, which affect all businesses with sector-specific, 'bottom-up' or 'vertical' reforms, which look at the business environment from the perspective of a specific sector, industry, sub-sector or value chain. For example, an inclusive growth diagnostic of the country's economy may have identified agriculture, agribusiness, textiles, and garments as critically important for job-creation. Part III provides more details.

Regional level reform

Some BER initiatives take place at the regional level and involve several countries. One example would be regulatory reforms intended to support the integration of regional markets through reduced trade barriers, such as reforms championed by Africa's Regional Economic Communities. Another example of regional level BER is the Organisation for the Harmonisation of Business Law in Africa (OHADA), an international organisation established by treaty to develop uniform commercial acts, which once adopted become directly applicable and enforceable in each member state as if locally enacted[13].

DCED PRINCIPLES OF BER[14]

1. Adopt a systemic approach to reform
2. Understand and respond to the political economy of reform
3. Respond to and stimulate demand for reform and drivers of change
4. Ensure domestic ownership and oversight of reform efforts
5. Strengthen the role and capacity of key stakeholders
6. Focus on what the private sector needs through public-private dialogue
7. Focus on the binding constraints to business growth and scope reforms accordingly
8. Sequence BER and allow time
9. Address the implementation gap

[12] EU Chambers of Commerce in third countries organized in the European Business Organizations WorldWide Network, (www.ebowwn.org) adhere to the high EU standards of corporate, social and environmental responsibility. They can provide valuable insight into the partner countries' business environment and promote corporate social responsibility.

[13] Seventeen countries, all of whom have French Civil Law based legal systems, have adhered to the OHADA treaty: Benin, Burkina Faso, Cameroon, Central African Republic, Chad, Comoros, Congo, D.R. Congo, Ivory Coast, Gabon, Equatorial Guinea, Mali, Niger, Senegal, Togo, Guinea and Guinea Bissau.

[14] DCED, 2008: 'Supporting Business Environment Reforms: Practical Guidance for Development Agencies'

BER and the EIP

The European Union's External Investment Plan (EIP) aims at catalysing international and domestic private sector investment in partner countries in Africa and the European Neighbourhood and support them in their effort to meet the Sustainable Development Goals (SDGs). The EIP provides for a comprehensive and integrated approach, linking investment mobilisation, technical assistance and improving the business environment and the broader investment climate through three pillars:

- **Pillar I — Mobilising Investments:** The EIP mobilises development finance through blending approaches necessary for 'crowding in' other public and private sector resources in countries, sectors or even value chains suffering from various types of policy, institutional or market failures. In this context, the European Fund for Sustainable Development (EFSD) consists of various types of risk capital and guarantee instruments in support of access to finance for private investments; it integrates previous blending facilities that now are called Investment Platforms (Africa, Neighbourhood).
- **Pillar II — Stepping Up Technical Assistance:** provides technical assistance (TA) to develop bankable projects (Pillar I) and improve the investment climate (Pillar III).
- **Pillar III — Improving the Investment Climate:** aims to improve the business environment and the broader investment climate in partner countries, through 3 building blocks, i.e. investment climate analysis, structured public-private dialogue with public and private sector stakeholders (the Sustainable Business for Africa (SB4A) platform will support this structured dialogue), and EU actions to support investment climate improvements including policy dialogue, TA (Pillar II) and budget support.

Improving the investment climate in partner countries will require analysing a large number of elements and designing and implementing a variety of different interventions, including BER. Sometimes areas of analysis and interventions are beyond BER reach. The EU being the biggest or among the biggest trade and investment partner of most third countries, the specific opportunities and challenges arising in bilateral trade and investment relations provide an important reference for BER, especially if a FTA is in force. This analysis should always reflect social and environmental externalities and focus on real inclusive growth.

In the context of the EIP, the design and implementation of EU funded BER interventions should be carefully coordinated with SB4A related actions (facilitation and strengthening of structured public-private dialogue), to help identify specific regulatory constraints and help stakeholders act on recommendations emanating from the dialogue.

The overarching EU policy of European Economic Diplomacy also brings the opportunity to address business and investment climate related matters in political and policy dialogues and link these to SB4A/EIP actions. The EU private sector (and in particular the EU Chambers of Commerce in third countries) should be included among stakeholders in SB4A and BER related actions. The EU also aims at working towards a joined-up approach with EU Member States.

In many ways, the EIP constitutes a new modality for delivering BER support in Africa—one which incorporates all three of the delivery modalities described further below.

10. Formulate a communication strategy and use media strategically

11. Work with government as the lead agent

12. Align BER with national development plans

13. Ensure good donor coordination

14. Ensure the right balance between international and local expertise.

15. Promote quality assurance in development agency support of BER

BER, THE WORLD BANK'S DOING BUSINESS AND OTHER INDICATORS

The **World Bank's Doing Business (DB)** is an annual survey of the business environment in 190 countries. Introduced in 2004, it has played a key role in defining and promoting BER around the world and it is widely used by reformers in developing and transitioning countries. At its core, DB gathers data to compare regulations faced by formal sector SMEs across countries and time. DB currently includes 11 sets of indicators corresponding to key functional areas of regulation corresponding to the life cycle of a business. Each of the 190 countries covered is ranked globally for ten of the indicators (the Labour Market Regulation indicator is not ranked) and overall for ease of doing business. See Figure 1.4.

Because of the inherent limitation in global rankings (a country may go down in the ranking simply because other countries are undertaking reforms and going up), Doing Business also provides a 'Distance to Frontier' score (DTF), which measures how far a country is from the highest ranked country for that indicator (and overall for ease of doing business).

Most of the indicators are based on survey responses regarding a hypothetical standardised case (e.g. a medium sized business in that country's largest city seeking to obtain a construction permit to build a new warehouse), with the survey respondents estimating the time and cost to obtain the permit or other transaction. Some of the indicators also involve a qualitative assessment of the legal and regulatory framework.

Doing Business is widely used and recognised by political leaders around the world. Part of its success is due to ranking system—leaders hate to see their neighbours score higher on reforms and this competitiveness helps BER stakeholders get political buy-in for reforms that may improve a country's ranking, providing a good entry point for reforms. The intuitive and easy to understand

Figure 1.4: The World Bank Doing Business Indicators

Source: Doing Business database — Note: Labour market regulation is not included in the ease of doing business ranking

Pros and cons of 'doing business'

What's to like

- Provides a clear, relatively objective framework for certain reforms
- Easy to understand
- Makes it easy to compare reforms across countries
- Website collects a lot of data and resources — e.g. library of laws and regulations
- Well-known around the world
- Provides good entry points for reform, and can be used to push for further reforms

What's not to like

- Tends to drive narrow reforms, because it is based on specific hypothetical scenarios with many assumptions (e.g. the size of the company, the permit or transaction it is seeking, the absence of bribes)
- Methodology historically biased in favour of Common Law legal systems and against Civil Law legal systems
- Limited to reforms targeting the formal sector only, while in many developing countries most of the private sector is made of informal MSMEs
- Not based on locally-identified needs and challenges, but rather best practices which are usually from the West

nature of the DB indicators has also been part of its success; for example, it is easy to follow the indicators that correspond to the normal life cycle of a business.

It is also widely recognized that DB index has its limits. It provides a narrow approach to the reforms not necessarily ensuring the expected impact and sometimes motivating quick wins to be higher up in the ranking. It covers only the formal sector, which leaves out of the picture the bulk of the private sector in many countries.

Other indexes present different approaches and are worth being considered, such as the Ibrahim Index of African Governance of the Mo Ibrahim Foundation, the Global Competitiveness Index of the World Economic Forum or the Bertelsmann Transformation Index (BTI).

The **Ibrahim Index of African Governance (IIAG)** is a tool that measures and monitors governance performance in African countries. Business environment is one of the elements which are being measured and monitored. For the year 2018, the report mentions that the African average score for Business Environment is deteriorating by almost 5 points over the last ten years. And it links this trend with the demographic trends of the continent: '*Calling for attention is the trajectory of the African average score for Business Environment. Deteriorating by almost −5.0 points over the last ten years, this is a worrying trend given that the number of working age Africans (15-64 years old) is expected to grow by almost another 30% over the next ten years*'.

The Business environment indicator of the IIAG index is composed of the following:

- Business Regulatory Environment,
- Absence of Excessive Bureaucracy and Red Tape,
- Absence of Restrictions on Foreign Investment,
- Efficiency of Customs procedures
- Robustness of Banks
- Satisfaction with Employment creation
- Government development of regional integration

The sources used to construct the Business environment indicator of the IIAG index are the following ones: the 'Country policy and institutional assessment' of the African Development Bank, the 'Bertelsmann Transformation Index' of the Bertelsmann Stiftung, the 'Africa Integrity indicators' of Global Integrity, the 'Country Policy and Institutional Assessment' of the World Bank, the 'Economist Intelligence Unit Dataset' of the Economist Intelligence Unit, the 'Global Competitiveness Report' of the World Economic Forum, and the 'Afrobarometer Surveys' of the Afrobarometer.

The **Global Competitiveness Index (GCI)** Report is an annual publication by the World Economic Forum (WEF), which analyses and ranks economies based on their level of competitiveness. The definition of competitiveness that is used is: '*We define competitiveness as the set of institutions, policies, and factors that determine the level of productivity of a country. The level of productivity, in turn, sets the level of prosperity that can be reached by an economy. The productivity level also determines the rates of return obtained by investments in an economy, which in turn are the fundamental drivers of its growth rates. In other words, a more competitive economy is one that is likely to grow faster over time*'.

This open-endedness is captured within the GCI by including a weighted average of many different components, each measuring a different aspect of competitiveness[15].

The **Bertelsmann Transformation Index (BTI)** analyses and evaluates the quality of democracy, a market economy and political management in 129 developing and transition countries. It addresses whether and how developing countries and countries in transition are steering social change toward democracy and a market economy.

The Status Index, with its two analytic dimensions of political and economic transformation, identifies where each of the 129 countries stand on their path toward democracy under the rule of law and a social market economy. The Governance Index assesses the quality of political leadership with which transformation processes are steered[16].

There are other **indexes** related to governance that are included in Part IV, such as the **World Justice Project/Rule of Law Index, the Worldwide Governance Indicators of the World Bank, the Corruption Perception Index** and **the National Systems of Integrity Assessment** of Transparency International, or the **World Bank Enterprise Surveys**.

More recent tools focused on sustainability issues have also been development in recent years. For example, the Global Green Economy Index (GGEI)[17]measures performance in areas such as 1) leadership and climate change, 2) efficiency sectors such as buildings, transport, and energy, 3) markets & investment and 4) the environment.

DELIVERY MODALITIES OF BER ACTIONS TO EU PARTNER COUNTRIES

Technical assistance to support BER in EU partner countries has historically been delivered through a number of different modalities.

Technical assistance programmes and projects focused on BER

These programmes have as their primary goal the improvement the business environment in one or more partner countries. An example of this would be the 'Investing in Business Enabling Environment (iBEE)' programme in Tanzania:

Investing in Business Enabling Environment (iBEE) in Tanzania

This proposed programme will support business associations in: i) strengthening the private sector's capacity of engagement with the authorities to better structure an effective national public-private dialogue on the overall business environment in Tanzania. This should contribute to simplify the complex regulatory framework which hampers the development of the private sector in Tanzania; ii), reinforcing its capacity to provide services and information to promote exports to the EU or to attract European investment in Tanzania. This action will focus on the priority areas of taxation (also highlighted in the WB's Doing Business Report and the Government's late Big Results Now1), immigration (a specific concern of foreign businesses) and skills development (cross-cutting challenge along the economy).

[15] For more details on the methodology, see http://reports.weforum.org/global-competitiveness-index-2017-2018/appendix-a-methodology-and-computation-of-the-global-competitiveness-index-2017-2018/
[16] For more details on the methodology of this index, see https://www.bti-project.org/en/about/project/methodology/
[17] Details available at https://dualcitizeninc.com/global-green-economy-index/

BER ACTIVITIES OR COMPONENTS WITHIN A BROADER ECONOMIC GROWTH TECHNICAL ASSISTANCE PROGRAMME

Programmes supporting economic growth in partner countries—including through private sector development, public finance and macroeconomic policy, regional integration and/or trade, including support to the implementation of EU-partner free trade agreements (FTAs)—will often include BER activities or components. For example, a programme working to increase access to credit may provide technical assistance to related legal and regulatory reforms such as redrafting microfinance regulations or developing frameworks for credit bureaus. Support programmes to negotiate trade agreements and implement them are provided, and usually include support to trade policy and regulatory aspects design and implementation. Similarly, the EU supports micro and small, medium and large enterprise (MSME) development; programmes will often address relevant policy frameworks and undertake legal reforms—all examples of BER. Thus many private sector development programmes—though they may not have the words business environment reform in their titles or as components—are in fact supporting BER.

Tradecom II programme

The aim of the TradeCom II Programme is to contribute to sustainable economic development and poverty reduction in ACP countries through closer regional integration and increased participation in the global economy. The programme supports African, Caribbean and Pacific partner countries in regional integration and trade matters, including in the design and implementation of trade policies and regulations. For instance, the programme is supporting Gabon to improve trade policy and regulations.

EU budget support

EU budget involves direct financial transfers to the national treasury of an eligible partner country, conditional on policy dialogue, performance assessment and capacity building. Key eligibility criteria include a stability oriented macro-economic policy, a relevant and credible development strategy and transparency and adequate oversight of the budget. Binding constraints on inclusive growth, including business environment constraints qualify as a challenge, which can be addressed through EU budget support. Accordingly, BER is funded through this modality in partner countries. The use of budget support, including through the EIP, provides a complementary entry point to enhance structured dialogue with public and private stakeholders.

An Example of BER delivered through EU budget support: Employment promotion through MSMEs support programme for the Republic of South Africa

This EU budget support programme aims to improve the competitiveness of MSMEs in South Africa, increase access to finance to the targeted firms and improve the regulatory and administrative environment of MSMEs. The programme provides both budget support (primarily for increasing access to finance to MSMEs) and complementary technical assistance, capacity building and support to policy dialogue.

Multi-donor facilities

Because private sector development interventions, including BER, are broad and critical to achieving economic growth, it is typical to find multiple bilateral and multilateral development agencies concurrently supporting BER in a partner country. To improve coordination and leverage financial and technical support, multi-donor facilities are often used to deliver BER assistance. The structure of such multi-donor facilities varies significantly, ranging from co-financing arrangements between EU Member States and the World Bank Group, to international organisations supported by the EU such as OHADA (see Section 1.2 above). An example of successful multi-donor facility focused on BER in Africa is described in the following text box.

Investment Climate Facility for Africa (ICF) (2007–2016)

This multi-donor and private sector funded facility was set up to boost Africa's growth by removing barriers to doing business in the continent. Its main goals were to build effective coalitions with businesses and governments to identify and implement priority projects; work to create a conducive legal, regulatory and administrative environment at all levels; and improve Africa's image as an investment destination. The ICF was established as a development organisation that implemented 73 separate projects with 21 African partner governments, with technical and financial support from the IFC and the ADB, Germany (KfW), the Republic of Ireland, the Netherlands, the Kingdom of Norway, the UK (DFID) and the Republic of South Africa, as well as 7 corporate donors (Anglo American, Celtel, Coca-Cola, Shell Foundation, SAB Miller, Sasol, Standard Bank and Unilever). Selected country level ICF projects are described below under the country headings. Total funding: approximately US$143 million. http://www.investmentclimatefacility.org/page/projects/

Twinning and TAIEX

Twinning projects bring together public sector expertise from EU Member States and beneficiary countries with the aim of achieving concrete mandatory operational results through peer to peer activities. TAIEX (Technical Assistance and Information Exchange instrument) supports public administrations with regard to the approximation, application and enforcement of EU legislation as well as facilitating the sharing of EU best practices.

Government reforms, their design and implementation, can require specific expertise which may be better delivered by peer government officials of EU Member States, other countries or EU line DGs. In the area of BER, it could be expected that these instruments are further used in supporting partner countries to design, implement and monitor related interventions.

THE PHASES OF BER TECHNICAL ASSISTANCE

Regardless of its scope, BER TA typically goes through four phases: diagnostic, design, implementation and evaluation. This guide provides support to all four phases (Figure 1.5).

Websites and References for Business Environment Reform in Developing Countries

Donor Committee for Enterprise Development (DCED), 'Practical Guidance on Business Environment Reform (2008') and its annexes (2008–2016) and the DCED inter-agency database on business environment reform. www.business-environment.org

World Bank, 'Doing Business 2018: Reforming to Create Jobs' (2017). The annual Doing Business reports provide examples of best practices, trends and information on each indicator in addition to the annual rankings. The website includes a library of laws and regulations, and also includes the compilation of studies on the different Business Environment functional areas. http://www.doingbusiness.org/

The BERD Process Guidance is a main reference and can be found here: https://www.gov.uk/dfid-research-outputs/the-business-environment-reform-diagnostic-berd-process-guidance-for-consultants

Figure 1.5: Phases of Business Environment Reform Technical Assistance

2. Solution Design Phase

- Develop high-level design of reforms
- Engage the private sector, public agencies and other stakeholders
- Agree on the overall design
- Develop and agree detailed legal, institutional, procedural and technological solutions
- Develop and agree implementation plan

1. Diagnostic Phase

- Define the purpose and objectives
- Identify main stakeholders
- Get the commitment of key stakeholders
- Analyse major constraints
- Analyse the capacity to implement reform
- Collect and analyse baseline data

Phases of Business Environment Reform Technical Assistance DCED Supporting Business Environment Reforms — Practical Guide for Development Agencies, 2008

3. Implementation Phase

- Provide expertise for drafting new or amending existing laws and regulations
- Train civil servants
- Launch reform procedures
- Conduct public outreach and information campaign
- Fine-tune reforms based on user

4. Evaluation and Sustainability

- Conduct programme evaluation
- Ensure that evaluation recommendations are incorporated in new procedures
- Prepare programme reports
- Conduct impact assessments (usually done beyond the programme cycle)
- Fine-tune reforms based on user

DCED Supporting Business Environment Reforms — Practical Guide for Development Agencies, 2008

Chapter 2

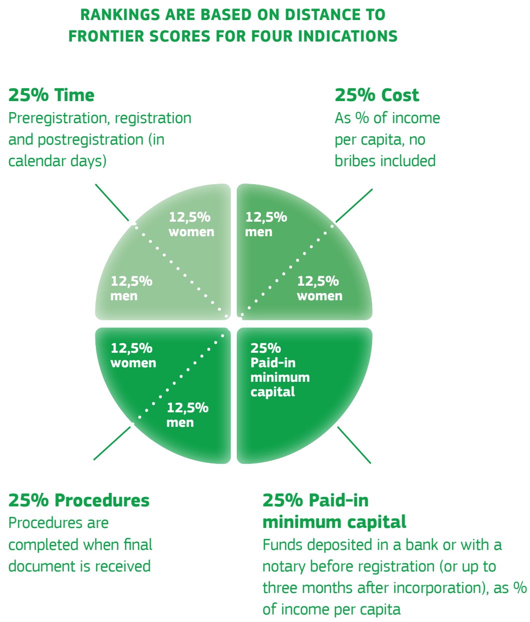
The 10 main functional areas of business environment reform

FUNCTIONAL AREA 1: BUSINESS SIMPLIFICATION

This technical area relates to all aspects of business entry, from the initial formation of a legal entity, obtaining of all required business licenses to competition policy. It also includes the time and cost to complete these procedures and government incentives to move towards formal economy. Simplification of processes and regulations for businesses does not necessarily imply less regulations, but the rationalisation of these to decrease the time and efforts of businesses to register and obtain the required licenses to operate.

As set out below, the relevant DB indicator, 'Starting a Business' is quite narrow in scope as it only covers the formal formation and registration of a limited liability company, and not all of the licenses and permits that businesses need to operate. Many of the constraints on MSMEs (and disincentives to formalisation) include the sector specific business licensing regimes that come after business registration.

Figure 2.1: DB Starting a Business Indicator



ILLUSTRATIVE INTERVENTIONS RELATING TO BUSINESS FORMATION, REGISTRATION AND LICENSING

- Develop an inventory (if possible online) of existing permits and procedures to guide reforms, digitalise procedures and documents and accept copies place of original documents.
- Increase transparency and availability of information and simplify registration, authorization and licensing issuance procedures, e.g. by publishing fees and charges, contact information of relevant services, digitalizing procedures and eliminating duplicative or unnecessary procedures, informing the applicant of the state of play of a procedure or about an incomplete application.
- Establish contact and enquiry points, one-stop shops (OSS) or single electronic windows (SEW) to facilitate company registration and licensing
- Reduce minimum capital requirement to form a legal entity and establishment by foreign investor.
- Use company registration databases as systems to collect information on MSMEs to guide policy.

WORLD BANK DOING BUSINESS: STARTING A BUSINESS INDICATOR

The Starting a Business Indicator records all procedures officially required, or commonly done in practice, for an entrepreneur to start up and formally operate an industrial or commercial business, as well as the time and cost to complete these procedures and the paid-in minimum capital requirement. These procedures include the processes entrepreneurs undergo when obtaining all necessary approvals, licenses, permits and completing any required notifications, verifications or inscriptions for the company and employees with relevant authorities. The ranking of economies on the ease of starting a business is determined by sorting their distance to frontier scores for starting a business

LIMITATIONS OF THE DB INDICATOR:

- Only covers the initial formation and registration of a legal entity; excludes all of the burdensome professional and sector-specific licensing and permitting requirements that businesses face.
- Part from encouraging reduced paid-in capital and simplified procedures, does not provide policy

guidance on reducing informality. In practice it is easy for the authorities to enact all of the legal and regulatory reforms needed to improve a country's score on this indicator--without making real changes to how the system is implemented in practice.

Reforming business administration policy in Jordan

In Jordan, an ongoing (EUR 55 million) budget support operation helps to upgrade Jordan's legislative framework. The Government of Jordan has presented to the Parliament new and amended laws and bylaws such as for bankruptcy and insolvency, upholding of shareholders agreements, the movable assets law, the companies law and removal of the goodwill tax. The relevant implementing agencies are also beginning to perform better as the needed organisational changes, staff increases and associated capability building programmes have been implemented. This is giving an impetus, leadership and a new sense of ownership to the reform process, which should yield more robust performance in coming years.

TOOLS AND RESOURCES

- DCED, 2017: 'Business registration: what do we know about the effectiveness of business registration support and reforms?' https://www.enterprise-development.org/wp-content/uploads/Effectiveness_of_business_registration_support_and_reforms.pdf
- World Bank Doing Business (Starting a Business Indicator). http://www.doingbusiness.org/reports.
- World Bank Enterprise Surveys (Days to obtain operating license, Percent of firms expected to give gift to get operating license). http://www.enterprisesurveys.org/
- Reforming Business Registration: A Toolkit for Practitioners (IFC / World Bank, January 2013). http://documents.worldbank.org/curated/en/577211468155378578/Reforming-business-registration-a-toolkit-for-the-practitioners
- Legislative Guide on key principles of a business registry, UNCITRAL 2019. https://uncitral.un.org/en/texts/msmes/legislativeguides/business_registry
- How to Reform Business Licenses (IFC / World Bank). http://documents.worldbank.org/curated/en/499071468331807952/How-to-reform-business-licenses
- Illustrative Monitoring Indicators Relating to Business Formation, Registration and Licensing: IFC Enterprise Surveys Indicators. https://www.enterprisesurveys.org/~/media/GIAWB/EnterpriseSurveys/Documents/Misc/Indicator-Descriptions.pdf
- DCED (2013) Measuring the Results of Donor-Supported Business Registration and Licensing — The case of Minas Gerais in Brazil, in Case Studies in the Measurement of Donor Supported Business Environment Reform Results. https://www.enterprise-development.org/wp-content/uploads/Donor_Guidance_Annex_on_Measuring_BER_Results_Ca.pdf
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- De Mel, S., D. McKenzie & C. Woodruff. 2012. 'The demand for, and consequences of, formalization among informal firms in Sri Lanka'. World Bank Policy Research Working Paper No. 5991. https://www.nber.org/papers/w18019.pdf
- Studies on business formalization compiled by the WB Doing Business initiative. www.doingbusiness.org/en/research/starting-a-business

FUNCTIONAL AREA 2: BUSINESS TAX POLICY AND ADMINISTRATION

Business tax policy and administration are a key element of the business environment and critical to economic growth, formalisation and public finance. Tax certainty, transparency and clear tax payment procedures are important to business. A good tax system should ensure that all taxes are proportionate, not arbitrary and convenient to taxpayers.

ILLUSTRATIVE INTERVENTIONS RELATING TO BUSINESS TAX POLICY AND ADMINISTRATION

- Review of tax code and regulations with focus on corporate income taxes/profit tax, social security contributions
- Reduce the number and complexity of taxes (consolidation), with simple flat-rate principles where possible.
- Simplify tax compliance process (incl. reduction of the number of filings per year and per tax, introduction of electronic filing and payment systems)
- Simplify VAT compensation / recuperation schemes.
- Digitalisation of taxes processes and data / information, eliminating duplication and opportunities for fraud and corruption.
- Support to the design/discussion/signature of regional tax agreements, tax incentives and indirect taxes
- Support to compliance with international standards on tax transparency and exchange of information in

Figure 2.2: DB Paying Taxes Indicator

Tax payments for a manufacturing company in 2016 (number per year adjusted for electronic and joint filing and payment)
• Total number of taxes and contributions paid, including consumption taxes (value added tax, sales tax or goods and service tax) • Method and frequency of filing and payment
Time required to comply with three major taxes (hours per year)
• Collecting information and computing the tax payable • Completing tax return forms, filing with proper agencies • Arranging payment withholding • Preparing separate mandatory tax accounting books, if required
Total tax and contribution rate (% of profit before all taxes)
• Profit or corporate income tax • Social contributions and labour taxes paid by the employer • Property and property transfer taxes • Dividend, capital gains and financial transactions taxes
Postfiling index
• Compliance time of a VAT refund process • Time to receive a VAT refund • Compliance time of correcting an error in the corporate income tax return including compliance with an audit process if applicable • Time to complete a corporate income tax audit

order to avoid negative business and reputational risks of grey/blacklisting.

WORLD BANK DOING BUSINESS: PAYING TAXES INDICATOR

Doing Business records the taxes and mandatory contributions that a medium-size company must pay in a given year as well as the administrative burden of paying taxes and contributions and complying with post-filing procedures. Taxes and contributions measured include the profit or corporate income tax, social contributions and labour taxes paid by the employer, property taxes, property transfer taxes, dividend tax, capital gains tax, financial transactions tax, waste collection taxes, vehicle and road taxes, and any other small taxes or fees.

Enhancing Domestic Resource Mobilisation in Egypt

In March 2018, the Egyptian Ministry of Finance and the OECD launched a two and a half years programme on Enhancing Domestic Resource Mobilisation in Egypt through a better tax and exchange of information (EOI) system. The project, financed by the EU (EUR 1.2m), aims at assisting Egypt in increasing domestic resource mobilisation in order to foster sustainable economic growth and income distribution by improving the design of tax policies and international tax cooperation. In particular, the programme is carried out in three clusters in which the OECD provides assistance. Cluster A on implementing the international standards on EOI and benefiting from the EOI instruments in tax transparency, Cluster B on capacity building to tax MNEs fairly and effectively address BEPS, and Cluster C, on evidence-based policy decisions through internationally comparable Revenue Statistics data. The project has already delivered updated Egyptian Transfer Pricing Guidelines and an Audit Manual, and helped concluding Egypt's first Transfer Pricing audit case. The programme is also providing extensive training to stakeholders and training of trainers. This helps creating a clearer understanding by taxpayers of the requirements for them to comply with Egypt's international tax rules,supporting the government in setting a predictable business.

TOOLS AND RESOURCES

- Tax Administration Diagnostic Assessment Tool (TADAT): http://www.tadat.org/index.html
- World Bank Doing Business (Paying Taxes Indicator): http://www.doingbusiness.org/reports
- World Bank Enterprise Surveys (Regulations and Taxes and Corruption indicators), http://www.enterprisesurveys.org/
- Designing a Tax System for Micro and Small Businesses: A Guide for Practitioners (IFC). http://documents.worldbank.org/curated/en/980291468158071984/Designing-a-tax-system-for-micro-and-small-businesses-guide-for-practitioners
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- 'Enhancing the effectiveness of external support in building tax capacity in developing countries', IMF, OECD, UN and WBG, 2016: http://www.oecd.org/tax/enhancing-the-effectiveness-of-external-support-in-building-tax-capacity-in-developing-countries.pdf

FUNCTIONAL AREA 3: INVESTMENT POLICY

Effective investment policies, legal certainty and a conducive business environment are important to attracting, retaining and expanding foreign and domestic investment, but also key to delivering development benefits such as inclusive and sustainable growth from that investment and broader societal goals. Effective investment policies[1] in EU partner countries, ranging from investment promotion (i.e. activities that promote a location as an investment destination), investment liberalisation (i.e. commitments to address restrictions and limitations to investment) and investment facilitation (i.e. simplification of the investment approval process, streamline of sectoral regulations) to the non-discrimination and protection of foreign investments, are important to attract and retain investments and to re-orient them towards more sustainable technologies and businesses, respect for human rights and high labour and environmental standards. This includes encouraging corporate social responsibility and responsible business practices.

The OECD's Policy Framework for Investment (2015) provides a broad definition of investment policy: 'It refers not only to the laws, regulations and policies relating to the admission of investors, the rules once established and the protection of their property, but also to the goals and expectations concerning the contribution of investment to sustainable development, such as those outlined in national development plans'. The Policy Framework outlines the following key components of domestic investment policy:

- **Non-discrimination principle:** All investors in like circumstances should be treated equally, irrespective of their ownership. The need for a level playing field also includes public procurement, in order to promote and compliance with norms and standards that ensure the protection of social rights and environmental sustainability
- **National Treatment:** In the context of foreign investment, the non-discrimination principle suggests that a government treat foreign-owned or controlled enterprises no less favourably than like domestic enterprises — 'national treatment'. Almost all countries have exceptions to national treatment, including restrictions such as approval mechanisms for foreign investors, industry/sector restrictions, foreign equity limits, profit and capital repatriation, land ownership, branching limitations, minimum capital requirements, government procurement favouring locally owned enterprises, etc.
- **Expropriation of Property:** A key part of investment policy involves the protection of property rights and provisions for just compensation in the case of direct or indirect expropriation by the state.
- **Securing Land Tenure:** Investors need to be confident that their land rights are properly recognised and protected and that they will not be evicted without compensation.
- **Intellectual Property Rights Protection:** Intellectual property rights (IPR) provide an incentive to invest in research and development as well as the confidence to share knowledge-based assets, including new technologies, proprietary information and data.
- **International Investment Agreements:** The purpose of these international agreements is the promotion and protection of investments from one contracting party in the territory of the other contracting party.

Investment Promotion and Facilitation: BER interventions often support foreign investment promotion (promoting a country or region as an investment destination) and investment facilitation (making it easier for

1 The EU external investment policy aims to secure and promote a level playing field so that EU investors abroad are not discriminated or mistreated while preserving the right of home and host countries to regulate their economies to meet legitimate public policy objectives. The EU is negotiating or implementing investment rules in trade agreements (such as in the modernization negotiations of Economic Partnership Agreements (EPA) with ACP countries, DCFTA with Morocco and Tunisia) or in self-standing investment agreements, such as with China. Those investment rules cover: (i) allowing and facilitating the setting up of enterprises by making sure investors can access the market and do not face discrimination between EU and non-EU investors; (ii) creating a favourable regulatory framework, both when the investor enters the market and when the investor does economic activities in the country by improving the transparency and predictability of the regulatory framework; (iii) protecting established investments/investors through commitments to fair and equitable treatment for investors or guarantees of compensation in case of expropriation

investors to establish, retain or expand existing investments). The success of both are highly dependent on the quality of investment policy and more broadly the business environment and the broader investment climate.

The facilitation and promotion of investments by the EU has the objective of attaining the SDGs. In order to reach this goal, the EU has adopted in 2018 the **EU Sustainable Finance Action Plan,** that should serve as benchmark to promote sustainable finance in third countries. It should reorient capital flows towards sustainable investment, manage financial risks stemming from climate change, environmental degradation and social issues, and foster transparency and long-termism in financial and economic activity[2]. Within this framework, the EU is developing the **EU Taxonomy[3]** to facilitate sustainable investments. It is a classification tool to help investors and companies identify environmentally friendly economic activities.

It is as well key to ensure risk-informed investments and/or mitigating measures in particular in fragile and conflict-affected states, ensuring **conflict sensitivity** is applied as well as **Due Diligence of Business and Human Rights**[4]**.**

ILLUSTRATIVE INTERVENTIONS RELATING TO INVESTMENT POLICY

- Review of investment law and regulations
- Improving transparency and predictability of investment (publication and availability of information)
- Streamlining procedures and requirements, setting clear criteria for procedures and digitalizing investment approval system, where investments need to be reviewed and approved by multiple government agencies
- Support for appeal and review procedures
- Support to national and sub-national level investment promotion agencies
- Training of commercial court judges in intellectual property rights law, to better resolve disputes and protect rights.
- Support in negotiation of international investment agreements
- Improving mechanisms for cross-border cooperation with other governments and for consultations with stakeholders in order to identify bottlenecks and exchange best practices
- Promote investments in environmentally friendly activities

Note that Doing Business does not cover investment policy; the 'Protecting Minority Investors' indicator examines minority shareholder rights in a limited liability company, but it is mainly a measure of domestic company and securities law and rarely used in BER interventions in developing country contexts.

EU-OECD Programme on Promoting Investment in the Mediterranean

The Programme funded with EUR 3 million aims at boosting the quality and quantity of investment to and within the Mediterranean region. Working in partnership with governments and institutions, it engages in regional and national actions to create more robust and coherent investment policies such as: modernising investment policies, promoting inclusive investment strategies, increasing the region's investment promotion capacities, building institutional capacity through peer learning, promoting networking between European and Mediterranean investment promotion agencies, enhancing public-private dialogue for more inclusive policy making. The Programme actions build on well-established international tools and standards such as the OECD's Policy Framework for Investment and the OECD Guidelines for Multinational Enterprises.

2 https://ec.europa.eu/info/publications/180308-action-plan-sustainable-growth_en
3 https://ec.europa.eu/info/publications/sustainable-finance-teg-taxonomy_en
4 EU Staff handbook on Operating in Situation of Conflict and Fragility; OECD Due Diligence Guidance on Responsible Business Conduct.

TOOLS AND RESOURCES

- Global investment competitiveness report 2017–2018: foreign investor perspectives and policy implications. http://documents.worldbank.org/curated/en/169531510741671962/Global-investment-competitiveness-report-2017-2018-foreign-investor-perspectives-and-policy-implications
- Joint ACP-UNCTAD Guiding Principles for Investment Policymaking. http://investmentpolicyhub.unctad.org
- UNCTAD Investment Policy Reviews (IPRs). http://unctad.org/en/pages/DIAE/DIAE%20Publications%20-%20Bibliographic%20Index/investment-Policy-Reviews-%28IPR%29.aspx
- UNCTAD, Investment Policy Framework for Sustainable Development (2015). http://unctad.org/en/PublicationsLibrary/diaepcb2015d5_en.pdf
- UNCTAD Promoting Green Foreign Direct Investments (2016). https://unctad.org/en/PublicationsLibrary/webdiaepcb2015d6_en.pdf
- OECD, Policy Framework for Investment (2015). http://www.oecd.org/investment/pfi.htm
- EU Guidance Note on Conflict Analysis. https://ec.europa.eu/europeaid/sites/devco/files/guidance-note-on-conflict-analysis_en.pdf
- World Bank Investment Climate Advisory Services. http://www.worldbank.org/en/topic/competitiveness/brief/facility-for-investment-climate-advisory-services-fias
- Business Environment Reform and Investment Promotion and Facilitation: Rapid Evidence Assessment (DFID August 2015). http://www.businessenvironment.org/dyn/be/docs/302/Business-environment-reform-investment.pdf
- The Extractive Industries Transparency Initiative (EITI). https://eiti.org/

FUNCTIONAL AREA 4: TRADE POLICY AND REGULATION

Trade policy is about regulation and agreements on import and exports, trade promotion and trade facilitation. International trade remains a driving force of economic activities. Predictable, transparent trade policy, including preferential trade agreements, is especially relevant for foreign direct investment, notably where investors are concerned about the ability and ease of importing intermediaries and exporting final products. In addition to market access through preferential trade, investors are particularly interested in related policy fields (often covered in trade agreements) such as competition policy, intellectual property rights protection, public procurement and dispute settlement[5].

The EU negotiates trade and investment agreements with the different regions and countries:

- For developing countries without an agreement with the EU, the EU's Generalised Scheme of Preferences (GSP) grants unilateral preferential market access, while least developed countries benefit from duty-free, quota-free access under Everything But Arms (EBA).
- African and Neighbourhood countries have negotiated a range of trade and investment agreements with the EU, including Free Trade Agreements (North Africa), Deep and Comprehensive Free Trade Areas (DCFTA) with Georgia, Moldova and Ukraine, and Economic Partnership Agreements (5 agreements implemented in Sub-Saharan Africa). These agreements grant partners preferential market access in the EU (full duty-free and quota-free in the case of EPAs) and support partners in improving their investment climate, as well as aligning trade and investment-related legislation with the EU where desired. Negotiations for a DCFTA have also started in Morocco and Tunisia, with technical assistance provided in the framework of a bilateral programme (Support Programme to Competitiveness and Trade).
- With the South East Asian region, negotiations for a region-to-region FTA with ASEAN were launched in 2007 and paused in 2009 to give way to bilateral FTAs negotiations, conceived as building blocks towards a future region-to-region agreement. Currently negotiations of FTA are finalised with Singapore and Vietnam (both agreements underpin the Paris Agreement). Negotiations with Indonesia were launched in July 2016 and approach the 9th round of negotiations in December 2019. Negotiations with Thailand were suspended in 2014 but both sides are exploring possible resumption. Negotiations with Malaysia were suspended in 2012. Negotiations with the Philippines were launched in 2015 but no further rounds have been scheduled since early 2017.
- The EU has concluded trade agreements with CARIFORUM, Mexico, Central America, Colombia/Ecuador/Peru and Chile. In June 2019 negotiations concluded for a trade agreement with Mercosur. Once ratified this would mean that 30 out of 33 Latin American and Caribbean countries would have trade agreements with the EU. First generation EU trade agreements with Mexico and Chile are being modernised to include new elements such as trade and sustainable development. The EU is thus a key partner for the region, and indeed is the number one external investor. Initial indications are that these agreements have helped increase the number of companies exporting to the EU as well as diversity the types of products.

Trade facilitation, as part of trade regulation and policies, aims to introduce simplified customs procedures to reduce the time and cost it takes to import and export goods across borders, in partnership with national government and veterinary, phyto-sanitary, immigration or port management authorities.

EU partner countries often face internal constraints that prevent them from accessing the economic benefits of expanded trade. To ensure that SMEs are able to seize the opportunities of the Deep and Comprehensive Free Trade Areas (DCFTAs), the EU, together with financial institutions, EBRD, EIB and KfW, has set up the DCFTA Facility with Georgia, Moldova and Ukraine, with the aim to increase SME competitiveness, ease their access to

[5] See Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on 'Trade for All. Towards a more responsible trade and investment policy', COM(2015) 497 final, 14.10.2015

The EU and Aid for Trade

The EU and its Member States updated their joint Aid for Trade Strategy in 2017[1], building on 10 years of EU Aid for Trade assistance. The aim of the updated strategy is to strengthen and modernise EU support to partner countries trade and productive capacities. The updated strategy sets out ways the Commission can improve and better target its aid for trade. It puts a strong focus on Least Developed Countries, and countries in situations of fragility. Globally the EU and its Member States are the biggest provider of Aid for Trade. In 2016 alone, EU commitments amounted to a record €13.5 billion, representing more than a third of total EU ODA. In concrete terms, the EU now seeks to:

- Better combine and coordinate tools for development finance of aid for trade, both at European and national level.
- Improve synergies with other instruments, such as EU trade agreements, trade schemes or the EU's innovative External Investment Plan, which will support investments for sustainable development. One of the aims is to support local small and medium-sized enterprises (SMEs) in benefiting more.
- Strengthen social and environmental sustainability, together with inclusive economic growth. This will be done for example through increased stakeholder-engagement such as structured dialogue with the private sector, civil society and local authorities. Moreover, social, environmental and human rights clauses are systematically included in EU trade agreements.
- Better target and tailor approaches to least developed and fragile countries' specificities.
- The updated Aid for Trade strategy builds on the 2007 EU Strategy on Aid for Trade, which was a joint European response to World Trade Organisation (WTO) led Aid for Trade initiative, launched in 2005.

[1] COM(2017)667 final of 13 November 2017 — 'Achieving Prosperity through Trade and Investment: Updating the Joint EU Strategy on Aid for Trade' and Council Conclusions 15573/17 of 11 December 2017

finance, help them to take trade opportunities and comply with food safety, technical and quality standards.

The African continental free trade area (AfCFTA) entered into force in May 2019. According to the International Monetary Fund (IMF), 'the elimination of tariffs on intraregional trade is estimated to increase trade in the region by about 15–25 percent over the medium term, whereas reducing nontariff barriers by half would more than double such effects'[6].

Reforms in this functional area are highly technical and require input from trade facilitation experts. This is in part because legal requirements and standards emanate from multilateral agreements and conventions (e.g. World Trade Organization, World Customs Organization), regional agreements (e.g. free trade agreements, single market and customs unions), as well as national rules implemented at both the national and regional level (e.g. EU Common Customs Code). In addition, efforts to automate import and export procedures often require IT expertise. The high risk of bribes and lack of transparency in customs agencies in many countries also adds to the challenge.

ILLUSTRATIVE INTERVENTIONS RELATING TO TRADE FACILITATION

- Reforms to simplify complex and non-transparent procedures that delay clearance of goods; for example, addressing inconsistent application of rules, making laws and regulations available to traders, improving the appeals process and harmonizing

[6] International Monetary Fund (IMF): 'Sub-Saharan Africa Regional Economic Outlook: Recovery Amid Elevated Uncertainty', April 2019, https://www.imf.org/en/Publications/REO/SSA/Issues/2019/04/01/sreo0419

customs procedures at both sides of the border (for land borders).

- Establishing legally the concept of one stop shop / single window (for all customs and non-customs data requirements) and/or single-stop border posts.
- Building of appropriate trade-related infrastructure (e.g.: proper border posts with the condition to implement the single window requirements)
- Automating and digitalizing customs systems to improve clearance, including automatic management of import and export declarations, payment, risk assessment and data exchanges all of which can reduce time and documentary costs and increase transparency
- Capacity building for customs officials
- Supporting transparency / anti-corruption measures at the border
- Support the negotiation and implementation of free trade agreements

WORLD BANK DOING BUSINESS: TRADING ACROSS BORDERS INDICATOR

Doing Business records the time and cost associated with the logistical process of exporting and importing goods. Doing Business measures the time and cost (excluding tariffs) associated with three sets of procedures — documentary compliance, border compliance

Côte d'Ivoire — Trade and Regional Integration Support Programme

This EUR 16 million programme supports the modernisation of trade and investment related regulations and institutions, as well as trade facilitation. The initiative has contributed to Côte d'Ivoire's improved Doing Business ranking, moving up from 167th in the world in 2010 to 142nd in 2016. Exports have increased as well as the share of the country in global exports. Import delays have improved from an average of 864 hours in 2011 to 125 hours in 2016 and the programme has helped Ivorian companies expand their businesses and create jobs, all of which have positively impacted the country's ability to take advantage of the new Economic Partnership Agreement. The programme was complemented by a budget support programme to improve transparency in the judiciary and in public procurement, both of which are important elements of the broader investment climate, as well as regular dialogue with both the public and the private sectors on needed policy reforms.

Figure 2.3: How the DB trading across borders indicator is calculated

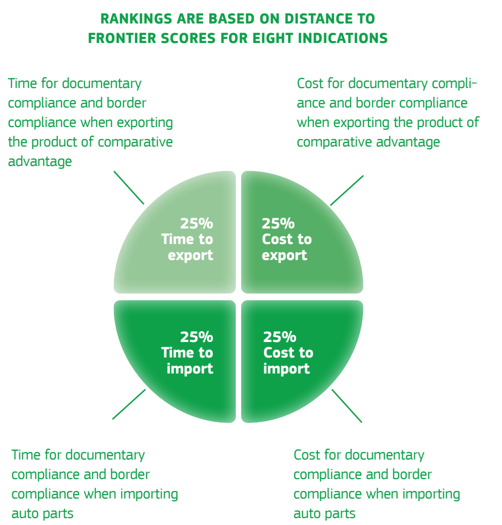
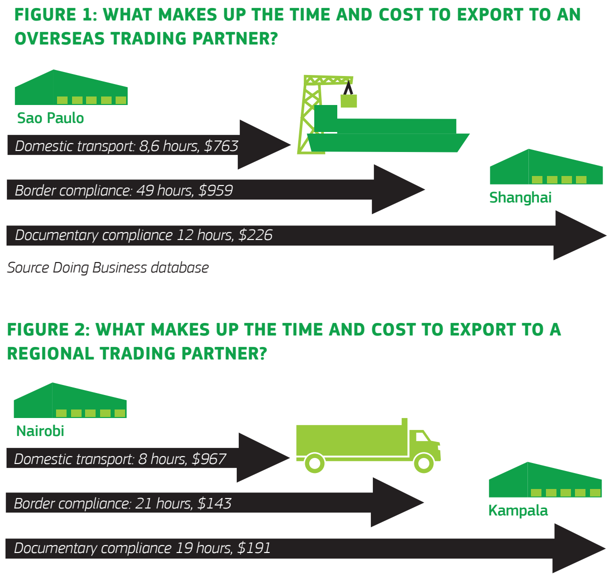


Figure 2.4: DB trading across borders indicator



EuroMed Trade Helpdesk

As part of the EuroMed Trade and Investment Facilitation Mechanism (TIFM), the EU in partnership with the ITC, funded the EuroMed Trade Helpdesk. The main rationale of the Helpdesk is to provide a quick and free-of-charge response to market access and regulatory requirements queries to companies who wish to engage in trade in one of nine participating countries, i.e. Algeria, Egypt, Morocco, Tunisia, Israel, Palestine, Jordan, Lebanon and Turkey. The tool provides information on tariffs and duties, import and export procedures, and market requirements. In addition, a network of national focal points in each participating Mediterranean country will respond to enquiries on intra-regional trade issues and ensure information is kept up to date. A second phase of the TIFM will include services and investment aspects, rules of origin, SMEs and capacity building and will further contribute to increasing regional integration and transparency of information. The EuroMed Helpdesk is modelled on EU Export Helpdesk. Website: https://euromed.macmap.org/euromed

and domestic transport — within the overall process of exporting or importing a shipment of goods.

TOOLS AND RESOURCES

- World Bank Country Diagnostic Trade Integration Studies (DTIS). https://www.google.com/search?q=world+bank+DTIS&rlz=1C1GCEA_enBE846BE847&oq=world+bank+DTIS&aqs=chrome..69i57j69i60l3.3509j1j4&sourceid=chrome&ie=UTF-8
- World Bank Doing Business (Trading across Borders Indicator). http://www.doingbusiness.org/reports
- World Bank Enterprise Surveys (Days to obtain import license, Percent of firms expected to give gift to get import license). http://www.enterprisesurveys.org/
- World Economic Forum, Global Enabling Trade Report (2016). http://reports.weforum.org/global-enabling-trade-report-2016/
- EU Aid for Trade Report 2018. https://ec.europa.eu/europeaid/eu-aid-trade-progress-report-2018_en
- DCED (2013) Measuring the Results of Donor-Supported Trade and Customs Reform — The case of TradeMark East Africa, in Case Studies in the Measurement of Donor-Supported Business Environment Reform Results. https://www.enterprise-development.org/wp-content/uploads/Donor_Guidance_Annex_on_Measuring_BER_Results_Ca.pdf
- OECD & WTO (2010) Aid for Trade: Is it working?, OECD, Paris, available from. http://www.oecd.org/dac/aft/45581702.pdf
- TMEA (2012) TMEA Monitoring, Evaluation and Learning Procedures; How to measure what you are doing, and whether it's working. https://beamexchange.org/resources/371/
- EU Trade Helpdesk. https//trade.ec.europa.eu/tradehelpdesk

FUNCTIONAL AREA 5: FINANCIAL MARKETS

Globally, about 1.7 billion people have no financial account at a bank, mobile money provider or other formal institution. Even when they have accounts, many poor people find them of little value and they are left unused. The result is that roughly one in three of the world's adult population lacks the financial services they could use to dramatically improve their lives. They have no savings for a child's education, they cannot access loans to buy the seeds and fertilizers and they have no insurance to protect them from medical or natural disasters.

Access to finance is one of the greatest constraints to growth in Sub-Saharan Africa countries, according to firms surveyed by the World Economic Forum[7]. MSMEs are collectively usually the largest employers yet they typically lack access to capital and to risk management tools such as savings, insurance and credit.

Reform needs in this area focus on financial sector regulation — including bank regulation, securities law, microfinance regulation and credit information laws and regulations-, fostering competition of financial service providers, and insolvency frameworks.

Other areas of commercial law are also relevant to increasing access to finance, including secured transactions law (including pledge registries), company law and contract law. Integrating approaches to increase formalisation and supporting MSMEs is also important to BER interventions in this area.

In addition, a functioning insolvency framework, with clear and predictable rules, that efficiently rehabilitates viable companies and liquidates non-viable companies, can increase access to credit. Such a framework requires well-drafted and up-to-date insolvency laws and regulations, the rule of law, effective courts, transparent procedures and well-trained insolvency professionals. In fact, many developing countries not only do not have such pre-conditions, and many do not even have functioning insolvency systems.

Illustrative Interventions

- Revising microfinance legislation to increase lending to entrepreneurs
- Supporting the establishment of credit bureaus to increase credit information
- Reforms to secured transactions laws and regulations, for example to make it easier to register pledges/guarantees (in accordance to functional areas 3 and 7)
- Conduct assessment of insolvency laws and regulations and recommend amendments or drafting of new legislation
- Present best-practices from other jurisdictions and international instruments including the World Bank Principles for Effective Insolvency and Creditor Rights and the UNCITRAL Legislative Guide on Insolvency Law
- Support public private dialogue on insolvency reform
- Capacity building for commercial court judges, court administrators, insolvency professionals and the legal profession on insolvency law

WORLD BANK DOING BUSINESS: GETTING CREDIT INDICATOR

Figure 2.5: How the DB Getting Credit Indicator Is Calculated

RANKINGS ARE BASED ON DISTANCE TO FRONTIER SCORES FOR THE SUN OF THE INDICATIONS

Note: Credit bureau coverage and credit registry coverage are measured but do not count for the rankings.

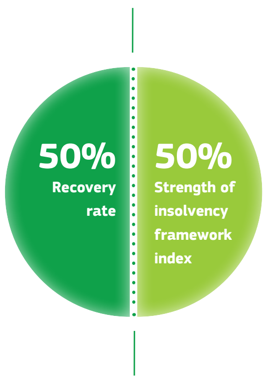
[7] World Economic Forum, Executive Opinion Survey 2016, cited in The Africa Competitiveness Report 2017 (African Development Bank, World Bank Group, World Economic Forum, 2016.

Doing Business measures the legal rights of borrowers and lenders with respect to secured transactions through one set of indicators and the reporting of credit information through another. The first set of indicators measures whether certain features that facilitate lending exist within the applicable collateral and bankruptcy laws. The second set measures the coverage, scope and accessibility of credit information available through credit reporting service providers such as credit bureaus or credit registries. The ranking of economies on the ease of getting credit is determined by sorting their distance to frontier scores for getting credit. These scores are the distance to frontier score for the sum of the strength of legal rights index and the depth of credit information index.

WORLD BANK DOING BUSINESS: RESOLVING INSOLVENCY INDICATOR

Figure 2.6: DB Resolving Insolvency Indicator

RANKINGS ARE BASED ON DISTANCE TO FRONTIER SCORES FOR TWO INDICATIONS



Doing Business studies the time, cost and outcome of insolvency proceedings involving domestic entities as well as the strength of the legal framework applicable to judicial liquidation and reorganization proceedings. The data for the resolving insolvency indicators are derived from questionnaire responses by local insolvency practitioners regarding a hypothetical case and verified through a study of laws and regulations as well as public information on insolvency systems. The hypothetical case study that is presented in the questionnaire is a

EU Initiative for Financial Inclusion, to provide access to finance in the Southern Mediterranean.

Access to finance for innovative start-ups, micro, small and medium-sized enterprises (MSMEs) is one of the key objectives of the EU Neighbourhood Investment Facility. Currently, access to finance of the 6 million of MSMEs in the Neighbourhood South is limited. The financing committed by local banks to SMEs in Egypt represents no more than 5% of total lending, in Palestine 6%, in Jordan 10%, in Tunisia 15%, in Lebanon 16% and 24% in Morocco. The 'EU Initiative for Financial Inclusion' has been prepared by the EU in 2015 in partnership with European Finance Institutions such as EIB, EBRD, KFW, AFD, to extend financing to MSMEs including to innovative start-ups. This initiative has the potential to reach up to 200,000 MSMEs in the region via microfinance through local financial institutions and capacity building, risk/venture capital to support business start-ups and microfinance, advisory services to SMEs, SME Credit lines, and guarantee funds to incentivise local banks to lend new funds to SMEs. More than EUR1.2 billion in new financing for micro and SMEs is expected to be mobilised by the EU collectively during the period 2016–2020. marketplace.

Consultative Group to Assist the Poor (CGAP)

CGAP is a global partnership of more than 30 leading development organizations, including the European Commission that works to advance the lives of poor people through financial inclusion. Using action-oriented research, CGAP tests, learns and shares knowledge intended to help build inclusive and responsible financial systems that move people out of poverty, protect their economic gains and advance broader development goals. CGAP researches and experiments to achieve proof of concept and extract lessons that can be built to scale by our partners, who apply these insights in the marketplace. CGAP also produces country assessments that are extremely useful for BER diagnostics. http://www.cgap.org/

complex case with several pages of assumptions, and it requires local insolvency experts to work through the entire proceedings and come up with a guess as to the final outcome of the insolvency proceeding—whether the court would order a reorganisation or a liquidation, and what the recovery rate would be. Annex 15 provides a list of tools and resources, indicators and bibliographic resources relating to resolving insolvency.

TOOLS AND RESOURCES

- World Bank, Doing Business — Getting Credit Methodology. http://www.doingbusiness.org/methodology/getting-credit
- World Bank Doing Business (Obtaining Credit and Protecting Minority Investors indicators). http://www.doingbusiness.org/reports
- World Bank, Report on the Observance of Standards and Codes (ROSC). http://www.worldbank.org/en/programs/rosc#1
- United Nations Capital Development Fund (UNCDF). Making Access Possible (MAP). https://www.uncdf.org/map/homepage
- The Economist Intelligence Unit / Global Microscope. The enabling environment for financial inclusion, available at https://www.microfinancegateway.org/library/global-microscope-2015-enabling-environment-financial-inclusion
- World Bank, Micro, Small, and Medium Enterprise Finance. http://www.worldbank.org/en/results/2013/04/05/msme-finance-expanding-opportunities-and-creating-jobs.print
- United Nations Commission on International Trade Law Legislative Guide on Secured Transactions (UNCITRAL 2007). http://www.uncitral.org/uncitral/en/uncitral_texts/security/Guide_securedtrans.html
- World Bank Enterprise Surveys (Finance indicators). http://www.enterprisesurveys.org/

FUNCTIONAL AREA 6: LABOUR LAW AND POLICY/TECHNICAL AND VOCATIONAL EDUCATION AND TRAINING

Labour market and employment regulations contain rules governing arrangements for individual contracts, mechanisms for collective action, technical and vocational education and training (TVET) policies. The challenges for governments are to balance labour flexibility with worker protection, and to develop effective skills policies, feeding into education, training and labour market policy, to tackle skill imbalances and mismatches, based on reliable information on market demand, and to support decent jobs creation.

As highlighted in the Commission's Communication on a New Africa-Europe Alliance for Sustainable Investment and Jobs (2018), Africa has the youngest population of any region of the world, but its workforce is the least skilled in the world. Enrolment in VET stands at only 6% of total enrolment in secondary education in Africa. The EU is Africa's long-standing partner in the area of education, including VET and entrepreneurial learning and research and innovation; the EU is supporting numerous initiatives in the region.

In many countries, VET is undervalued and the integration of effective VET strategies into wider employment policies is still a work in progress. As VET does not create employment, the close-involvement of the private sector is necessary to ensure that training is in line with labour market needs and opportunities. The best VET model and type of skills training will depend on the country context. Special attention should also be paid to the specific needs of girls and women and vulnerable groups.

ILLUSTRATIVE INTERVENTIONS

Improving the framework conditions to support policy reforms in this area are workforce and productivity related. They can relate to:

- Recruitment and retention of employees' skills and knowledge, in particular technical and vocational training
- Promote innovation, for instance through accessible training, networking opportunities, equipments. The implementation of ILO international conventions, fundamental workers' rights, freedom of association and unionisation
- Decent work and minimum wages
- Occupational health and safety, preventing sexual harassment and discrimination to women at work

In relation to reforms in the area of technical and vocational training, many interventions can be envisaged, such as: measures to increase the quantity and access to TVET programmes by young people and women, establish formal and recognised certifications, facilitate public-private partnerships in TVET programmes to increase employability, or promote the participation of the private sector in educational curricula, to mention some examples.

WORLD BANK DOING BUSINESS: LABOUR MARKET REGULATION

The DB Labour Market Regulation studies the flexibility of regulation of employment, specifically as it relates to the areas of hiring, working hours and redundancy. Doing Business also measures several aspects of job quality such as the availability of maternity leave, paid sick leave and the equal treatment of men and women at the workplace. From an EU perspective, this framework is considered insufficient since other elements should be considered to assess whether labour market policies and regulations are adequate for businesses and investors to operate sustainably while respecting workers' and human rights — in particular the implementation of ILO conventions.

Given the political sensitivity of this indicator, it is no longer ranked and does not count to a country's overall DB score since 2009.

The Doing Business 2018 report presents data on labour market regulation which are based on a detailed questionnaire on employment regulations that is completed by local lawyers and public officials[8].

8 For more on Doing Business data collection on labour law regulation, see World Bank, Doing Business 2017, Annex: Labor Market Regulation

Supporting reforms of employment services in Benin

Under the SOCIEUX+ Expert Facility, the Commission is providing technical assistance to support the efforts of partner countries to better design and manage sustainable strategies and policies on employment, labour market and social protection. One example is the activity 'Reform of employment services and programs for the establishment of a one-stop-shop for employment promotion' in Benin, which supported the Ministry of Labour, Public Administration and Social Affairs through capacity strengthening to implement strategic reforms under the National Plan for the Promotion of Employment 2017–2025. This project led to the development of a technical monitoring tool for evaluation of policies implemented, of tools for the operational management of action plans, and of a Strategic Plan for the implementation of integrated services to promote employment.

VET Toolbox

A new VET Toolbox, offered jointly with Member States, delivers, rapidly and on-demand, high quality expertise and capacity building to public and private stakeholders with a view to enhance labour market intelligence, enhance the involvement of the private sector in VET as well as to foster inclusion of women and of vulnerable groups in VET programmes. https://www.vettoolbox.eu/

TOOLS AND RESOURCES

- 'Business environment reform and labour productivity', DCED, 2018. https://cdn.enterprise-development.org/wp-content/uploads/BEWG_Policy-Brief_Labour-productivity.pdf
- ILO (2013) Decent Work Indicators; Concepts and Definitions, ILO, Geneva. https://www.ilo.org/wcmsp5/groups/public/---dgreports/---integration/documents/publication/wcms_229374.pdf
- World Bank: Research on Labor Market Regulation. http://www.doingbusiness.org/research/labor-market-regulation
- UNESCO, Technical Vocational Education and Training. https://unesdoc.unesco.org/ark:/48223/pf0000222129
- EU Reference document 24 on Vocational education and training, inclusive growth and development. https://europa.eu/capacity4dev/public-employment-social-protection/documents/reference-document-24-vocational-education-and-training-inclusive-growth-development-7
- Asian Development Bank: 'Working conditions, work outcomes, and policy in Asian developing countries'. https://www.adb.org/publications/working-conditions-outcomes-policy-asian-developing-countries
- World Bank Enterprise Surveys (Workforce indicators). http://www.enterprisesurveys.org/
- EuropeAid website. https://ec.europa.eu/europeAid/sectors/human-development/skills-and-vocational-training-policy_en

FUNCTIONAL AREA 7: LAND AND PROPERTY RIGHTS

How a country exploits its real estate resource has a huge impact on its economic and social development. Insecure title to land prevents people from taking full advantage of its productive uses, while a secure title allows the use of property as collateral for a loan, as well as providing a valuable insurance and savings tool. Secure and stable regulatory frameworks for expropriation and secure land tenure have a major impact to encourage new investments and retain those that have already established, in particular in fragile and conflict affected states. Investors need to be confident with the country system and to be recognized together with their land rights.

Reforms to improve land administration, including the land registration system and the surveying and mapping system are often key BER priorities in developing countries, in particular in fragile and conflict affected states.

As discussed below in Section 4 (BER and Digitalisation), automation and digitalisation of property titles is a critical reform, particularly in the 62 countries where as of 2015 property titles are kept only in paper format, with no electronic back-up[9]. The regulation of construction permits is a related area of BER involving local government agencies and technical architectural and engineering safety standards as well as administrative efficiency.

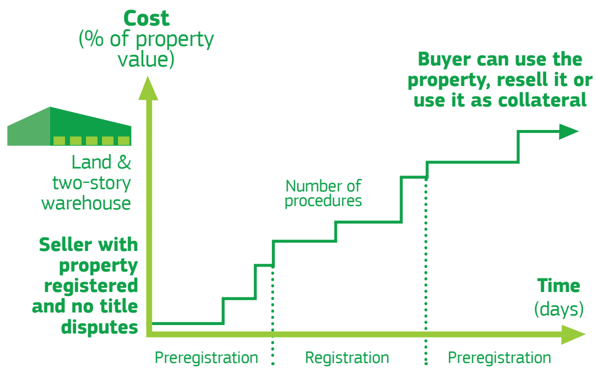
ILLUSTRATIVE INTERVENTIONS

- Assessing institutional frameworks and capacity of land registry and technical assistance to address shortcomings
- Automation and digitalisation of land registration and surveying and mapping systems
- Increasing transparency of land administration system, by making land-related information publicly available and publishing all fees
- Improving land dispute resolution, including through state guarantee over property registration, capacity building for professional agents and agency staff, and support to courts
- Technical assistance to reform construction permitting

WORLD BANK DOING BUSINESS REGISTERING PROPERTY INDICATOR

This indicator records the full sequence of procedures necessary for a business (the buyer) to purchase a property from another business (the seller) and to transfer the property title to the buyer's name so that the buyer can use the property for expanding its business, use the property as collateral in taking new loans or, if necessary, sell the property to another business. It also measures the time and cost to complete each of these procedures (Figure 2.7). Doing Business also measures the quality of the land administration system in each economy. The quality of land administration index has five dimensions: reliability of infrastructure, transparency of information, geographic coverage, land dispute resolution and equal access to property rights.

Figure 2.7: DB Registering Property Indicator



TOOLS AND RESOURCES

- World Bank Doing Business (Registering Property and Dealing with Construction Permits Indicators). http://www.doingbusiness.org/reports
- Secure property rights and development: Economic growth and household welfare. Property rights evidence paper (DFID April 2014). https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/304551/Property-rights-evidence-paper.pdf

9 World Bank Doing Business 2015, p.60

Strengthening Access to Land and Property Rights for all Citizens of Bangladesh (2012–On going)

The EU have supported a programme to strengthen access to land and property rights in Bangladesh, especially for the poorest part of the community, to assist the Ministry of Land to modernise the land records management system in Bangladesh. Improved access to land and a greater security of tenure will lead to improved land use and agricultural practises as landowners will be likely to invest more in their land to increase their income.

The project developed a National Land Policy and sub-policies covering, among others, land use planning and zoning; management of Khas (public land), Char and Government lands; and establish an authoritative record of ownership of land, where the project worked at the policy, legislative and institutional level to provide for a land ownership registration system, capable of producing a Certificate if Land Ownership (CLO) and secondly, at the Upazilla (country) level, to build an authoritative land record (ALR).

Pilot projects were conducted in urban, rural and coastal regions of Bangladesh, focusing on outlining a new policy of creating a one-stop-shop for land management, including land records management; land development tax; mutation (buying, selling or transferring land); Khas management (in general, the government manages Khas land records and leases out for private use); vested property and abandoned property (people who went to India between partition in 1947 and 1967 left their property behind in what is termed vested property, hence the term abandoned property); rent certificate function which covers people who have not paid their land development tax on time and action in the courts by the Lands Office.

- Do no harm in land tenure and property rights — designing and implementing conflict sensitive land programs (CDA, 2013). https://www.cdacollaborative.org/wp-content/uploads/2016/01/Do-No-Harm-In-Land-Tenure-and-Property-Rights-Designing-and-Implementing-Conflict-Sensitive-Land-Programs.pdf
- Burns, T., Grant, C., Nettle, K., Brits, A., and Dalrymple, K. (2006) Land Administration Reform; Indicators of Success, Future Challenges, Land Equity International, Wollongong.
- 'Land sector reforms in Ghana, Kenya and Vietnam: A comparative analysis of their effectiveness. Peter Nath et al., 2016, MDPI. (www.mdpi.org)
- 'The impact of land property rights' interventions on investment and agricultural productivity in developing countries: A systematic review, Steven Lawry et al., 2014. https://www2.cifor.org/forestsasia/wp-content/uploads/2014/02/Lawry_Land_Property_Rights_Review.pdf
- Studies on registering property compiled by the WB DB initiative. www.doingbusiness.org/en/research/registering-property

FUNCTIONAL AREA 8: COMMERCIAL DISPUTE RESOLUTION

Difficulties in enforcing contracts and obtaining commercial justice, the cost or insufficient number of judges and staff are constraints to formal justice systems. A legal framework and judicial system that provide effective access to commercial courts is crucial for both local actors and foreign investors. Alternative commercial dispute resolution mechanisms, in particular mediation, can substantially reduce caseload burdens, improve clearance rates and raise efficiency in the administration of justice.

In Sub-Saharan Africa difficulties enforcing contracts and obtaining commercial justice are often cited as reasons for low domestic and international investment. Most judiciaries in SSA lack independence, use outdated administrative systems and suffer from allegations of corruption at multiple levels. Most MSMEs in SSAs cannot access the formal justice system because of the cost and insufficient number of judges and staff.

These challenges are especially prevalent in fragile and conflict-affected states and interventions to strengthen judicial institutions in such countries are considered critical, if only to start the process of establishing faith in a justice system that may have ceased functioning.

KEY AREAS OF COMMERCIAL JUSTICE REFORM

- Court Structure and Proceedings: Specialised commercial court or division, small claims courts or simplified procedures for small claims, pre-trial attachment, case assignment.
- Case Management: Reform of regulations setting time limits for court proceedings, adjournments and continuances; establishment of performance management systems; electronic case management systems.
- Court Automation: E-filing, process serving, e-payment of court fees, publication of judgments.
- Alternative Dispute Resolution (ADR): Development and regulation of arbitration, development and regulation of voluntary mediation/conciliation.
- Capacity Building: Training and other support to judges, court administrative staff, legal profession, notaries and enforcement professionals.
- Judiciary Independence, Judicial Discipline / Anti-Corruption
- Enforcement of Judgments: Capacity building for judges and enforcement professionals (e.g. bailiffs), developing better incentives for enforcement.

WORLD BANK DOING BUSINESS / ENFORCING CONTRACTS INDICATOR

The Enforcing Contracts indicator measures the time and cost for resolving a hypothetical commercial dispute through a local first-instance court, as well as quality of the applicable legal and regulatory frameworks. The indicator was significantly revised in 2016 to incorporate the element of regulatory quality, by incorporating the Quality of Judicial Processes Index (QJPI). The hypothetical case is a contract dispute involving a contract for the sale of custom-made office furniture. The buyer refuses to pay for the furniture, alleging the goods are not of sufficient quality, and the seller sues to recover the contract amount in court and the case is fully litigated through enforcement; the judgment is favour of the seller.

The indicator has three components (each of which is weighted at 33.3%):

- Time (in days) from the moment the lawsuit is filed to actual enforcement of the judgment and payment.
- Cost of the proceedings, including attorney fees, court costs and enforcement costs
- Quality of the judicial processes (evaluated on the basis of the QJPI above)

Supporting the Development of Mediation for Commercial Disputes in Morocco: The Example of USAID Improving the Business Climate in Morocco Program (IBCM)

Supporting the Development of Mediation for Commercial Disputes in Morocco: The Example of USAID Improving the Business Climate in Morocco Program (IBCM).

ADR techniques such as voluntary mediation can help litigants resolve business disputes more rapidly. By involving the parties in finding a solution rather than choosing winners and losers, mediation can help preserve business relations. IBCM successfully took a three-pronged approach in Morocco:

- Increase the supply of mediation services, by training mediators and supporting ADR centres
- Foster demand for mediation through outreach to the business community, lawyers and judges (the latter two groups often see ADR as a threat, at least early on in the development of ADR)
- Support appropriate and limited regulation of mediation, including issues such as confidentiality, mediator qualification and/or mandatory ADR provisions for certain cases.

Supporting commercial dispute resolution mechanisms in Congo Brazzaville

In the Republic of Congo, enforcing contracts remains a critical issue for both domestic and international investors. The Commission is working, through a partnership with the Pointe Noire Chamber of Commerce (Project of Commercial and Entrepreneurial Capacities Strengthening), to reinforce the business and commercial capacities by creating a centre of mediation and arbitration on dispute resolutions. This initiative aims to further support commercial practices and to guarantee an easy and fair access to justice that respects the rule of law in case of commercial conflicts.

ICF Support to Commercial Justice and ADR in Rwanda

The Investment Climate Facility for Africa (ICF) support through the Rwanda Investment Climate Programme helped establish a Commercial High Court in Kigali and 3 commercial courts in different provinces. This helped clear a backlog of 3,300 commercial cases, freeing up an estimated USD 20 million that had been locked up in litigation.

Further reforms through the Rwanda Commercial Justice programme helped streamline business processes within the judiciary, training judges in commercial law, establishing court reporters and developing bench books. The ICF also helped finance the Kigali International Arbitration Centre (HIAC), which is an independent body spearheaded by the private sector. Over 390 professionals were trained, and as of 2016, 28 cases were arbitrated through HIAC, including cases involving international parties.

TOOLS AND RESOURCES

- Alternative dispute resolution for businesses in developing countries, GSDRC 2014. https://gsdrc.org/publications/alternative-dispute-resolution-for-businesses-in-developing-countries/
- World Bank, 'Commercial Court & Enforcement Assessment Tool' (Heike Gramckow and Omniah Ebeid, 2016). https://openknowledge.worldbank.org/bitstream/handle/10986/24018/Commercial0cou0ment0assessment0tool.pdf;sequence=1
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- World Bank Doing Business (Enforcing Contracts Indicator). http://www.doingbusiness.org/reports.
- World Bank, 'Alternative Dispute Resolution Guidelines. http://siteresources.worldbank.org/INTECA/Resources/15322_ADRG_Web.pdf

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- Linn Hammergren, Justice Reform and Development: Rethinking donor assistance to developing and transition countries (Routledge 2014). https://www.routledge.com/Justice-Reform-and-Development-Rethinking-Donor-Assistance-to-Developing/Hammergren/p/book/9780415739924
- Guide to Rule of Law Country Analysis: The Rule of Law Strategic Framework (USAID 2010). https://pdf.usaid.gov/pdf_docs/Pnadm700.pdf
- World Bank / Alternative Dispute Resolution Center Manual: A Guide for Practitioners on Establishing and Managing ADR Centers (2010). http://documents.worldbank.org/curated/en/906371468169461301/pdf/782230WP0Alter0Box0377330B00PUBLIC0.pdf
- World Bank, Africa Regional Justice Note: A Review and Lessons Learned (2010). https://openknowledge.worldbank.org/bitstream/handle/10986/2936/579860ESW0P1121stice0pub09114110web.pdf?sequence=1&isAllowed=y
- Barry Walsh, 'In Search of Success: Case Studies in Justice Sector Development in Sub-Saharan Africa (2010). http://documents.worldbank.org/curated/en/291991468009961030/pdf/574450ESW0P1121n0Africa010June02010.pdf
- World Bank Creditor Rights and Insolvency ROSC Assessment Methodology. http://www.worldbank.org/en/programs/rosc
- World Bank Principles for Effective Insolvency and Creditor/Debitor regimes (2016). http://pubdocs.worldbank.org/en/919511468425523509/ICR-Principles-Insolvency-Creditor-Debtor-Regimes-2016.pdf
- United Nations Commission on International Trade Law (UNCITRAL), Legislative Guide on Insolvency Law (2005) https://www.uncitral.org/pdf/english/texts/insolven/05-80722_Ebook.pdf

FUNCTIONAL AREA 9: INFRASTRUCTURE POLICY AND REGULATION

Sustainable infrastructure policy and regulation (comprising transport, urban development, water and sanitation, energy, and information and communication technology) is an important driver of the business environment that complements other support to sustainable infrastructure development and finance.

Governance of infrastructure needs improvements through developing legal and regulatory frameworks and building institutional capacities. Governments also have a key role to play in strengthening the enabling environment for low-carbon, climate-resilient energy and infrastructure investments.

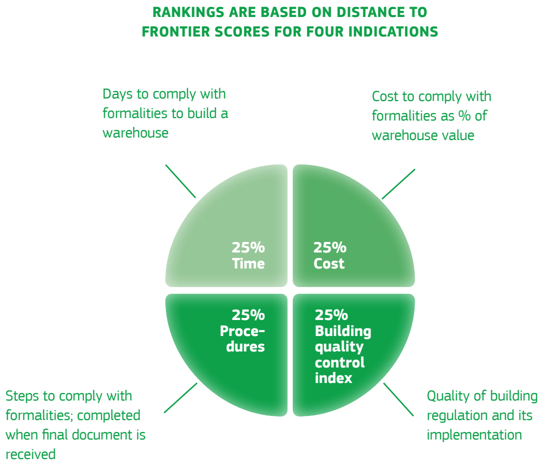
For example, there is enormous scope for infrastructure policy and institutional reform technical assistance, including identifying enabling environment bottlenecks in capital markets, revising and developing regulatory frameworks, such as public-private partnerships (PPPs). In relation to PPPs, it is worth mentioning that in recent years numerous discussions around PPPs have taken place, both at the EU and international levels. It has been acknowledged that PPPs can be useful catalysts for private investment but that they have not always put public interest at the forefront, calling for more thorough due diligence to ensure they contribute to SDGs[10].

Infrastructure policy and regulation can be analysed both as functional area of BER and as on the basis of the regulation specific sectors/industries, sub-sectors and value-chains.

ILLUSTRATIVE INTERVENTIONS

- For infrastructure financing: PPP regulatory and institutional frameworks; Capital markets framework for long-term finance, financial innovations and regulations to mobilize institutional investors; Banking sector policies and prudential regulations
- Set up and functioning of Regulatory Authorities
- Investment and fiscal incentives for developing, maintaining and operating infrastructure facilities

Figure 2.8: Dealing with construction permits: efficiency and quality of building regulation



WORLD BANK DOING BUSINESS: DEALING WITH CONSTRUCTION PERMITS

This Doing Business indicator records all procedures required for a business in the construction industry to build a warehouse along with the time and cost to complete each procedure. In addition, Doing Business measures the building quality control index, evaluating the quality of building regulations, the strength of quality control and safety mechanisms, liability and insurance regimes, and professional certification requirements. Information is collected through a questionnaire administered to experts in construction licensing, including architects, civil engineers, construction lawyers, construction firms, utility service providers and public officials who deal with building regulations, including approvals, permit issuance and inspections.

[10] The United Nations has recently coordinated a 'People-First Public-Private Partnerships' initiative and adopted basic principles and recommendations related to PPPs. At the EU level, the EU Court of Auditors published a report of PPPs in Europe and the European Parliament adopted a Resolution. See tools and references of this chapter

Reduction of overweight of trucks in West Africa

For several years the EU has been supporting the West African Economic and Monetary Union (UEMOA) authorities to reduce the overweight of trucks capacity in order to improve road maintenance and related costs. Regulation 14 of UEMOA was approved in 2005 and established the basis for an improved control of trucks' overweight, with measures to be taken by UEMOA governments, Ghana and Guinea (countries interested in summing up to this initiative). However the regulation was not implemented until 2017 that an action plan was agreed and control posts are operational in the different countries. Since, improvements have been observed, such as the reduction from 20% to 10% of extreme overweight of trucks in the region. This has an important impact on the duration of the roads.

E-mobility in Argentina

With the support of EUROCLIMA+ and together with UN Environment, several norms, policies, bills, standards and guidelines have been developed on e-mobility in Latin American countries. For instance in Argentina, support to develop an electric mobility bill was provided. Regulations, fiscal and non-fiscal incentives to promote clean and efficient light vehicles as well as measures to reduce fuel consumption by heavy vehicles.

TOOLS AND RESOURCES

- OECD, Getting infrastructure right (2016). www.oecd.org/gov/getting-infrastructure-right.pdf
- OECD, Towards a framework for the governance of infrastructure (2015). https://www.oecd.org/gov/budgeting/Towards-a-Framework-for-the-Governance-of-Infrastructure.pdf
- World Bank, Handbook for evaluating infrastructure regulatory systems, (2006). http://siteresources.worldbank.org/EXTENERGY/Resources/336805-1156971270190/HandbookForEvaluatingInfrastructureRegulation062706.pdf
- OECD, Public-Private Partnerships in the Middle East and North Africa: A Handbook for Policy Makers (2014). https://www.oecd.org/mena/competitiveness/PPP%20Handbook_EN_with_covers.pdf
- World Bank, The State of PPPs: Infrastructure Public-Private Partnerships in Emerging Markets & Developing Countries 1991–2015 (June 2016). https://library.pppknowledgelab.org/PPIAF/documents/3551
- World Bank, PPP in Infrastructure Resource Center for Contracts, Laws and Regulations. https://ppp.worldbank.org/public-private-partnership
- World Bank, 'Transformation through Infrastructure: World Bank Infrastructure Strategy Update FY 2012–2015. http://siteresources.worldbank.org/INTINFRA/Resources/Transformationthroughinfrastructure.pdf
- PPIAF Infrastructure Regulation in Developing countries (2007). https://www.gsb.uct.ac.za/files/hybridMIRpaper.pdf
- PPIAF, 'The state of infrastructure public-private partnerships in countries affected by fragility, conflict or weak institutions', WBG and PPIAF, 2018. https://cdn.gihub.org/umbraco/media/2428/pppsinfcv2018_print.pdf
- United Nations 'People-First Public Private Partnerships' guiding principles and related documents. http://www.unece.org/ppp/standards.html
- European Parliament Resolution ' External impact of EU trade and investment policy on public-private initiatives. https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52017IP0330
- European Court of Auditors, 'Public-Private Partnerships in the EU. widespread shortcomings and limited benefits'. https://www.eca.europa.eu/en/Pages/DocItem.aspx?did=45153

FUNCTIONAL AREA 10: ENERGY POLICY AND REGULATION

National energy policies and regulations facilitating investments in renewable energy and enabling efficiency are essential and need to be transparent and fully integrated across other sectors, incorporating infrastructure needs or synergies with energy efficiency and security. They should also address challenges such as the continued subsidies for fossil fuels. Measures should focus not only on electricity generation, but also on industry and productive uses, buildings, heating and cooling and transport sectors.

Access to energy is fundamental to human and economic development and poverty reduction, and for achieving the overall 2030 Agenda and the Sustainable Development Goals (SDGs), including poverty eradication, food security, clean water and sanitation, health, education, prosperity, jobs creation, and the empowerment of youth and women. A shift toward sustainable energy solutions is also essential to the achievement of the UN Paris Agreement on Climate Change.

Ensuring access to affordable, reliable, sustainable and modern energy for all is one of the SDGs for 2030, SDG7. To achieve SDG7 by 2030, US$1 to 1.2 trillion per year until 2030 will be needed[11], particularly in Sub-Saharan Africa where about 600 million people live without electricity. Energy is at the top of the global development agenda and it is reflected in the European Consensus on Development[12]. The Staff Working Document 'Empowering Development'[13]explains how energy cooperation contributes to the implementation of the new European Consensus on Development in particular in key themes such increasing access to affordable energy, growth and job creation, band Planet tackling climate change and addressing environmental degradation.

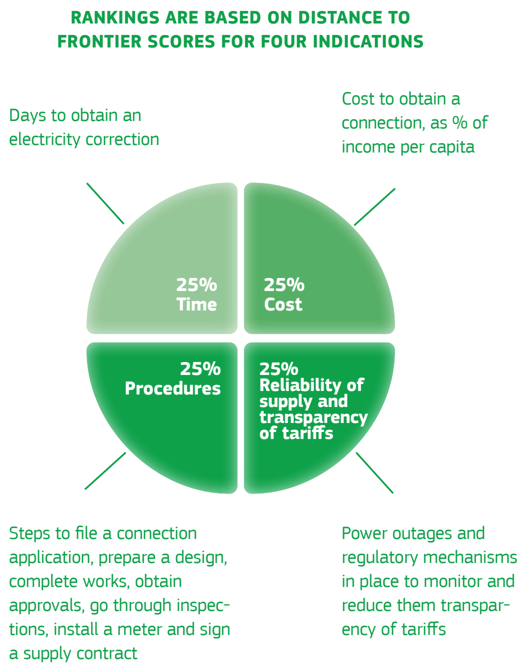
BER tools and resources can relate to the various subsectors (e.g. energy access, energy conservation and renewable energy policy) and specific value chains or market systems (e.g. mini-grid systems, solar PV lanterns, clean cooking fuel and stoves) in the energy sector.

The one World Bank *Doing Business* indicator that relates to the energy sector, the 'Getting Electricity' indicator, is presented below.

WORLD BANK DOING BUSINESS: THE 'GETTING ELECTRICITY' INDICATOR

Doing Business Getting Electricity records all procedures required for a business to obtain a permanent electricity connection and supply for a standardized warehouse (Figure 2.9). These procedures include applications and contracts with electricity utilities, all necessary inspections and clearances from the distribution utility and other agencies, and the external and final connection works. The questionnaire divides the process of getting an electricity connection into distinct procedures and solicits data for calculating the time and cost to complete each procedure. Data are collected from the electricity distribution utility, then completed and verified by electricity regulatory agencies and independent professionals such as electrical engineers, electrical contractors

Figure 2.9: Calculating DB Getting Electricity Indicator



[11] 2018 HLPF Review of SDG7 implementation
[12] https://ec.europa.eu/europeAid/sites/devco/files/european-consensus-on-development-final-20170626_en.pdf
[13] https://ec.europa.eu/europeAid/sites/devco/files/staff-working-document-energy-20180222_en.pdf

Nigerian Energy Support Programme II (NESP)

Nigeria continues to suffer from a chronic shortage of electricity. With an estimated 190 million inhabitants, around 55 per cent of the population and up to 75 per cent in rural areas have no access to grid-connected electricity. Additionally, unavailability of electricity hinders industrial production, and thus economic growth. The programme, implemented by the GIZ with contributions from BMZ and the EU, from 2017 to 2021, builds on a previous phase. It implements a multilevel approach by combining advisory on energy policy/economy and technical knowledge for a wide range of stakeholders. It focuses on the following subjects: (1) Data Management & Electrification Planning; (2) Sustainable Energy Access: The programme works in the areas of on-grid and off-grid access to RE; (3) Regulatory matters to enhance the attractiveness for private investment into grid connected solar energy, as well as to establish a fully functional market for ancillary services. In the area of off-grid, the programme supports the Rural Electrification Agency and State Governments in public-private mechanisms to scale off-grid distributed energy solutions to 100,000 people; (4) Enabling Environment for Renewable Energy and Energy Efficiency Investments: This programme component combines activities on EE in industries, EE in buildings and on further enabling the environment for investments into RE and EE. The programme supports the enforcement of already developed energy efficiency standards, as well as the development of new RE/EE standards. Training courses on energy efficiency for selected professionals of partner institutions will continue to enhance the capacities of the power sector. The programme also contributes to the strengthening and implementation of support mechanisms to increase access to finance and promote investments in the energy sector.

and construction companies. In addition, in Doing Business 2016 the indicator added two new measures: the reliability of supply and transparency of tariffs index and the price of electricity.

ILLUSTRATIVE INTERVENTIONS

- Support to electricity/energy Regulatory Authority/ies in relation to energy access, conservation or renewable energy policies and regulations; for instance, legal framework of energy efficiency in the construction sector, or the promotion of solar energy for rural electrification
- Legal and regulatory framework, standards and norms, to promote non electrical energies, namely bio-energy
- Economic and financial regulation of the sector, tariffs, contracts
- Regulatory framework to promote

TOOLS AND RESOURCES

- Sustainable energy handbook. https://europa.eu/capacity4dev/public-energy/minisite/sustainable-energy-handbook
- PPP legal resource center of the World Bank, includes references related to Energy law and regulation, General materials, Sample laws and regulations, Small grid and off grid, Connected renewable generators, and other useful links. https://ppp.worldbank.org/public-private-partnership/sector/energy/laws-regulations
- European Union Energy Initiative (EUEI), 'The ACP-EU Energy Facility: Improving Access to Energy Services for the Poor in Rural and Peri-Urban Areas. https://www.gogla.org/acp-eu-energy-facility
- Sustainable Energy for All (SE4ALL). https://www.seforall.org/
- UNECE, PPP Standard for Renewable Energy. https://www.unece.org/ppp/standards.html

Chapter 3

Sectoral and value chain level BER

SECTORAL BER

The overview of BER functional areas, tools and resources provided above in Section 2 largely addresses 'horizontal' reforms that affect all businesses in an economy and are designed to improve the business environment and the broader investment climate in the economy as a whole. For example, reforms to streamline business registration or improve commercial dispute resolution apply to all formal sector businesses in a country. Such horizontal reforms are critical and often a necessary first step in improving the business environment. Horizontal reforms are often supported by 'stand-alone' BER technical assistance programmes and projects that target broad improvements in the business environment in the partner country.

'Vertical' private sector development initiatives focus on a specific sector, industry or sub-sector. Per the DCDE, sector-specific BER 'seeks to address policy, legal, and regulatory requirements that unnecessarily raise the cost of doing business, increase risks or reduce competition within specific sector or industry categories'[1]. This allows for a deeper analysis within those sectors or industries that are most strategic for national development or inclusive, pro-poor economic growth.

Sector-specific BER technical assistance can be either part of a BER initiative, or a component or part of a broader PSD initiative—for example a programme providing direct support to improve the competitiveness of firms in a particular sector or sub-sector, which also includes targeted legal and regulatory reforms. Sector-specific BER may also be part of broader economic growth programming or other areas of EU support such as food and agriculture, infrastructure or energy. As such they are not necessarily labelled as BER by donor agencies. Horizontal and vertical business environment reforms are highly complementary, since constraints to firms in a sub-sector may exist both at the broad national level and within legal and regulatory frameworks applicable to that sub-sector.

Sector-specific BER is also complementary to, but should not be confused with, industrial policy support. Industrial policy (IP) refers to government interventions aimed at steering the structure of production and related ecosystem needs towards areas that are expected to offer better prospects for economic growth. While BER aims to reduce business costs and risks, promote competition, business entry and positive social and environmental externalities, IP directly supports the transformation of the economy.

However, the division line between BER and IP becomes often difficult to define in countries where the industrial policy has little substance. Moreover, BER must systematically consider real long-term sustainable growth.

Likewise, there is some overlap between sector-specific BER and quality infrastructure (QI), which refers to the policy and institutional framework that governments establish to provide evidence that products and services meet the requirements set by regulatory authorities and the market place. QI consists of a number of institutions and service providers, and can only function properly when all of these are in place. The foundational parts of QI are standardisation, metrology and accreditation. The overall QI framework sets out a way of standardising, measuring and certifying products and services produced by a country[2]. As set out in the text box below, QI standards can be addressed at the national or the regional level.

COMMON ISSUES AFFECTING SECTOR-SPECIFIC BER

Policy Frameworks and Reform

The national policy framework for the sector is critical as it provides a guide for reforms and for the coordination of the various stakeholders; unfortunately, in many developing countries the such policy frameworks do not always provide the integrated, coherent and well-coordinated responses to the multi-dimensional needs of the private sector. Likewise, the real-world implementation of national policies and strategies in partners countries is often lacking, due to factors such as limited government capacity, lack of political will and vested interests opposed to change. In many sectors the government is

[1] Donor Committee for Enterprise Development (DCDE), Business Environment Working Group, Supporting Sector-Focused Business Environment Reform in Developing Countries (December 2015).

[2] DCED, Supporting Business Environment Reforms: Practical Guidance for Development Agencies, Annex: Supporting Quality Infrastructure in Developing and Transitional Countries (August 2014)

PRACAMS Program: Support to the Development of Regional Quality Infrastructure Framework in Central America.

The EU-funded Programa de Apoyo a la Creación de un Sistema Regional de Calidad y la Aplicación de Medidas Sanitarias y Fitosanitarias en Centroamérica (PRACAMS) was implemented by the Secretariat for Central American Economic Integration (SIECA). Working both at the regional level and in Costa Rica, El Salvador, Guatemala, Honduras and Panama, the programme promoted the development of the regional quality infrastructure regulatory system, regional metrology network and the organisations involved in certification. Capacity-building targeted government entities, service providers and MSMEs. The PRACAMS team facilitated extensive public-private dialogue with all stakeholders at both the national and regional levels, which informed both technical assistance and training.

also market actor, either through state-owned enterprises or through government procurement.

Legal and Regulatory Reform

A critical component of most BER interventions is legal and regulatory reform. Key issues include lack of coherence across national and sub-national laws and regulations, lack of conformity with regional frameworks, and lack of clarity in processes and procedures. While public-private dialogue is taking place in most countries, more dialogue and input is often needed to address legal and regulatory gaps, including enforcement. It is for this reason that initiatives such as the Sustainable Business for Africa (SB4A) platform under the EIP have been set up to promote public-private dialogue. The Africa-EU Alliance introduces Sector Task Forces to provide expertise, advice and recommendations in agriculture, digital economy, energy and transport areas.

Regulatory Authorities

Industry regulation and the role of regulatory authorities is critical across sectors, and regulators in most partner countries are under-staffed and under-resourced, lack the required skills and are not sufficiently autonomous. The role of standards and quality assurance is pronounced with sector-specific reforms, and in many countries the institutions responsible for monitoring standards, testing and enforcement do not have the necessary capacity.

While supporting Regulatory Authorities with capacity building, the sustainability of standards and certification bodies should be addressed. Where relevant, the question may arise of opening up for competition and private certified quality control bodies.

Tools and Resources on sector-specific BER common issues

- Simon White, Supporting Sector-Focused Business Environment Reform in Developing Countries (DCED, December 2015). This guide provides an overview of sector-specific BER and an analysis of BER issues in a number of specific industries. The guide presents specific lessons learned from initiatives supporting these sectors. https://www.enterprise-development.org/wp-content/uploads/DCEDBEWGSectorBERReport2015.pdf
- USAID Microlinks website. https://www.microlinks.org
- European Commission, Sector Indicator Guidance. http://indicators.developmentresults.eu/
- European Commission, EU Results Framework (2018). http://ec.europa.eu/transparency/regdoc/rep/10102/2018/EN/SWD-2018-444-F1-EN-MAIN-PART-1.PDF

BER AND AGRICULTURE

Agriculture and global food systems play a central role in eliminating poverty and boosting shared prosperity. Ending poverty will not be possible without raising the incomes of the rural poor and ending global hunger. What's more, one-third of the world's workforce is engaged in the agricultural sector and two-thirds of the global poor work in agriculture.

The EU is committed to develop sustainable agricultural value chains in partner countries which benefit the poor by taking advantage of the opportunities offered by local and global markets to create decent jobs and value added and support private sector development. In order for agriculture to become a driver of inclusive green growth and a tool to alleviate poverty, the investments and performance of key players across agricultural value chains—from farmers to large and small agricultural businesses—are vital. Agricultural production will increasingly need to adopt sustainable and climate-smart and circular production methods which make more efficient use of resources, reduce greenhouse gases emissions and preserve soils and ecosystems[3], and that should be resilient to the climate change forecasts, if the EU's Prosperity, People and Planet objectives are to be achieved.

Strengthened policies, regulations and institutions can facilitate agricultural entrepreneurship, increase investment, and enhance market competitiveness and growth. BER interventions in the agricultural sector can help governments to establish appropriate regulatory systems that ensure the safety and quality of agricultural goods and services without being overly costly or burdensome on market actors.

Tools and Resources on BER and Agriculture

- European Commission, Value Chain Analysis for Development, VC4D. https://ec.europa.eu/knowledge4policy/projects-activities/vca4d-value-chain-analysis-development_en
- World Bank, 'Enabling the Business of Agriculture' (2017). Enabling the Business of Agriculture (EBA) has collected data on laws and regulations that impact the enabling business environment for agriculture. Legal and efficiency indicators have been developed. EBA 2017 covers the following Sub-Saharan countries: Benin, Burkina Faso, Cameroon, Côte d'Ivoire, Ethiopia, Ghana, Kenya, Liberia, Malawi, Mali, Mozambique, Niger, Nigeria, Rwanda, Senegal, Tanzania, Uganda, Zambia and Zimbabwe. http://eba.worldbank.org/about-us
- FAO Practice Guide. The Food and Agriculture Organization of the United Nations (FAO)'s Enabling Environments for Agribusiness and Agro-industries Development--Regional and Country Perspectives (2013) is another useful resource for agricultural sector BER, providing both regional analyses for Africa, Asia, Latin America and Eastern Europe, as well as twenty country studies. Available at http://www.fao.org/ag/ags/ags-division/publications/publication/en/c/171732/
- USAID AgCLIR. The AgCLIR methodology is an adaptation of the USAID BizCLIR diagnostic methodology described above, with a focus on agribusiness and the agricultural sector as a whole. In AgCLIR diagnostics, the stakeholders that are interviewed represent every stage in the agricultural process — farmers, traders, transporters, processors, and exporters — as well as the government ministries and civil servants who regulate them. In addition to evaluating the ten functional areas of regulation from the World Bank's Doing Business survey as they relate to agribusiness, additional chapters have occasionally been added to an AgCLIR report to address specific agricultural problems such as food security and climate change. The BizCLIR programme closed and USAID is no longer supporting AgCLIR. Individual AgCLIR diagnostic reports were prepared for Ghana (2008), Nigeria (2009), Senegal (2009), Kosovo (2010), Tanzania (2010), Uganda (2010) and DRC (2011. Most of these can be found on the web with a search engine or on the USAID DEC knowledge management website. https://dec.usaid.gov/dec/home/Default.aspx

BER AND ENERGY

Energy has been a priority area in EU's development assistance portfolio for many years and the Commission has developed a multi-level approach to meeting the challenges, including reinforcing bilateral and multilateral dialogue, fostering regional cooperation, providing technical assistance to support the necessary 'technology leap' and developing innovative financial instruments[4]. In terms of supporting private sector development and improving the broad investment climate and the business environment within the energy sector, the EU is helping to establish adequate regulatory frameworks in partner countries, including on environmental safeguards and land planning.

Once established, adequate regulatory, legal, institutional and policy frameworks will attract upstream investments that can improve the service to existing customers and allow new connections to be made.

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[3] Investment windows in sustainable agriculture, rural entrepreneurs and agro-business under the EFSD Guarantee, available online in European Commission, 'EFSD Operational Boards Meeting — 7 November 2017'.

[4] European Commission, Empowering Development: Delivering Results in the Decade of Sustainable Energy for All (2015).

This will in turn allow for greater business and investment opportunities, which will lead to more jobs, new renewable energy sources and new activities. The EU is committed to empowering energy users that play a crucial social role, such as MSMEs and women, as well as to facilitating access to renewable and sustainable energy, that may 'foster the transformation to competitive low-carbon and climate-resilient green economies'[5].

Tools and Resources on BER and Energy

- RISE. The Regulatory Indicators for Sustainable Energy (RISE) is a set of indicators to help compare and assess national policy and regulatory frameworks for energy access, energy conservation and renewable energy policy[6]. Developed by the World Bank, which serves as the knowledge hub for the Sustainable Energy for All (SE4ALL) initiative which is co-lead by the UN Secretary General and the World Bank President. RISE provides a reference point to help policymakers benchmark their sector policy and legal and regulatory framework against regional and global peers. Each indicator targets an element of the policy or regulatory framework which is important to mobilising investment, such as establishing planning processes, institutions and incentives.

  RISE also collects unscored information about administrative procedures in each country (time, cost and processes required to implement key sustainable energy activities such as setting up a mini-grid facility, which can be useful for an BER diagnostic. RISE also collects other metrics on the energy sector, such as information about the power sector structure, key companies and institutions, generation data and tariff schedules, which can be support the research and stakeholder consultation phases of an BER diagnostic.

  Like any global set of indicators, RISE presents a snapshot of policies and regulations relating to the energy sector based on the understanding that such polices are important to attracting investment. While providing guidance and a starting point for an in-depth BER diagnostic, they are no substitute for country-specific research and stakeholder consultation. RISE website. http://RISE.worldbank.org

- EUEI PDF / Building Energy Access Markets. The European Union Energy Initiative Partnership Dialogue Facility (EUEI PDF), 'Building Energy Access Markets: A Value Chain Analysis of Key Energy Market Systems' (2015) (Building Energy Access Markets) is a framework developed by EUEI PDF and Practical Action Consulting (PAC) to analyse and assess energy market systems in developing countries and develop interventions to support the development of energy access markets. It focuses on decentralised energy service markets (mini-Grid electricity, solar PV lanterns, biomass improved cook stoves and LPG fuel and stoves) and is therefore relevant for renewable energy programming. Unlike RISE or CLIMATESCOPE, the Building Energy Access Markets framework does not provide country-specific data or best practices, but rather provides an analytical framework that can help support a BER diagnostic.

- CLIMATESCOPE. CLIMATESCOPE is a country-by-country assessment, interactive report and index that evaluates the investment conditions for clean energy and climate-related investment worldwide. It profiles 58 countries worldwide, including 19 Sub-Saharan countries, and evaluates their ability to attract capital for low-carbon energy sources while building a greener economy. Bloomberg New Energy Finance serves as research partner and author of the report; CLIMATESCOPE is funded by DFID and USAID. The website is. http://global-climatescope.org

  CLIMATESCOPE covers four parameters: Enabling Framework, Financing and Investment, Value Chains and Greenhouse Gas Management. Since it includes a considerable amount of market data and investment conditions, as a business environment reform diagnostic tool, CLIMATESCOPE is useful not only for assessing and benchmarking renewable energy policy and regulatory frameworks in the countries it covers, but also for supporting new investments in that country.

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[5] Investment windows in sustainable energy and connectivity under the EFSD Guarantee, available online in European Commission, 'EFSD Operational Boards Meeting — 7 November 2017'

[6] World Bank Group, Regulatory Indicators for Sustainable Energy: A Global Scorecard, 2016

CLIMATESCOPE: Defining a welcoming enabling framework for investment in renewable energy

'A welcoming enabling environment is one where: a comprehensive, effective and stable set of rules are in place; the power market structure encourages and adequately rewards new market entrants; the private and public sectors foster universal access to clean and sustainable energy in rural or isolated communities; clean energy penetration of the power and primary energy matrices is every increasing; adequate price signals are available; and growing demand for power and rapid electrification combine to create a substantial market'. CLIMATESCOPE 2016, p. 74.

The text box below sets out the policy areas examined under the CLIMATESCOPE 'Policy and Regulation' category:

CLIMATESCOPE Policy & Regulation Category

1. Clean Energy Policies, including energy target, feed-in-tariff / price premium, auctions, biofuels blending mandate, debt / equity incentive, tax incentives, utility regulation and net metering.
2. Power Sector Structure
3. Distributed Energy Regulatory Framework (for off-grid focus countries), including regulation of off-grid, minigrid and small power project activity.
4. Clean Energy Rural Electrification
5. Energy Access Policies (for off-grid focus countries)
6. Import Duties on Selected Clean Energy products (based on World Trade Organization data). Duties on the following products are examined: inverters, solar lanterns, PV cells and modules, wind towers, wind turbine blades, wind gearboxes, wind and hydro generators and hydraulic turbine parts.

Tools and Resources on the Sustainable Energy Sector

- Sustainable energy handbook. https://europa.eu/capacity4dev/public-energy/minisite/sustainable-energy-handbook
- Sector note on mainstreaming climate change on the energy sector. https://europa.eu/capacity4dev/public-environment-climate/document/sector-note-mainstreaming-environment-and-climate-change-energy
- European Union Energy Initiative (EUEI), 'The ACP-EU Energy Facility: Improving Access to Energy Services for the Poor in Rural and Peri-Urban Areas. https://www.gogla.org/acp-eu-energy-facility
- Sustainable Energy for All (SE4ALL). https://www.seforall.org/
- Tracking report on SDG 7 (IEA, IRENA, WB, WHO and UN SD). https://trackingsdg7.esmap.org/

BER AND RAW MATERIALS

The Extractive Industries Transparency Initiative (EITI) standard is the internationally accepted standard to assess the investment climate and business environment of the extractive countries: beyond disclosure on payments it covers mining licenses, beneficial ownerships of state-owned entities and closely monitors the unobstructed involvement of the civil society.

In this connection, the overall analysis of business enabling environment is very complex. It refers to the legal and institutional framework, the fiscal regime, the allocation of contracts and licenses, their registration, state participation, exploration and production, availability of geological data, availability of energy and infrastructure, social and environmental requirements, access to credit and to a qualified work force.

Moreover, many developing countries rely on freely negotiated individual contracts with international mining companies and investors. However, these do not always turn out to be fair, because both sides rarely negotiate on an equal footing.

A fiscal system that provides for a combination of reasonable revenue certainty and is responsive to market conditions and outcomes will be perceived as more durable, as it will reduce the likelihood of a change of the fiscal terms, and consequently the perception of risk.

There is a need strengthen the capacities of government institutions, support policy and regulatory reforms, and support collection and dissemination of geological data.

Other areas of specific support are:

1: Accelerating local entrepreneurship in the Minerals value chain

Training and extension services to upgrade skills in marketing, financial management, business management, product development, due diligence, value addition, quality control, resource estimation and valorisation, and legal issues as well as on mining cooperatives and associations.

2: Improving access to finance and markets

To improve access to affordable finance to Small and Medium Enterprises (SMEs)/Artisanal and small-scale mining operating in the minerals value chain by extending the existing partnership with the which provides credit guarantees to private financial institutions, sensitizing financial institutions and knowledge/information sharing about the minerals value chain.

3: Promoting responsible mining and quarrying

To enhance socially and environmentally responsible business practices in the extractive sector by strengthening capacities and knowledge in mine and quarry site management, environmental management, occupational health and safety, labour rights protection, community relations and conflict management. Besides, sustainable and responsible mining and sourcing of raw materials approaches are needed to decouple climate objectives from negative environmental impacts associated with necessary technology materials. This is fundamental in the context of the sustainable development goals.

4: Conflict minerals and Due diligence

Since the 1990s, natural resources of conflict-affected and high-risk areas have been associated with the financing of armed conflicts and the perpetration of serious abuses of human rights. In fact, conflict financing through mineral extraction and trade has been a major impediment to peace and sustainable development.

In the area of conflict minerals, the main reference is the OECD Due Diligence Guidance for responsible Supply Chains from Conflict-affected and High-Risk areas. The Guidance provides the global business community with a practical, risk-based due diligence five-step framework[7] to help companies ensuring they are not directly or indirectly contributing to conflicts and/or serious abuses of human rights[8].

The United Nations' Environmental Assembly, supported by the EU, adopted in March 2019 in Nairobi a resolution on Mineral resource governance. Among others, it encourages all actors to promote due diligence best practices along the supply chain with the support of the Extractive Industries Transparency Initiative (EITI) and sustainable mining and sourcing of raw materials. To this end, an important international reference is the OECD Guidance for Responsible Business Conduct[9].

The EU requires that EU companies ensure they import conflict minerals (tin, tantalum, tungsten and gold) from responsible sources only. A Joint Communication on responsible sourcing of minerals was adopted in 2014 and an EU Regulation has subsequently laid down the value chain due diligence obligations for Union importers of conflict minerals[10].

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[7] 1. Establish strong company management systems; 2. Identify and assess risk in the supply chain; 3. Design and Implement a strategy to respond to identified risks; 4.Carry out independent third-party audit of supply chain due diligence at identified points in the supply chain; 5.Report on supply chain due diligence

[8] Although carrying out this Due Diligence is particularly important for conflict minerals and extractive industries, it should be considered for all natural resources management, land-based development and all actions that could have potential negative impacts.

[9] Its objective is to provide practical support to enterprises on the implementation of the OECD Guidelines for Multinational Enterprises by providing plain language explanations of its due diligence recommendations and associated provisions

[10] Joint Communication to the European Parliament and the Council: 'Responsible sourcing of minerals originating in conflict-affected and high-risk areas. Towards an integrated EU approach', JOIN/2014/08 final; and Regulation (EU) 2017/821 of the European Parliament and of the Council of 17 May 2017 laying down supply chain due diligence obligations for Union importers of tin, tantalum and tungsten, their ores, and gold originating from conflict-affected and high-risk areas.

5. Negotiating complex mining contracts

The G7 Initiative on 'Strengthening Assistance for Complex Contract Negotiations (CONNEX)'[11], aims to provide developing country partners with multi-disciplinary and concrete expertise for negotiating complex commercial contracts. The CONNEX Initiative is designed to ensure such complex commercial contracts are well-conceived and well-negotiated for a host country's successful and inclusive development, while protecting interests of the host country and investing companies. The Connex initiative is implemented in compliance with the Guiding Principles towards Sustainable Development.

6. Boosting the market for secondary raw materials

Cooperation on raw materials should also pay due consideration to EU's circular economy policy, which promotes measures to boost the market for 'secondary raw materials', i.e. materials that can be recycled are injected back into the economy as new raw materials. This means, for example, replacing mineral-based fertilisers with organic and waste-based fertilisers. Besides a reduction in environmental impact, this approach contributes to the security of supply. Promoting secondary raw materials requires, among others, developing standards to ascertain suitability for recycling, and boosting consumer demand for those materials.

Tools and Resources on BER and Raw Materials

- Simon White, Supporting Sector-Focused Business Environment Reform in Developing Countries (DCED, December 2015). https://www.enterprise-development.org/wp-content/uploads/DCEDBEWGSectorBERReport2015.pdf
- The Extractive Industries Transparency Initiative (EITI) Standard 2016: Part 1 Implementing the EITI standards https://eiti.org/sites/default/files/documents/the_eiti_standard_2016_-_english.pdf
- OECD Due Diligence Guidance for responsible Supply Chains of Minerals from Conflict-affected and High Risks Areas — third edition OECD (2016). https://www.oecd.org/daf/inv/mne/OECD-Due-Diligence-Guidance-Minerals-Edition3.pdf
- OECD Guidance on Responsible Business Conduct (2018). http://mneguidelines.oecd.org/OECD-Due-Diligence-Guidance-for-Responsible-Business-Conduct.pdf
- Tuuka Castren, Marko Katila and Petri Lehtonen, Business Climate for Forest Investments: A Survey, World Bank Program on Forests (PROFOR), (2014). https://www.cbd.int/financial/doc/wb-busclimateforst2014.pdf

BER AND THE CIRCULAR ECONOMY

Green and circular economy policies are emerging in an increasing number of countries, contributing to an improvement in the business environment and the promotion of the adoption of sustainable consumption and production practices by the private sector. Promoting the circular economy transition is an important EU policy priority, underlined by the adoption and on-going implementation of the EU Circular Economy Action Plan (CEAP)[12]. As defined in the CEAP, the 'transition to a more circular economy, where the value of products, materials and resources is maintained in the economy for as long as possible, and the generation of waste minimised, is an essential contribution to the EU's efforts to develop a sustainable, low-carbon, resource efficient and competitive economy'.

However, relevant efforts are slowed down by multiple challenges, including, among others, a lack of coherence between environmental policies and economic priorities, weak enforcement of regulations, a lack of skills and expertise, and prohibitive conditions for access to finance. Measures supporting awareness raising and capacity development of policy makers, institutional coordination, stakeholder participation in policy development, and the translation of global commitments in national policies are all important in this context.

The EU CEAP identifies a number of sectors facing specific challenges in the context of the circular economy, as a result of 'the specificities of their products or value-chains, their environmental footprint or dependency on material from outside Europe', and calls for targeted

[11] https://www.connex-unit.org/en/
[12] COM/2015/0614 final, 'Closing the loop — An EU action plan for the Circular Economy'

action, 'to ensure that the interactions between the various phases of the cycle are fully taken into account along the whole value chain'. Three among these sectors, namely Waste (including food waste), Plastics, and Critical Raw Materials, are of particular interest to BER.

Waste

A number of policy barriers to the transition to a circular economy in the European Union have been identified[13], some of which could be relevant to other countries outside the EU. As regards waste, the following reforms are considered to be supportive to the transition efforts, notably as regards the deployment of circular business models:

- clarification of definitions and elimination of gaps in waste legislation;
- consideration of impact on consumption in a potential application of measures for a lower VAT (a higher VAT would stimulate a circular economy; a lower VAT is a barrier);
- improved policy coherence, specifically the clarification of legislative provisions that create conflicts with each other in an attempt to protect conflicting values (e.g. food hygiene versus food waste, bioenergy and waste policy), through improvement of knowledge on relevant issues (for example to address concerns on Food Hygiene);
- harmonisation in national implementations of waste legislation (for example to implement relevant Conventions such as the Basel Convention);
- improvements in labelling, presentation and advertising of food products (as an important factor in food waste).

Plastics

The EU gives priority to enhancing circularity in the plastics sector, as shown by the recent launch of an EU Strategy for Plastics in the Circular Economy. This strategy includes steps to transform the way plastics and plastics products are designed, produced, used and recycled, and aiming at only recyclable plastics packaging by 2030. It also includes a proposal on a Directive on the reduction of the impact of certain plastic products on the environment, referring to the impact of single-use plastics, particularly in the seas and oceans.

Key areas in regulatory reforms to lift barriers to circular economy investments and entrepreneurship in the plastics sector include:

- Collection of plastics waste streams: Addressing the lack of legislation enabling the collection and pre-treatment of homogeneous plastics waste streams (plastic packaging), with a view to reducing the cost of processing and recycling that derives from mixed waste (which is often higher than the expected revenues for recycled plastic packaging).
- Uptake of secondary resources: Review of legislation that hinders the use of recycled materials in production processes, as a result of concerns over issues of health and consumer protection.
- Design for reuse, repair or recycling: Addressing the lack of concrete and enforceable product requirements.

Tools and Resources

- Technopolis group (2016), Regulatory barriers for the Circular Economy: Lessons from ten case studies, Final report. https://circular-impacts.eu/library/1240
- Sectoral guidelines on green economy, 2016 — European Commission. https://europa.eu/capacity4dev/public-environment-climate/documents/new-guidelines-integrating-environment-and-climate-change-eu-international-cooperation-0
- Institute for European Environmental Policy, 2018 A Long-Term Strategy for a European Circular Economy. https://ieep.eu/uploads/articles/attachments/f99f1ac9-83a0-47e0-a0a2-74f3ce528ad8/Think%202030%20Circular%20Economy.pdf
- Agenda 21 for Sustainable Construction in Developing Countries, Prepared by The International Council for Research and Innovation in Building and Construction and the United Nations Environment Programme—International Environmental Technology

[13] European Commission (2014), 'Scoping study to identify potential circular economy actions, priority sectors, material flows and value chains', ISBN 978-92-79-40166-4 and Technopolis group (2016), Regulatory barriers for the Circular Economy: Lessons from ten case studies, Final report

Centre (UNEP-IETC, 2002). https://www.irbnet.de/daten/iconda/CIB4162.pdf

BER AND SUSTAINABLE TOURISM

Business enabling environment in the tourism does not differ substantially from the other sectors as it refers to the legal and institutional framework, the fiscal regime, the allocation of contracts and licenses, their registration, state participation, availability of energy and infrastructure, social and environmental requirements, access to credit and to qualified work force. It also refers to transparency and predictability of contracts, licenses, and operating concessions of national parks, as well as taking care of security concerns and rely on a qualified work force.

Sustainable tourism can have a transformative role in fighting poverty, in particular in the management of national parks. By creating decent jobs opportunities, tensions in the society are in fact drastically reduced. In this connection the mobilization of the private sector is essential not only for the investments that provides, but also for the capacity to deliver inclusive and sustainable development.

The revenues generated from Tourism create local employment, accompany the conservation process in the parks; allow the sustainable management of the natural resources and cultural heritage, take care of clean energy and environmental concerns. The whole supported by qualification programmes in the human resources.

Links between sustainable tourism and culture are also important and shall be further developed. In the same line, the EU support the cultural industries in ACP countries aiming at promoting an enabling environment for creativity, cooperation and exchanges, independence and viability of the cultural sector in the ACP States, as well as the safeguarding of cultural diversity and fundamental cultural values.

Heritage tourism is a growing market segment with significant potential in product diversification, in promoting local economic development and in generating employment.

Tools and Resources on Tourism

- Overall reference in Sustainable tourism is the work of the UNWTO World Tourism Organization. https://www.unwto.org/sustainable-development
- Specific reference: Sustainable tourism for development Guidebook — enhancing capacities for Sustainable Tourism for development in developing countries UNWTO 2013. https://www.e-unwto.org/doi/pdf/10.18111/9789284415496

Value Chain Specific BER

As part of its actions aimed at encouraging economic growth as well as agricultural development, the EU is supporting a broad variety of value chains in partner countries. A value chain describes the full range of value-adding activities required to bring a product or service to market through the different phases of production, including procurement of raw materials and other inputs, assembly, physical transformation, acquisition of required services such as transport or refrigeration, and ultimately response to consumer demand. Value chains analysis has to internalise the conditions for long-term growth and sustainability.

In the case of agriculture, value chains constitute strategic productive systems relevant for fostering agricultural-based activities through investment and policies engaging farmers and business. The EU has developed extensive expertise and experience in selecting, analysing (including through the most up-to-date value-chain analysis methodologies) and supporting sustainable value chains in partner countries, including in particular in Sub-Saharan Africa.

Tools and Resources

- Value Chain Analysis for Development (VCA4D): DEVCO has set up a partnership with the European Alliance on Agricultural Knowledge for Development (AGRINATURA) to provide support for value chain analysis. VCA4D provides both a framework (including software) for functional analysis and interdisciplinary experts. https://ec.europa.eu/knowledge4policy/projects-activities/vca4d-value-chain-analysis-development_en
- Guidelines for Value Chain Selection (2015, GiZ&ILO): Integrating economic, environmental, social and institutional criteria for value chain selection. https://www.

ilo.org/empent/areas/value-chain-development-vcd/WCMS_416390/lang--en/index.htm

The approaches and methodologies set out in the references above are beyond the scope of a BER toolkit, since they address the process of selecting and analysing value chains or sub-sectors to support and then providing technical assistance to stakeholders within the value chain. However, this Section 4 has been included here because initiatives working to analyse or support stakeholders working in a value chain or sub-sector in a partner country—regardless of whether it is in agriculture, mining, manufacturing, construction or services--are in an excellent position to identify and address business environment constraints that are specific to that value-chain or sub-sector. Using the value chain as a framework for prioritizing and advocating for reform is an effective way to complement conventional horizontal and vertical BER interventions.

Such 'Bottom-up' business environment reform activities use a value chain lens to emphasize provincial and local, as well as national, level regulatory, legal, policy and institutional reforms to improve those aspects of the business environment that most adversely affect enterprises in particular value chain. Crucially for EU development assistance which prioritises MSME growth, such an approach to BER can be far more effective than conventional BER in identifying what is most important to MSMEs.

Tips for practitioners: Symptoms of Business Environment Constraints within a value chain

Informality: Informality may indicate that regulations or administrative procedures are too arduous, forcing the private sector to work around formal processes. Low rate of corporate tax payment: Related to informality, low rates of tax payment may indicate problems in tax policy or administration, such as a burdensome tax rate or an inefficient tax collection system. Drop in market share: If market share has dropped off dramatically (particularly in growing markets) there may be new conditions, regulations or standards in the market that the private sector is unable to meet, or there may be a change in the trade regime. High levels of collateral required for loans: If firms are unable to access finance through banks-or if very high levels of collateral are required-it may indicate a lack of information about firms or the lack of a credit registry.

ILLUSTRATIVE APPROACHES TO VALUE CHAIN SPECIFIC BER

As a practical matter, value chain specific-BER will be feasible in two contexts: 1) as an intervention within a programme already supporting a value chain in a partner country, or 2) in coordination between a BER initiative and a programme supporting a value-chain. In other words, bottom-up approaches require in-depth knowledge of the value-chain and its stakeholders and can only take place after the initial analysis has been completed and support is being provided. This fact is clearly demonstrated in the two illustrative methodologies (A4A and CIBER) set out below. Note that these two methodologies are presented as examples of existing approaches to integrate regulatory, legal, policy and institutional reforms—BER—into value chain interventions. Elements of both can be adapted to the specific needs of an intervention.

In general terms, elements from both methodologies can be of inspiration to conduct public-private dialogue processes on BER such as the ones supported by SB4A in African countries.

The ITC Alliance for Action (A4A) methodology

The International Trade Centre (ITC) has implemented projects supported by the EU and developed the Alliances for Action (A4A) methodology which is a market-system-based partnership approach for SME and value chain competitiveness. Its aim is to improve sustainable participation in global value chains whilst supporting impact at scale for the achievement of the SDGs. A4A is a multi-stakeholder initiative that brings together private and public actors with the aim to promote competitiveness and income-risk diversification for smallholder farmers and SMEs. Above all, A4A improves commercial linkages and participation in trade by targeting value chain operators and focusing on several product-market combinations. The various VC stakeholders including lead firms and support institutions work together and form market-led partnerships that enhance value chain integration, technical support, policy alignment and local institutional capacity building. This should result in an improved enabling environment and in commercially-led partnerships between VC operators for improved competitiveness of both small and medium-sized enterprises (SMEs) and smallholders involved in the selected value chains.

A key requirement of A4A success is investment and contribution by all participating stakeholders — or Alliance partners — including in-kind as well monetary for the funding of operational costs and support activities.

A4A project delivery is structured around five sequential components that drive the project design, implementation, and monitoring and evaluation approach:

1. Understand: Action-Oriented global, regional and local value chain and SME competitiveness analysis. Component 1 primarily involves completing a market systems analysis and a business model assessment for the value chain, cluster and/or industry of interest. It involves participatory approaches for collection and generation of objective and detailed market and industry trend data and it includes current VC and SME performance, stakeholder and governance mapping and characterization. The outcomes are validated and disseminated directly to sector stakeholders using participatory methods.

2. Convene: Public-private alliances for action for selected value chain, cluster or territorial ecosystem: Multi-level public-private alliances are established as part of the implementation of Component 2. These Alliances are the leading VC based platforms to prioritize and put into action the findings and recommendations of the outputs from Component 1 and other existing evidence. The private public platforms implement value chain business plans and other existing sector support and partnership plans including Local, Regional and Global VC dimension. The Alliances building between stakeholders follows a territorial and value chain logic and is commercially driven; responding to market led VC operator partnerships.

3. Transform: Delivery of technical capacity building package to 'unlock' inclusive growth and SME and value chain competitiveness. Component 3 focus on delivering the technical capacity building support package designed in the previous component capable of providing the required technical assistance to stimulate private investment, improve value chain governance, and promote network collaboration and innovative partnerships in the context of the value chain operator performance gaps and opportunities. It involves collaboration with both public and private sector support service providers for the delivery of targeted capacity building training packages by both public and private sector Alliance members. It focuses on delivery and reinforcement of existing technical services in response to the needs and collaboration arrangements outlined in the alliance business model and in each of the specific value chain alliance support plans.

4. Invest: Improving access to financial services and impact investment in value chains. Component 4 aims at determining the feasibility and efficiency of the existing supply of financial instruments on the basis of SME and MSME types, production systems and target markets. Most importantly, this component targets the identification and consolidation of partnerships with financial and impact investment institutions to provide necessary funding for the implementation of the VC and alliance business plans. The overall objective is to support access to relevant types of finance which support the value chain operators to overcome financial constraints which have a limiting effect on their competitiveness and the competitiveness of the industry. It is crucial for finance and investment to be affordable, inclusive accessible and available.

5. Impact: Participatory Value chain-based monitoring, evaluation and communication system. A4A will not function properly without a participatory value chain-based monitoring, evaluation and communication system. The monitoring and evaluation system of Component 5 focuses on ensuring accountability, improved performance and learning for the future. This participatory system tracks selected value-chain-based indicators as well as development related objectives. By focusing on models to resolve specific VC challenges and innovations, the goal is to prove and improve public-private partnerships for inclusive and sustainable growth and thereby to ensure enhanced performance and contribute to more effective future programming.

For more information see https://www.donorplatform.org/news-inclusive-agribusiness-and-trade/international-trade-centre-itc-new-alliances-for-value-chain-competitiveness.html; see also http://www.intracen.org/sectors/Inclusive-agribusiness-value-chains/

Competitiveness Impact of Business Environment Reform (CIBER)

Developed by DAI with USAID funding, CIBER supports reformers to engage value chain participants in identifying those aspects of the regulatory environment that most negatively affect value chain competitiveness; quantify the costs and benefits of implementing required reforms; and develop practical and effective advocacy plans for achieving reform. Rather than examine all regulations, administrative procedures and judicial enforcement issues affecting a value chain, it uses input from enterprises and industry experts to determine the scope of analysis. The CIBER process provides for three main steps summarised below:

Step 1: Develop List of Business Environment Constraints.

The first step is to work closely with value chain stakeholders to identify key regulatory and administrative constraints to competitiveness. These constraints may be imposed by overly burdensome, outdated, inappropriate or insufficient regulations or laws.

This analysis may draw from a variety of legal and regulatory categories including:

- Regulations governing business activity/factors of production (labour regulations, land use regulations, and financial sector regulations, etc.)
- Required interaction with authorities (business registration, tax collection, licensing, and property registration, etc.)
- Transactions in downstream markets (access to markets, compliance with health, quality, safety standards, and foreign exchange restrictions, etc.)
- Transactions in upstream markets (access to inputs, imports, etc.)

Next, stakeholders are consulted to identify, and ground-truth priority issues related to the business environment. This information may be gained through surveys, one-on-one interviews or focus groups. Consultation with industry experts and international buyers is also helpful for identifying issues that may not be visible to local participants.

Step 2: Estimate Costs of Key Business Environment Constraints.

Once a short list of constraints has been identified, the method guides researchers, project staff and industry stakeholders through the process of identifying the costs imposed by specific laws, regulations, implementation issues or lack of necessary regulations. In some cases, it is possible to track the added cost per unit of the product under consideration, as well as added value at each stage of production, using a cost modelling approach. In other instances, such as for issues of quality certification, a qualitative approach or general estimate of the magnitude of impact will be sufficient. If a detailed cost estimate is not possible, the costs and benefits of business environment reforms that target the constraints identified should be weighed.

Step 3: Assess Political and Administrative Feasibility of Each Reform.

Next, the diagnostic team assesses the political and administrative feasibility of each identified reform. This may also need to be supplemented by an assessment of the impact of fragility or conflict issues on reform feasibility.

The feasibility assessment can support the prioritisation of reform activities and helps future programmes

CIBER political feasibility assessment factors

- The degree of geographic centralisation of the value chain under review
- The degree of specificity of the regulation to the value chain
- Level of government at which the regulation is promulgated/implemented
- Historical factors that have led to or support the current regulatory framework
- Existing incentive structure that has led to or support the current regulatory framework
- Possibilities for refining the existing incentive structure
- Support/opposition within and outside of government
- Leverage supporters/opponents have to support their own interests
- Expected size of impact in terms of costs (financial, time, political, etc.)
- Past reform initiatives and reason for outcome
- Current or near-term government reform initiatives are planned and who is championing them
- Degree of political centralisation
- Public-private organisational role and structures
- 'Winners' and 'losers' in policy implementation
- Degree to which other private-sector actors may be hurt by the reform

The CIBER approach was piloted in the cashew value chain in Brazil

World cashew nut supply nearly tripled between 1994 and 2005. As competition intensified for the 195,000 producers located mainly in Brazil's poorest region, the government sought to support cashew exporters with a tax credit. However, poor design and worse implementation in the tax credit refund process imposes costs that reduce the competitiveness of Brazil's cashew exports. CIBER analysis determined that the cost of production per box of raw cashew nuts for an average processor increased more than 10 percent because of delays in tax credit refunds and lost credits. These increased costs have halved processors' profit margins. The reform of national and state-level tax refunds appears to have political currency in the context of a national movement towards tax reform. Due to the highly concentrated nature of cashew industry processing—located in the Northeast state of Ceará—industry support is also strong and the constituency for reform advocacy efforts is clear. National and state budgets are the primary losers, as they are currently retaining income that is due to be returned to the private sector, but all analyses suggested that this is a constraint that can be overcome. Armed with the CIBER results, processors affected by the poor regulation now had a powerful argument, supported by an estimate of the financial loss to the value chain, to take to the government when advocating for reform of this tax scheme.

to determine short-, medium- and long-term priorities, informing the development of an advocacy approach. These may be designed around public-private dialogue initiatives and/or use locally appropriate media outlets to build a broader base for reform support.

The resources below will help consultants adapt the basic CIBER approach to the specific needs of an initiative.

- CIBER: Enhancing Competitiveness Impacts of Business Environment Reforms: A Value-Chain Approach for Analysis and Action (prepared by DAI for USAID, 2008)
- Bryanna Millis and Dan Charette, Competitiveness Impacts of Business Environment Reform (CIBER): A Bottom-Up Approach, 13 Developing Alternatives 1, (DAI, Winter 2009)
- Sector Competitiveness Analysis Tools, Reference Guide (Prepared by DAI for the World Bank Group (2010)

Chapter 4

Integrating cross-cutting issues to BER

GENDER

The EU places equality between men and women at the core of its values. In September 2015, the EU launched a new framework 'Gender equality and women's empowerment: transforming the lives of girls and women through EU external relations 2016–2020 — the new EU Gender Action Plan (GAP) for 2016–2020'[1] — which was a review of the previous GAP and strengthens the prioritisation of gender in EU external action. This framework aligns with Goal 5 of the SDGs that aims to 'Achieve gender equality and empower all women and girls' by 2030.

Empowering women and girls economically by increasing their fair and active participation in the economy is central to achieving this goal and optimising production patterns to ensure sustainable long-term growth. Women's economic empowerment can reduce inequalities, address poverty and improve broader development outcomes, as women are more likely to spend their income on education, health and nutrition for their family. Evidence also shows it can lead to stronger economic growth. The OECD estimates that closing the gender gap in the labour market by 2030 could increase by 12% the total size of the economy across OECD countries. Similarly, farm yields could increase by 20-30% if women were given the same access to productive resources as men, raising total agricultural production. This could lift an estimated 100-150 million people out of hunger worldwide[2].

The global economy has seen positive trends with regard to women's participation in it as business owners, workers and managers. Women's entrepreneurship is rising and so is women's labour force participation, having reached nearly 50% worldwide by 2015[3]. However, women still lack the same opportunities as men, with poorer access to capital and land, and laws, regulations and customs restricting their ability to conduct business or participating fully in the labour market. Women are three times as likely as men to be hired informally and spend a larger amount of their time doing unpaid work. Such discrepancies impair women's ability to participate in development and to contribute to higher living standards[4].

A poor business environment has a negative impact on economic opportunities for both men and women, but it has a disproportionate negative effect on women who face specific constraints. Therefore, reforming the complex policy, legal, institutional and regulatory conditions that govern the business environment need to pay particular attention to the role of women in the economy and the constraints they face as economic actors. Gender-sensitive reform has the potential to economically empower women and thereby contribute to increased and more inclusive economic growth, as well as improve broader development impacts.

In Part IV there are detailed guidelines to support practitioners in integrating gender issues in diagnostic assessments of the business environment

TOOLS AND RESOURCES

- Business environment reform and gender, DCED 2016. https://www.enterprise-development.org/wp-content/uploads/DCEDBEWGSectorBERReport2015.pdf
- Gender-sensitive business environment reform: Why does it matter. DECD, 2017. https://www.enterprise-development.org/wp-content/uploads/DCED-BER-Gender-Policy-Guide.pdf
- Gender and the business environment for new firm creation, WB 2011 https://elibrary.worldbank.org/doi/pdf/10.1093/wbro/lkp032
- Gender and sustainable development, OECD 2008. https://www.oecd.org/social/40881538.pdf
- Assessment Framework for Growth Oriented Women Enterprises (GOWEs), ILO/AfDB: This tool supports the situational assessment of the environment for growth-oriented women entrepreneurs in a given country for the purpose of identifying critical forms of support that can enable women to grow and expand their enterprises, and in the process to create jobs and

1 Guidance note on the EU Gender Action Plan 2016–2020, For DEVCO HQ and EUD operational staff, March 2016
2 Gender Equality and Women's Empowerment: Transforming the Lives of Girls and Women through EU External Relations 2016–2020, Joint Staff Working Document, September 2015
3 Women at Work, Trends 2016, International Labour Organisation
4 Gender Dimensions of Investment Climate Reform, A Guide For Policy Makers And Practitioners, Sevi Simavi, Clare Manuel, Mark Blackden, The World Bank, 2010

income for themselves and others. The tool is applied in broader ILO country level assistance funded by both ILO core funds, supplemented by bilateral donor support, as well as an integrated activity within the ILO's Women's Entrepreneurship Development Programme (WED). The process of applying the tool involves collaboration between governments, policy makers and other stakeholders to identify and in turn remove the specific gender barriers that women entrepreneurs may face. The ILO-AfDB GOWE assessment framework is applied over a 2-week field fact-finding visit to a country. http://www.oitcinterfor.org/sites/default/files/AfDB-ILO%20GOWE%20Assessment%20Guide.pdf

- Africa Gender Equality Index, AfDB: The Africa Gender Equality Index measures gender equality across three separate dimensions: equality in economic opportunities, equality in human development and equality in law and institutions. Each dimension draws on a series of indicators listed below. Together they provide answers to six questions: 1 Do women and men have equal opportunities in business and employment? 2 Do girls and boys have equal opportunities at school? 3 Do women have access to reproductive health services? 4 Are women and men equally well represented in institutions? 5 Do women and men have the same legal rights? 6 Do women and men have the same household rights? https://www.afdb.org/en/topics-and-sectors/topics/quality-assurance-results/gender-equality-index/
- GenderCLIR, USAID: The GenderCLIR diagnostic examines the legal, institutional, and social impediments women entrepreneurs face in trying to engage meaningfully in the formal economy. Improving the economic position of women can have a multiplier effect on growth in other sectors of the economy. Women are more likely to spend their income on education, health, and nutrition for their families, providing investment in some of a country's most important sectors for human capital development. GenderCLIR examines the key issues confronting women in the workplace across seven topics: Women's Role in Society, Women in the Private Sector, Women and Labour, Women and Property, Women and Credit, Women and Trade, and Women and Criminal Justice. The GenderCLIR indicators have also been successfully incorporated into the broader business environment analysis in certain BizCLIR and AgCLIR assessments.

GenderCLIR Rwanda, 2009

The first GenderCLIR assessment took place in Rwanda in April 2009. The assessment team evaluated the pressures within the Rwandan business climate specific to women entrepreneurs. Assessors conducted interviews and focus groups with a diversity of women's business associations, women business owners, and local women leaders as well as additional stakeholders throughout the business environment. The GenderCLIR Rwanda report was divided into the six key areas of support identified by the assessment team as most crucial to improving the business climate for women in Rwanda: Institutional Strengthening, Education and Training, Access to Finance, Access to Markets, Coordination and Networking, and Moving from Policy to Practice. Following the assessment, the mission requested technical assistance to conduct gender workshops for women business owners in 4 cities to discuss common challenges, learn business skills, and network with one another. More importantly, the GenderCLIR diagnostic has helped to integrate women's issues into the broader discussion of improving the business climate. For example, the GenderCLIR indicators have been used to conduct gender-specific analyses within broader BizCLIR and AgCLIR assessments. A chapter on gender was included in the Uganda and Tanzania AgCLIR assessments in 2010.

Source: Business Climate Legal and Institutional Reform BizCLIR Project Final Report, USAID, March 2011

- Social Institutions and Gender Index (SIGI), OECD: Cross-country measure of discrimination against women in social institutions (formal and informal laws, social norms, and practices) across 160 countries. Discriminatory social institutions intersect across all stages of girls' and women's life, restricting their access to justice, rights and empowerment opportunities and undermining their agency and decision-making authority over their life choices. As underlying drivers of gender inequalities, discriminatory social institutions perpetuate gender gaps in development areas, such as education, employment and health, and hinder progress towards rights-based social transformation that benefits both women and men. The SIGI covers five dimensions of discriminatory social institutions, spanning major socio-economic areas that affect women's lives: discriminatory family code, restricted physical integrity, son bias, restricted resources and assets, and restricted civil liberties. The SIGI's variables quantify discriminatory social institutions such as unequal inheritance rights, early marriage, violence against women, and unequal land and property rights. Through its 160 country profiles, country classifications and unique database, the SIGI provides a strong evidence base to more effectively address the discriminatory social institutions that hold back progress on gender equality and women's empowerment. https://www.genderindex.org/

- Toolkit on Mainstreaming Gender Equality in EC Development Cooperation: This toolkit is part of a large effort to build capacity for gender mainstreaming in development cooperation of colleagues in the External Relation Directorates and in EC Delegations. The toolkit is complemented by a range of training and Help Desk services also tailored to their needs. https://eige.europa.eu/library/resource/aleph_eige000001976
- Donor Committee for Enterprise Development (DCED), Women's Economic Empowerment Working Groups (WEE WG): Founded in 1979, the DCED has developed a substantial body of knowledge about the rapidly expanding field of PSD. The DCED's 22 members — funding and inter-governmental agencies — share the vision of making PSD more effective by: Sharing experience between agencies and field programmes; Developing and disseminating knowledge and guidance on good practice in PSD; and Communicating evidence on results in PSD. DCED members have formed a Women's Economic Empowerment Working Group (WEE WG) to share experiences and develop guidelines on effective practice. The theme has also been addressed by the DCED Business Environment and Results Measurement Working Groups. Key publications:
- Gender-Sensitive Business Environment Reform: Why does it matter? — A policy guide
- Business Environment Reform and Gender, Technical paper
- Case Study: Gender-Sensitive BER and Informality

https://www.enterprise-development.org/organisational-structure/working-groups/overview-of-the-womens-economic-empowerment-working-group/

- Business Environment Reform Facility (BERF), DFID: Funded by the UK Department for International Development (DFID), BERF responded to demand from DFID managers to initiate, improve and scale up business environment reform programmes. Key publications:
  - *What is Best Practice on Gender and Business Environment Reform?*
  - *Scoping Study on Customary Law and Women's Entrepreneurship*
  - *The Business Environment Reform Diagnostic (BERD) Process: Guidance for Consultants*
- Gender Dimensions of Investment Climate Reform, World Bank/IFC: This guide aims to provide fresh thinking to solve common issues women entrepreneurs face in the business environment area. It presents actionable, practical, replicable, and scalable tools. Specifically, the guide seeks to enable development practitioners and policy makers who are not gender specialists to (i) diagnose gender issues in a business environment reform area, (ii) design practical solutions and recommendations to address gender constraints, and (iii) include effective monitoring and evaluation tools to oversee the implementation of those recommendations. http://www.oecd.org/dac/gender-development/45449146.pdf
- Women, Business and the Law (WBL), World Bank, 2019: Project that collects data on gender inequality in the law. It collects data related to seven indicators on laws and regulations constraining women's entrepreneurship and employment to form an internationally and regionally comparative data set, with the aim for policy makers and regulators at a national level to undertake reforms in these areas. It includes data for the indicator 'Can a woman register a business in the same way as a man?' identifying which countries still have gender discriminatory laws related to women's business registration and licensing. Other indicators capture data on indirect constraints to women's enterprise formalisation including 'Can a woman sign a contract in the same way as a man?'. http://pubdocs.worldbank.org/en/702301554216687135/WBL-DECADE-OF-REFORM-2019-WEB-04-01.pdf

- World Bank Enterprise Surveys: The Enterprise Surveys provide indicators that describe several dimensions of gender composition in the workforce. It also collects information on the characteristics of the workforce employed in the non-agricultural private economy. The set of indicators presents the composition of the firm's workforce by type of contract and gender. Labour regulations have a direct effect on the type of employment favoured by firms and they may have a different impact by gender. Other indicators present the composition of the workforce classified into temporary and permanent workers and reflect the participation of women in regular full-time employment.
- Percent of firms with female participation in ownership
- Proportion of permanent full-time workers that are female
- Proportion of permanent full-time non-production workers that are female
- Percent of firms with a female top manager
- Proportion of permanent full-time production workers that are female. Percent of firms with majority female ownership

www.enterprisesurveys.org

PRO-POOR INTERVENTIONS

First generation BER programmes in developing and transitioning countries typically did not identify poverty reduction or formalisation as explicit goals. The World Bank's Doing Business likewise was not originally intended to identify reforms that would foster inclusive growth. This can be seen for example in the cases used in DB: medium-sized, formal sector enterprises (rather than MSMEs) in the largest city in that country. The case studies likewise require assumptions such as the absence of bribes, which greatly undermined impact. It is not surprising then that such global indices are often not seen as relevant to informal actors or to MSMEs in most developing countries[5].

Although it can be a challenge to reconcile long-term sustainable growth and real GDP growth with conditions for short-term investments, BER programming today focuses more on inclusive growth and poverty reduction. BER interventions are increasingly being 'mainstreamed' into broader inclusive growth initiative, such as local economic development, workforce development, access to credit for MSMEs or support to agriculture. Regardless of the context, there are many ways to make BER interventions more pro-poor and better at internalising long-term drivers of sustainable development.

Inclusive business can be defined as private sector companies with business models or activities that pursue commercial viability and that have (or are likely to have) significant economic and/or social benefits for poor people in their value chains. Similarly, where the term 'inclusive growth' is used, this refers to sustainable economic development which provides increasing opportunities for the poor to benefit from improved access to products and services, and/or productive income and employment[6]. During all phases of a BER intervention but maybe more importantly at the design phase, it is essential to determine that impact will be related to increasing opportunities for the poor.

Moreover, the compliance with ILO conventions, human, social and labour rights, and social protection, are important aspects that have to be considered in BER programmes.

TOOLS AND RESOURCES

- R. Kormos (2013) Pro-Poor Business Law and Regulatory Reform. Developing Alternatives, available at http://bit.ly/1gLameg
- A pro-poor business enabling environment: The case of Zambia CAFOD 2014. https://cafod.org.uk/content/download/17208/133478/file/Think+small+-+A+Pro+Poor+BEE+-+Zambia+case+study+CAFOD+2014.pdf
- Levelling the playing field. The role of government in enabling pro-poor businesses to thrive. Christian Aid 2014 https://www.christianaid.org.uk/sites/default/files/2017-05/Levelling%20the%20

5 R. Kormos (2013) Pro-Poor Business Law and Regulatory Reform. Developing Alternatives, http://bit.ly/1gLameg
6 DCED, 'How to create an enabling environment for inclusive business? Learning from experience and debates in private sector development', Melina Heinrich-Fernandes, 2016

playing%20field%20-%20the%20role%20of%20government%20in%20enabling%20pro-poor%20business%20to%20thrive.pdf

- DCED, 'How to create an enabling environment for inclusive business? Learning from experience and debates in private sector development', Melina Heinrich-Fernandes, 2016. http://www.enterprise-development.org/wp-content/uploads/DCED_Creating_An_Enabling_Environment_For_Inclusive_Business.pdf

THINKING LOCALLY

Conventional BER takes place at the national level, starting with high-level analysis of national legal and regulatory frameworks as well as their implementation and enforcement by national level government agencies. Often reforms are modelled on laws and regulations from industrialised countries. Such an approach may lead to improvements in national frameworks and higher Doing Business rankings, but it often misses the real-world constraints faced by local entrepreneurs. Conducting diagnostics at the sub-national and local level and focusing on MSMEs and other stakeholders in specific localities helps better target reforms and reach the poor. Such an approach, including environmental safeguards and offsets, is especially useful in the context of rapid urbanisation in developing countries, since poverty is as much an urban as a rural phenomenon.

Doing Business and Street Vendors in Tanzania's Cities: How Not to Reach the Poor

As part of BER initiatives aimed at improving Tanzania's Doing Business scores in the late 2000s, the authorities forcibly evicted thousands of informal sector street vendors from the country's major cities. Economically viable alternative locations, such as markets near urban centres, were not provided to these vendors, and to make matters worse, business licensing reforms formally abolished street-peddling licenses, precluding any option for these economically active but very poor entrepreneurs to move towards the formal sector. (Michal Lyons and Colman Titus Msoka, The World Bank and the Street: (How) Do 'Doing Business' Reforms Affect Tanzania's Micro-traders?, Urban Studies 2010 47:1079.

MICRO AND SMALL ENTERPRISES

There is a long history of donor-funded support programmes for MSEs in developing countries — including access to finance for MSEs, business development services and workforce development. Although MSEs are those providing most employment and social impact, these programmes have rarely looked at the business environment for MSEs, and conversely BER programmes have rarely focused on the business environment for MSEs.

Moreover, it is acknowledged that poor business environments create a disproportionately negative effect on micro and small enterprises (MSEs) and hinder their development. It is therefore key to consider BER impact on MSEs at the design phase of the action. The most important bottlenecks to business development at all stages of the business development cycle need to be identified.

MSEs are defined as private enterprises at the smaller end of the size spectrum. Definitions of firm size vary by country and organisation[7]. MSEs demand attention by reformers for two reasons (DCED, 2018):

'Think small first'

The EU set up a task force on Business Environment improvement in the nineties, called BEST. They prone that the 'Think small first' approach should always be applied. Because what works for the smallest companies works for the biggest, but not necessarily the other way round. http://aei.pitt.edu/35375/1/A1279-V1.pdf

[7] Unless otherwise defined in this document, micro-enterprises are private firms with fewer than five employees, small enterprises have between five and 19 employees, medium-sized enterprises between 20 and 99 employees, and large enterprises with 100 or more employees

'First, they are major contributors to national development. In most countries, microenterprises and SMEs account for the highest number of firms. This number increases as the size of the firm decreases. Similarly, microenterprises and SMEs are important contributors to national employment, value-addition and gross domestic product. Second, MSEs are more vulnerable to a poor business environment than larger enterprises. Smaller firms pay a proportionally higher cost for doing business than do large firms. Moreover, the external threats created by poor business environment place MSEs in a more vulnerable position'.

Different types of businesses, different needs. For instance, taxes and compliance issues are usually not the same ones for small businesses than for bigger businesses. Companies having already an export experience do not face the same bottlenecks in terms of quality standards than those which have not exported. In most urban contexts MSEs rarely own their business premises so reforms relating to land registration are irrelevant. As renters however, they may be facing legal uncertainty or other challenges in landlord-tenant law.

Access to finance and business development services (BDS) needs are very different depending on the size, on whether businesses are formal or informal, on the stage of development and on the nature of the activity, and policies should consider the different needs.

Following the DCED Policy Paper on MSE and BER[8], MSE-oriented business environment reforms boost economic growth and transformation as they identify the factors that inhibit the growth of MSEs. This includes the focus on:

- Women's economic empowerment: by removing the legal and regulatory barriers affecting a disproportionately high number of women-owned and managed enterprises found in the MSE sector;
- Encouraging formalisation. Business environment reforms contribute to the formalisation of firms by creating the conditions in which informal firms find that formalisation offers more benefits than cost, along with the use of better enforcement mechanisms;

EU Support to MSMEs in Latin America: AL-INVEST and EuroMiPYMEs

AL-INVEST is the EU flagship programme for the promotion of Latin American MSMEs, and has been supporting MSMEs as catalysts for inclusive growth in the region since 1993; the current phase, AL-INVEST 5.0 will continue until 2019 and is being implemented in 18 countries. It aims to create business linkages, improve private sector capacity and strengthen private sector associations. EuroMiPYMEs, a project under AL-INVEST, is implemented by the United Nations Economic Commission for Latin America and the Caribbean (ECLAC), focuses on how to improve the business environment for MSMEs and develop policies conducive to inclusive growth at the national, regional and sub-regional levels. Initiatives have included strengthening technological development centres, strengthening business development providers and promoting digital technologies. The programme has undertaken studies of MSME policies in 7 countries and promoted regional cooperation on MSME policy.

- Improving labour and labour-related legal and regulatory regimes are used to address the job quality challenges faced by many of MSE workers;
- Promoting entrepreneurship. These include support for entrepreneurship education, finance, innovation, and culture, and are mostly focused on entrepreneurial start-ups.
- Addressing the problem found in disadvantaged regions, where poor people are more prevalent and MSEs more common (e.g., rural economies);
- Focusing on industries in which poor people are more highly represented (e.g., agriculture).
- Supporting regular public-private dialogue in which MSEs are better represented and more involved.

However, donors and agencies cannot exclusively focus on supporting MSEs. They must find ways to avoid inhibiting growth and transformation. Donors can

[8] Policy Brief: Creating Better Business Environments for Micro and Small Enterprises (2018)

support business environment reforms that contribute to enhancing the dynamics of the broader private sector as the engine of economic growth. A number of diagnostic tools and studies that bridge this gap are presented below. Also, for further details, the DCED guidelines (2018) proposes best practices.

TOOLS AND RESOURCES

- Donor Committee for Enterprise Development (DCED): Policy Brief: Creating Better Business Environments for Micro and Small Enterprises (2018). https://cdn.enterprise-development.org/wp-content/uploads/DCED-Policy-Brief-BEWG-BER-MSEs-February-2019.pdf
- Donor Committee for Enterprise Development (DCED): Technical Report: Creating Better Business Environments for Micro and Small Enterprises (2018), Simon White. https://cdn.enterprise-development.org/wp-content/uploads/DCED-BEWG-BER-and-MSEs-Report-FINAL.pdf
- International Labour Organization (ILO), Assessing the Influence of the Business Environment on Small Enterprise Employment: An Assessment Guide (2004)
- ILO, Surveying the Influence of National Policies, Laws and Regulations on Employment in MSMEs: Survey Kit (2002)
- Micro and small enterprises as drivers for job creation and decent work, Caroline Reeg, 2015. https://www.die-gdi.de/uploads/media/DP_10.2015.pdf Simon White, Donor Approaches to Improving the Business Environment for Small Enterprises, Working Group on
- Enabling Environment, Committee of Donor Agencies for Small Enterprise Development (2004)
- The BEST Report on Business Environment Simplification and its applicability in Macedonia. Occasional paper Nr.5. https://core.ac.uk/download/pdf/11867365.pdf

INFORMAL SECTOR / HOUSEHOLD ENTERPRISES

The vast majority of people who work outside the agriculture sector in Sub-Saharan Africa are engaged in informal household enterprises. This is the case both in rural and urban contexts—in fact between 30 and 50% of rural households have a non-farm household enterprise[9]. These household enterprises sell services such as hairdressing and repairs, sell consumer goods and contribute to the industrial sector. These informal businesses provide livelihoods for millions and are essential to reducing poverty in developing countries. Yet most Sub-Saharan governments continue to ignore, neglect or undermine this sector (see text box on Tanzania above).

Understanding the importance of the informal sector and specifically why entrepreneurs choose to remain informal or semi-formal is a critical first step in improving the business environment. Regulations such as street vendor licensing regimes must be tailored to and accessible to small-scale entrepreneurs, while also balancing the claims of other stakeholders and protecting the public. Barriers to enter the formal economy vary, but labour and taxation laws and regulations are the most common obstacles. Increasing the benefits of formality—such as ensuring basic property rights and workplace security, or making it easier to enter into and enforce simple contracts, resolve disputes or gain access to finance or market information—will improve the business environment and create incentives to formalisation[10].

TOOLS AND RESOURCES

- GSDRC Applied Knowledge Services, Inclusive Growth Topic Guide (2015). http://www.gsdrc.org/wp-content/uploads/2015/06/InclusiveGrowth.pdf
- Business Enabling Environment Assessment Tool / Informal Rules (Mercy Corps), available at https://www.mercycorps.org/research-resources/private-sector-engagement-tool-kit
- Business Enabling Environment Assessment Tool: Formal and Informal Rules (Mercy Corps), available at https://www.mercycorps.org/research-resources/private-sector-engagement-tool-kit

[9] World Bank, Youth Employment in Sub-Saharan Africa: An Overview (2014)
[10] DCED, Business Environment Reforms and the Informal Economy (2009)

- Business Environment Reform and Poverty Rapid Evidence Assessment (DFID, August 2015). https://assets.publishing.service.gov.uk/media/57a0897b40f0b649740000d4/61565-REA-BEE-Q1publish.pdf
- Donor Committee for Enterprise Development (DCED), Business Environment Reforms and the Informal Economy: Discussion Paper (December 2009). https://www.enterprise-development.org/wp-content/uploads/BERIE_Zinnes-1.pdf
- Making the Law Work for Everyone, United Nations Commission on Legal Empowerment of the Poor (UNDP). http://der.oas.org/Institutional_relations/Final%20Report_English.pdf

YOUTH

Youth constitute the largest share of the population in Sub-Saharan Africa and the need for productive employment and entrepreneurship opportunities for them is enormous. Youth is a time of transition as the young leave school for work and grapple with many decisions. As with the other cross-cutting issues, improving the business environment should help support youth as they make that transition. Some guidance on how to better target youth is set out in the text box below.

TOOLS AND RESOURCES

- International Labour Organisation (ILO) Platform on Youth Employment: What Works in Youth Employment. www.wwinye.org
- UNCTAD, Policy Guide on Youth Entrepreneurship, 2015. https://unctad.org/en/PublicationsLibrary/webdiaeed2015d1_en.pdf
- Commonwealth Secretariat Global Youth Development Index. https://thecommonwealth.org/youthdevelopmentindex
- OECD Policy Brief on Youth Entrepreneurship, 2012. https://www.oecd.org/employment/leed/Youth%20entrepreneurship%20policy%20brief%20EN_FINAL.pdf
- African Peer Review Mechanism / Successful Youth Policy: Lessons Learned (2016). https://saiia.org.za/research/successful-youth-policy-lessons-from-the-african-peer-review-mechanism/
- World Bank and International Youth Foundation, Supporting Youth Entrepreneurs: A Practical Guide to Quality Programming, 2014. https://www.iyfnet.org/sites/default/files/library/GPYE-EntreprGuide.pdf

Illustrative BER Interventions to Help Address the Youth Employment Challenge in Sub-Saharan Africa

- Agriculture: Enable rental markets for land, improve land registration and pilot intergenerational land transfer programs
- Household Enterprises / Informal Sector: Develop a national policy for the informal sector that reflects the voices of all stakeholders include youth
- Wage Sector / MSMEs: Reduce corruption and the cost of business registration and licensing
- Strengthen national and regional TVET policy and frameworks for public-private partnerships so that more demand-driven training can be provided
- Increase awareness of opportunities and pathways to self-employment for youth

Source: World Bank, Youth Employment in Sub-Saharan Africa (2014)

FRAGILE AND CONFLICT-AFFECTED STATES

The creation of an enabling Business Environment is very relevant to economic and societal resilience and should be conflict sensitive, in particular to issues related to potential negative impacts of for instance, trade policies, infrastructure, management of natural resources, illicit economies, weaker land rights and land grabbing.

Africa is host to more than half of the world's fragile and conflict-affected states (FCAS)—19 out of 35 countries[11] and the EIP specifically targets investment and reform in

[11] As of May 2016, the World Bank considered the following countries to be fragile and conflict-affected states: Burundi, Central African Republic, Chad, Comoros, Côte d'Ivoire, Democratic Republic of Congo, Eritrea, The Gambia, Guinea-Bissau, Liberia, Libya,

fragile states. It is therefore key to analyse conflict sensitivity to do risk-informed investments or foresee and apply mitigating measures.

The EU is as well committed to respect the guiding principles on Business and Human Rights. Due diligence in this respect needs to be conducted and in particular for all natural resources management and land-based development actions[12].

The challenges facing businesses and investors in FCAS are unique and can be broken down into four categories and vary in terms of severity across FCAS.

- Economic: reduced foreign and local investment, sectoral shifts, damaged infrastructure, illicit taxation and extortion, the legacy of war economy, and informality.
- Political and security related: low legitimacy and capacity of the state, residual violence, and a lack of a functioning judicial system.
- Social: tensions between communities, weak and disrupted networks, low trust and psychological trauma. This can act as a barrier to effective BER due to slow implementation and uptake.
- Demographic: high number of female headed households, a large number of incapacitated and injured combatants, health issues, population displacement, employee flight and low education. This is a prominent issue in how to guide BER to obtain inclusive growth.

The principles for action set out below will help consultants conducting a diagnostic in FCAS consider these challenges as they conduct the research and stakeholder consultation.

BER in Fragile and Conflict-Affected States (FCAS): Principles for action

- Planning, design, implementation and evaluation of BER needs to be flexible and adaptable in FCAS situations, more than in peaceful states, as the context is more susceptible to rapid change. Gathering baseline data and constant monitoring is essential so that mitigations/responses can be put in place quickly.
- Smaller-scale changes can be more effective than sweeping reforms in very fragile contexts. In Mozambique, for example, smaller scale reforms such as creating an alternative dispute resolution for commercial contracts, have helped reduce the time needed to resolve commercial disputes.
- Post-conflict conditions may present opportunities for positive social reforms, such as women's empowerment, as traditional power structures may be more open to inclusion of women in business.
- Timeframes for reforms in FCAS are longer than in other countries. Contingency for this needs to feed into the design and implementation of BER programmes.
- Incorporate political economy assessments and conflict sensitivity analyses.
- Internalise and reflect long term needs to avoid short term improvements coming at the expense of long term growth.

WHERE TO START? PRIORITY FUNCTIONAL AREAS AND SECTORS FOR BER IN FCAS

Although there are few empirical studies examining how to sequence and design BER interventions in FCAS, practical experience suggests that certain reforms should be prioritized in FCAS[13]. The following functional areas of BER are likely to be critical in FCAS:

Madagascar, Mali, Sierra Leone, Somalia, South Sudan, Tog and Zimbabwe. World Bank, Harmonized List of Fragile Situations FY16

12 https://ec.europa.eu/growth/industry/corporate-social-responsibility_en

13 DFID, Business Environment Reform Facility (BERF), Scoping Study on Business Environment Reform in Fragile and Conflict Affected States (May 2016)

USAID Somalia Partnership for Economic Growth

- This private sector development programme focused on the autonomous Somaliland region, where the local private sector and diaspora investors play a critical role in helping the region emerge from conflict. BER interventions under this programme included the following:
- Support to Ministry of Livestock, including reform of veterinary regulations; livestock is a key export for Somalia
- Work with Ministry of Mining, Energy and Water Resources to develop legal and regulatory framework for energy/electricity production and distribution
- Support to investment in solar energy, including regulatory reforms
- TA to the Ministry of Commerce to develop streamlined investment laws, an investment guide and web resources for registered businesses

Source: DAI

- Access to Finance: Ensuring that basic banking and payment systems are in place is critical to ensuring access to finance for MSMEs and the private sector in general. Mobile banking has had a large impact in FCAS such as Somalia, the DRC and Afghanistan. Revising legal and regulatory frameworks for microfinance is similarly a priority in these contexts.
- Land and Property Rights: Securing land rights, including reconstructing and digitalising land registries that may have been destroyed as a result of conflict. That having been said, such reforms can be politically challenging and land rights may have been a cause of the underlying conflict.
- Commercial Dispute Resolution: Re-establishing the rule of law in a post-conflict situation is both symbolically critical and requires time. Reforms to establish alternative dispute resolution for commercial disputes and/or supporting the establishment of new commercial courts may help bridge the gap, reassure investors, and may be easier than broader judicial reform.
- Infrastructure Policy: As a country rebuilds after a conflict, having an effective infrastructure policy in place is a priority; the domestic private sector typically also plays a critical role in the rebuilding along with development assistance and FDI.

BER focusing on key sectors of the economy will also be a critical priority in all FCAS. This is particularly the case in resource-rich countries, where domestic and foreign investment in the extractives sectors is especially important, as well as countries emerging from conflict that are not resource rich where BER focusing on the agriculture sector will be important.

TOOLS AND RESOURCES

- EU Staff handbook on Operating in Situation of Conflict and Fragility. https://ec.europa.eu/europeaid/2015-staff-handbook-operating-situations-conflict-and-fragility_en
- EU Guidance Note on Conflict Analysis. https://ec.europa.eu/europeaid/guidance-note-use-conflict-analysis-support-eu-external-action_en
- DEVCO online course on Conflict Sensitivity. https://webgate.ec.europa.eu/ilp/pages/coursedescription.jsf?courseId=11281270&catalogId=301711
- A number of useful references produced by the DCED on BER and private sector development and conflict-affected environments are available here. https://www.enterprise-development.org/implementing-psd/psd-in-fragile-and-conflict-affected/
- Matthew Glanville, Ingrida Kerusauskaite and Flora Harley, 'Scoping Study on Business Environment Reform in Fragile and Conflict Affected States, DFID Business Environment Reform Facility (BERF), May 2016. https://assets.publishing.service.gov.uk/media/57bdc9cae5274a096b000012/Scoping_Study_BER_in_FCAS.pdf
- Economic development in fragile and conflict-affected states: Topic Guide (GSDRC 2015). http://www.gsdrc.org/wp-content/uploads/2015/09/Econdevfragilestates1.pdf
- A Rough Guide to Investment Climate Reform in Conflict-Affected Countries (USAID / World Bank 2009). https://www.enterprise-development.org/wp-content/uploads/Rough-Guide-to-Investment-Climate-Reform-in-Conflict-Affected-Countries.pdf

- The Conflict Sensitivity Screening Tool prepared for DFID (2012). http://www.gsdrc.org/docs/open/st_dfid.pdf

GOVERNANCE

Governance is not only a critical cross-cutting issue in BER but at the core of BER interventions. Improving how policies, laws and regulations are developed and strengthened as well as how they are implemented in the real world all relate to governance. Areas of intervention include strengthening institutions, capacity building and increasing transparency within the broad functional areas (such as commercial dispute resolution) as well as connecting governance with long-term sustainable development. A critical element of governance and implementation is transparency; corruption is cited by firms in Africa as one of the most problematic factors for doing business.

A number of ways to address governance issues within interventions are set out in the EU Commission's Tools and Methods Series, Reference Document No. 4, Analysing and Addressing Governance in Sector Operations:

- Act Strategically: rather than adopting normative approaches or control when supporting governance reforms, focus on domestic governance — strengthen domestic sector governance systems.
- Focus on basics first; governance changes take time
- Promote key governance principles: participation, inclusion, transparency and accountability, and do so in ways that fit in the country context.

More specifically for BER, improving the overall quality of regulatory governance is also a priority, and considered by the DCED to be one of the ten main functional areas of regulation. Interventions in this area include improving the process of legal and regulatory reform, including systematic review of existing legal and regulatory frameworks (e.g. regulatory guillotine), integrating regulatory impact analysis (RIA) prior to the introduction of new rules, improving public private dialogue and increasing transparency are all critical to business environment reform.

TOOLS AND RESOURCES

- World Bank, 'Better Regulation for Growth: Tools and Approaches to Review Existing Regulations' (Investment Climate Advisory Services of the World Bank Group in partnership with UKAid, 2010). http://documents.worldbank.org/curated/en/201401468162836701/Better-regulation-for-growth-governance-frameworks-and-tools-for-effective-regulatory-reform-tools-and-approaches-to-review-existing-regulations
- Regulatory Governance in Developing Countries (Investment Climate Advisory Services of the World Bank, 2010) https://openknowledge.worldbank.org/handle/10986/27881
- EU Commission, Tools and Methods Series, Reference Document No. 4, 'Analysing and Addressing Governance in Sector Operations'. https://ec.europa.eu/europeaid/sites/devco/files/methodology-tools-and-methods-series-governance-in-sector-operations-200811_en_2.pdf

While this Reference Document is not specific to TPSD actions, it provides practical methodologies for analysing sector governance which are directly relevant to BER diagnostics and the design of BER interventions. For example, Chapter 5 suggests ways for the EC to address governance issues within interventions and sets out operational guidelines:

- Act Strategically: rather than adopting normative approaches or control when supporting governance reforms, focus on domestic governance — strengthen domestic sector governance systems.
- Focus on basics first; governance changes take time
- Promote key governance principles: participation, inclusion, transparency and accountability, and do so in ways that fit in the country context.
- The Ibrahim Index of African Governance (IIAG) is a tool that measures and monitors governance performance in African countries. Business environment is one of the elements which are being measured and monitored. For the year 2018, the report mentions that the African average score for Business Environment is deteriorating by almost 5 points over the last ten years. And it links this trend with the demographic trends of the continent: 'Calling for attention

is the trajectory of the African average score for Business Environment. Deteriorating by almost −5.0 points over the last ten years, this is a worrying trend given that the number of working age Africans (15-64 years old) is expected to grow by almost another 30% over the next ten years'.

- The Bertelsmann Transformation Index (BTI) analyses and evaluates the quality of democracy, a market economy and political management in 129 developing and transition countries. It addresses whether and how developing countries and countries in transition are steering social change toward democracy and a market economy. The Status Index, with its two analytic dimensions of political and economic transformation, identifies where each of the 129 countries stand on their path toward democracy under the rule of law and a social market economy. The Governance Index assesses the quality of political leadership with which transformation processes are steered.
- World Justice Project / Rule of Law Index http://worldjusticeproject.org/rule-of-law-index

The Rule of Law Index (ROLI) measures the rule of law in 113 countries and jurisdictions based on household surveys and expert surveys, and ranks each country globally based on its score. The ROLI is intended to help identify strengths and weaknesses in each country, and help inform policy debates. The following nine factors are evaluated in each country and jurisdiction surveyed:

- *Constraints on government powers (constitutional and institutional limits)*
- *Absence of Corruption in government agencies; measures bribery, improper influence by public or private interests and misappropriation of public funds or other resources.*
- *Open government (whether basic laws and information on legal rights are publicized, the quality of information published by the government)*
- *Fundamental Rights (protection of fundamental human rights)*
- *Order & Security (how well the country assures the security of persons and property; three dimensions are covered including crime, political violence such as terrorism, armed conflict and political unrest, and vigilante justice*
- *Regulatory Enforcement (effective enforcement, application without undue influence, timeliness, due process and no expropriation of private property without adequate compensation; the areas of regulation include public health, workplace safety, environmental protection and commercial activity.*
- *Civil Justice (accessible and affordable, free of discrimination, free of corruption, without improper influence by public officials, timeliness and quality of ADR*
- *Criminal Justice*
- *Informal Justice*

The ROLI is complementary to the other comparative indexes such as Doing Business. The factors measure the application of the rule of law in a broad sense in practice (as opposed to a review of the law on the books), is based on primary data, including surveys of ordinary persons, and its culturally flexible. Unlike Doing Business, ROLI does not identify priorities for reform or provide case studies.

- Worldwide Governance Indicators. http://info.worldbank.org/governance/wgi/#home
- Corruption perception index. https://www.transparency.org/country/
- National System Integrity Assessment. https://www.transparency.org/whatwedo/nis/

ENVIRONMENT, CLIMATE CHANGE AND NATURAL CAPITAL

It is essential and more important than ever, that the preservation of environment, and the focus on climate change mitigation and adaptation, be mainstreamed into all development cooperation. It is accordingly critical that the environment be integrated into all BER interventions, with a long-term approach to the conditions for sustainable development and the management of global public goods. This concern is particularly relevant for Sub-Saharan Africa, where many countries face increasingly serious climate change risks. The main objectives of mainstreaming the environment and climate change include:

- Identifying and avoiding harmful direct and indirect environmental and climate impacts of programmes or investments;

- Recognising and realising opportunities for enhancing environmental conditions, thereby bringing additional benefits to development and economic activities;
- Scaling up best practices in terms of ecosystems services and green jobs.
- Promoting improved environmental and climate change dialogue with partner countries;
- Identifying potential risks of an investment project or technical assistance programme by assessing its exposure and sensitivity as well as response capacities in place to deal with existing or anticipated climate variability and change.

In terms of specific areas of BER several categories of policies, laws and regulations protect or mitigate risks to the environment, including for example industry regulations, construction permitting, and environmental impact assessment requirements for new investments. Resources and tools to facilitate the inclusion of environment and climate change considerations in BER interventions are set out in Annex 19.

The improvement of the business environment is directly related to reforms 'that improve the functioning of markets and reduce transaction costs and risks associated with starting, investing in, operating and closing a business. The Stern report has described climate change as the world's biggest market failure; we can confidently also refer to the global environmental challenges, including the loss of biodiversity, and other critical environmental challenges (e.g. air pollution, water scarcity, pollution by plastics) also as a result of market failures. BER offers the potential to gear business developments that, firstly, are dissociated from environmental degradation, but that could also contribute to address global environmental challenges.

The green economy model also allows to reduce risks to businesses associated to the impacts on business feasibility due to environmental degradation and climate change. Take as examples businesses that rely heavily on the availability and quality of natural resources such as water and soil, as well as all those whose built capital is exposed to extreme weather events.

BER should promote and support the transition to a green economy, i.e. providing the basis for businesses that are resource efficient, environmentally sustainable, climate resilient and low carbon. Gearing BER towards a green economy can bring about significant added value in terms of, e.g. reduced operational costs associated to resource efficiency (including energy efficiency), creation of green jobs, access to higher value niche markets and innovation. Addressing environmental and climate change concerns will also ensure that businesses remain feasible under climate change (climate resilience) and contribute to, rather than undermine, ecosystem services upon which themselves and the broader population depend.

FUNCTIONAL AREA 1. SIMPLIFYING BUSINESS FORMATION, REGISTRATION AND LICENSING

Environmental Impact Assessment (EIA) is a decision-informing tool that feeds into licensing procedures for development proposals. It applies to developments with potential significant impacts on the environment. It not only helps competent authorities make an informed development consent decision (based on environmental implications), but also provides elements to select the best project design such that it minimises adverse impacts on the environment and takes up opportunities to contribute to environmental sustainability. Meaningful opportunities for public participation are fundamental to effective EIA processes.

Business developments can also be subject to other environmental licensing processes, e.g. in relation to waste management and pollution control.

Sometimes it is tempting to greatly simplify EIA and other environmental licensing procedures as a contribution to ease burden on the creation of new businesses. However, care must be taken to ensure effective EIA and other environmental licensing processes remain in place.

Nevertheless, in various countries there are indeed opportunities to simplify EIA systems that are 'all-encompassing', i.e. that require EIAs for a very broad range of activities. In most of such cases EIA systems become burdensome on the administration and businesses and ineffective; they often do not serve the purpose of guaranteeing the environmental sustainability of developments. In such cases there are opportunities to simplify EIA systems, by limiting the activities that require an EIA to those with significant potential impacts on the environment, whilst maintaining rigorous procedural standards. Reducing the number of activities that require an EIA to those where EIA can bring added value also allows competent environmental authorities to be more efficient.

FUNCTIONAL AREA 2: BUSINESS TAX POLICY AND ADMINISTRATION

Tax policy can be fundamental to gear business development down the green economy pathway. Often the onset of green businesses are hindered by the presence of subsidies on fossil fuels or conventional technologies, possibly further affected by levies on the import of cleaner technologies.

Business tax policy can complement broader fiscal reforms (e.g. related to the elimination of perverse subsidies and the promotion of cleaner technologies), by rewarding businesses committed to green development and penalising polluting and carbon intensive initiatives.

FUNCTIONAL AREA 3: INVESTMENT POLICY

Investment policy plays an important role in attracting the sort of investments a country is interested in. Policies can be designed so they attract clean businesses and businesses that will create green jobs, whilst leaving out polluting and carbon intensive developments. In a similar manner, policies can be designed to require certain types of investors (e.g. minimum size, specific sectors of activity) to regularly report on elements of their responsible business conduct.

FUNCTIONAL AREA 4: FACILITATING TRADE ACROSS BORDERS

Although the aim of this area is to simplify customs procedures, it is important to ensure that these reforms do not come in detriment of border controls aimed at controlling e.g. illegal trade in banned pesticides and hazardous wastes, wildlife trafficking and trade derived from illegal logging. Moreover, green (together with quality) certification standards and labels may enhance access to international markets and global value chains, which in turn benefits trading of sustainable commodities (often at premium prices for local producers and intermediaries), and strengthens commitments to sustainable supply chains.

FUNCTIONAL AREA 5: INCREASING ACCESS TO FINANCE

This functional area offers significant opportunities to facilitate access to finance aimed at the creation of green businesses and the promotion of investments on sustainable consumption and production (SCP) practices, including the import of cleaner and low carbon technologies. Businesses that show commitment to resource efficiency and cleaner production could be allowed easier and cheaper access to finance.

FUNCTIONAL AREA 6: IMPROVING LABOUR LAW AND POLICY / VOCATIONAL EDUCATION AND TRAINING POLICY

The development of green(er) businesses can generate opportunities for the creation of green jobs (e.g. in relation to renewable energies, waste management), a demand which can many times not be met by the local population. Vocational Education and Training (VET) can be instrumental to foresee increasing demand in green jobs, and ensure the training of the local population to be able to satisfy those jobs.

FUNCTIONAL AREA 7: LAND AND PROPERTY RIGHTS

Securing land and property rights will also have benefits in environmental sustainability and climate resilience. Secure land rights have shown to be a strong incentive to invest in sustainable land management and climate resilience measures.

FUNCTIONAL AREA 8: IMPROVING COMMERCIAL DISPUTE RESOLUTION

Business and state dispute resolution over environmental conflicts is an increasingly common issue. Environmental Dispute Resolution (EDR) may address conflicts over a wide range of issues, such as land use, management and development; resource allocation and management; and air quality and pollution. It may have a significant effect both ‘upstream’, on policy making, and ‘downstream’ on the planning of investments, influencing (among others) permitting, licensing, and funding.

FUNCTIONAL AREA 9: INFRASTRUCTURE POLICY AND REGULATION

Infrastructure is fundamental to provide the support that is necessary for business development (e.g. secure energy provision, transport, water supply and treatment, waste management, ICT). Nevertheless infrastructure, and especially linear infrastructure (e.g. roads, transmission lines), can be disruptive to the environment; as well infrastructure can be at risk from climate change (e.g. risk to physical integrity due to extreme weather events, reduced availability of water resources) and environmental degradation (e.g. deforestation leading to siltation of hydroelectric dams). It is thus fundamental to assist in securing infrastructure policies that promote the most environmentally sustainable and climate resilient options, as well as promoting infrastructure options that are less carbon intensive (e.g. railway transport over road transport) and that are multi-purpose (e.g. buildings that can also serve as emergency shelters, dams that can be used to generate electricity whilst providing flood control and water for irrigation).

Infrastructure policies must be accompanied by regulations that are conducive to meet the policy objectives. For example, regulations allowing the generation and connection to the energy network of electricity generated from waste management (e.g. landfill gas).

Strategic Environmental Assessment (SEA) can be promoted to ensure infrastructure policies and regulations integrate environment and climate change, i.e. that they are conducive to environmentally sustainable, climate resilient and low carbon solutions.

FUNCTIONAL AREA 10: ENERGY POLICY AND REGULATION

Similarly to functional area 9, energy policy and regulation must be conducive to environmentally sustainable, climate resilient and low carbon options. In addition to a clear emphasis on the promotion of renewable energy, regulations must also be aligned to the policy objectives, e.g. promotion of renewable energy can be accompanied by regulations that allow energy production from independent power producers.

Energy infrastructure policy making can also benefit greatly from explicit efforts to integrate environment and climate change through instruments such as the Strategic Environmental Assessment (SEA). These can allow to identify more sustainable options, e.g. guaranteeing the integrity of high value biodiversity corridors in the context of hydroelectric power planning, or, prioritising lower impact options, such as energy efficiency to reduce demand for infrastructure with larger footprints.

TOOLS & RESOURCES

- DEVCO reference document on green economy, 2018. https://europa.eu/capacity4dev/public-environment-climate/discussions/reference-document-inclusive-green-economy-eu-development-cooperation-now-available
- Donor Committee for Enterprise Development 'Business Environment Reform and Green Growth: A practical guide for policy practitioners'. https://cdn.enterprise-development.org/wp-content/uploads/GGWG_BERGuide_Final.pdf
- Environmental Performance Index (2016). https://epi.envirocenter.yale.edu/
- The 2018 Environmental Performance Index (EPI) ranks 180 countries on 24 performance indicators across ten issue categories covering environmental health and ecosystem vitality. These metrics provide a gauge at a national scale of how close countries are to established environmental policy goals. The EPI thus offers a scorecard that highlights leaders and laggards in environmental performance, gives insight on best practices, and provides guidance for countries that aspire to be leaders in sustainability.
- European Commission, 'Guidelines on the Integration of Environment and Climate Change in Development Cooperation' December 2011. https://europa.eu/capacity4dev/public-environment-climate/minisite/tools-and-methods/new-guidelines-integrating-environment-and-climate-change-eu-internationa
- World Bank, Inclusive Green Growth: The Pathway to Sustainable Development, 2012, World Bank, Washington, DC. http://siteresources.worldbank.org/EXTSDNET/Resources/Inclusive_Green_Growth_May_2012.pdf
- UN ECE Green Economy Toolbox. http://www.unece.org/fileadmin/DAM/GET/
- Green Growth Knowledge Platform (GGKP). http://www.greengrowthknowledge.org/about-us

- A Green Growth Knowledge Platform Scoping Paper, Global. http://www.oecd.org/greengrowth/GGKP%20Moving%20towards%20a%20Common%20Approach%20on%20Green%20Growth%20Indicators%5B1%5D.pdf
- OECD (2013) Towards Green Growth: Monitoring Progress — OECD Indicators, OECD, Paris. https://www.oecd.org/greengrowth/48224574.pdf
- Danida (Forthcoming) Green Growth Guidance Note, Danida, Copenhagen
- Danida (2013) A Greener World for All; NEC Strategy, Strategic Framework for Priority Areas, Natural Resources, Energy, and Climate Change, Danida, Copenhagen. https://www.enterprise-development.org/wp-content/uploads/Final_Report_Stocktaking_of_DCED_Green_Growth_Working_Group_Experiences.pdf

DIGITALISATION

The rapid spread and scale up of digital technologies and services, also known as information and communication technologies (ICT), has global implications and creates opportunities for sustainable development and inclusive growth. The EU's Digital4Development approach aims to mainstream ICT in developing countries and across development cooperation. The Commission is mainstreaming digital technologies across four main priority areas: (i) access to broadband connectivity and digital infrastructure, including the necessary regulatory reforms; (ii) promotion of digital literacy and skills, (iii) fostering digital entrepreneurship and job creation; and (iv) promotion of the use of digital technologies as an enabler for sustainable development[14]. Because the 'digital divide' is the greatest in Africa, and landlocked countries in SSA face particularly acute connectivity shortcomings, the EU is prioritising the continent and one of the EIP Investment Windows is 'Digital for Development'.

Digital solutions are integrated into BER interventions in numerous ways, for example through digitalisation of registries, eServices, eGovernment and overall ICT sector regulation[15]. A few examples are presented below; reference is also made to the presentation of the ten functional areas of BER in Section 2 above.

- Reform of national and regional regulatory frameworks for affordable connectivity (telecom regulator independence, interconnection prices, financing for rural area connectivity)

Digitalising Land Registration Systems

Digital land registration systems offer critical benefits, including greater efficiency as workflows are streamlined and databases consolidated, better data accuracy as records are up-to-date and quality control is easier to assure, and security as back-up copies can protect against natural disasters and conflict. Finally, computerisation strengthens transparency by making records accessible to all stakeholders.

There are three stages in projects for digitalising land records:

- Before going digital: Review of legal frameworks, cost-benefit analysis of technological solution, assessment of human, social and organisational factors;
- Going digital: Steps include digitalising the land registry, scanning land ownership documents in order to end up with fully digital land records;
- Going beyond digital: Offering online services for land transactions, providing information on the real estate market, and connecting the registry to other agencies.

Source: World Bank Doing Business 2016

[14] European Commission Staff Working Paper, 'Digitial4Development: Mainstreaming Digital Technologies and Services into EU Development Policy (2017). https://ec.europa.eu/digital-single-market/en/news/digital4development-mainstreaming-digital-technologies-and-services-eu-development-policy

[15] European Commission Staff Working Paper, 'Digitial4Development: Mainstreaming Digital Technologies and Services into EU Development Policy (2017) https://ec.europa.eu/digital-single-market/en/news/digital4development-mainstreaming-digital-technologies-and-services-eu-development-policy

The EU-funded AfricaConnect2 (AC2)

The EU-funded programme AfricaConnect2 (AC2) contributed to the reduction of poverty and the digital divide by, harnessing the potential of ICT for sustainable development in Africa. AC2 facilitated the creation and use of regional education and research communication networks and high-capacity internet connectivity with a gateway to research collaboration between Africa and Europe. In terms of BER it addressed regulatory bottlenecks related to internet infrastructure, connectivity, prices, and market regulations. The programme built on the earlier AfricaConnect and EUMEDCONNECT projects, extending support to National Research and Education Networks (NRENs) in Africa.

- AC2 led to: (1) an improvement in intra-regional and international connectivity for the research and education community through their connection to networks. This included Cluster 1 — Southern and Eastern Africa (UbuntuNet Alliance), Cluster 2 — West and Central African
- Research and Education Network, WACREN, and Cluster 3 — Arab States Research and Education Network, ASREN, building on an existing EUMEDCONNECT network-; (2) secondly an increase in intra-regional and international communication and collaboration between research centres and universities, including the increased use of online applications for research collaboration; (3) and thirdly an increase in the responsibility of actors in the African regional research and education networks and overall improve institutional capacity of West, Central and North African NRENs towards self-sustainability.
- AC2 helped to create intra-regional networks and interconnection to the Southern and Eastern African UbuntuNet network and to Europe, in turn fostering collaborative research within Africa and between Europe and Africa. It also led to upgraded international R&E connectivity in Cluster 3 for Algeria in 2015, and more recently new connectivity for Egypt, Tunisia and Morocco, supporting the further deployment in or around North Africa to create a stronger regional R&E community.
- AC2 featured a strong component of knowledge transfer in the managerial and technical aspects of the project as well as strengthening institutional capacity as the West and Central African regional research infrastructure and the national research networks.
- The value of AC2 in terms of business environment reform (BER) cannot be underestimated: enhanced internet infrastructure, faster and more available broadband connectivity, lower internet prices, introducing competition to tackle monopolies and address regulatory bottlenecks, closer collaboration between African and European research institutions and the wider benefits of a more connected community of businesses and government are all an essential part in improving the investment climate in Africa.

- Legal frameworks for privacy, data sharing, eID, e-signature, etc.
- Policy and legal frameworks to promote innovation and remove barriers, such as mobile payments
- E-government to improve services, cut costs and red tape, such as business registration, licensing and One Stop Shops (OSS)
- Court automation and case management systems for commercial courts
- ICT to increase transparency and combat corruption, for example the use of blockchain technology for customs clearance.

TOOLS AND RESOURCES

- European Commission Staff Working Paper, 'Digitial4Development: Mainstreaming Digital Technologies and Services into EU Development Policy (2017). https://ec.europa.eu/digital-single-market/en/news/digital4development-mainstreaming-digital-technologies-and-services-eu-development-policy
- E-Government Development Index 2018. https://publicadministration.un.org/egovkb/en-us/reports/un-e-government-survey-2018ITU Global security index, https://www.itu.int/en/ITU-D/Cybersecurity/Pages/global-cybersecurity-index.aspx

- World Economic Forum Global Information Technology Report 2016. http://reports.weforum.org/global-information-technology-report-2016/
- World Bank, ICT for Greater Development Impact, Information & Communication Technology Sector Strategy (2012). http://documents.worldbank.org/curated/en/285841468337139224/pdf/715400WP0WBG0I0sclosed0July02502012.pdf
- Illustrative Monitoring Indicators Relating to Digitalisation / Innovation and Technology: World Bank Enterprise Surveys. http://www.enterprisesurveys.org

The Enterprise Surveys provide indicators that describe several dimensions of technology use and innovation. These indicators measure the extent to which firms invest in obtaining recognized certificates of production and accounting practices. Obtaining international quality certifications may support creating more efficient or effective operations and improve employee's motivation, awareness, and morale. They also provide a sign of high quality that may help reduce waste and increase productivity. Additionally, these indicators demonstrate the use of information and communications technologies (ICT) in business transactions. ICT, such as the Internet, are important tools for all firms because they provide even the smallest of enterprises with the ability to reach national and international markets at lower cost.

1. Percent of firms using technology licensed from foreign companies
2. Percent of firms having its own website
3. Percent of firms using E-mail to communicate with clients/suppliers
4. Percent of firms that introduced a new product/service
5. Percent of firms whose new product/service is also new to the main market
6. Percent of firms that introduced a process innovation

Chapter 5

BER diagnostics: identifying and prioritising reforms

OVERVIEW OF THE BER DIAGNOSTIC PROCESS

Most business environment diagnostics include four basic phases: the pre-diagnostic or design phase which focuses on establishing the scope of the diagnostic, the research phase, the stakeholder consultation phase and finally the formulation of recommendations for reforms.

The EU has a long-standing record of public-private dialogue and consultation with stakeholders in general. In what relates to dialogues around BER with partner countries, the EU has traditionally embedded this dialogue in budget support, cooperation programmes, blending programmes which include policy dialogue (in particular EBRD led projects), or general policy dialogues. In African countries, in order to further systematize the public-private dialogue on investment climate issues, the Sustainable Business for Africa (SB4A) initiative was launched in 2017 and encompasses the stakeholder consultation phase. Figure 5.1 summarises these phases:

PRE-DIAGNOSTIC PHASE

The pre-diagnostic phase determines the scope of a BER diagnostic. Note that a pre-diagnostic phase may not be necessary in all cases. For example, where the EU Delegation, partner international financial institutions (IFIs) and public and private stakeholders have already been engaged in BER in the partner country, or structured public-private dialogue has yielded a list of priority constraints that need to be addressed, there may already be detailed terms of reference for an BER diagnostic, and the diagnostic process can start.

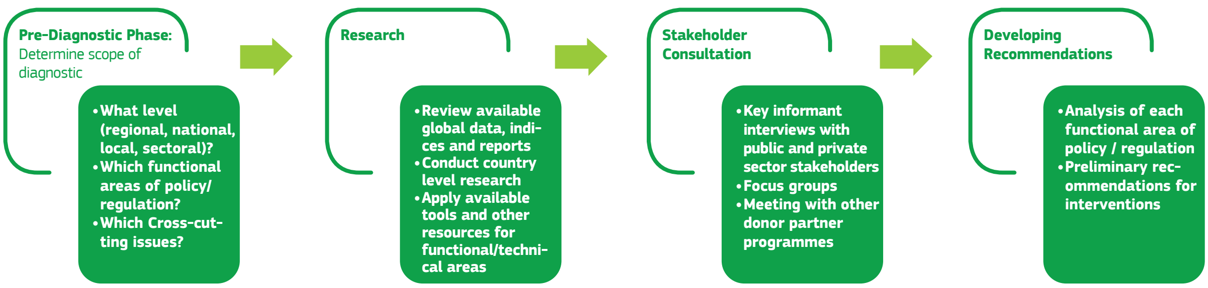
Establishing this scope is likely to be an iterative process that will have commenced in the context of structured dialogue, will continue throughout the research and stakeholder consultation phases and will be influenced by many factors. Government priorities, political will and engagement of government is a pre-condition, as well as the will to engage in this process by the private sector. It is important that since the beginning the government leads this process and engages with the private sector. Government has to own the process and then implement the reforms. Priorities of different stakeholders (EU Delegation, EU Member States, IFIs, other donors) will also have an influence, as well as practical constraints such as the number of staff or experts involved in the diagnostic and the resources available.

Regardless of the resources available for the diagnostic, there will always be a trade-off between breadth and depth. For example, if only a few technical areas are selected, the team will be able to conduct more stakeholder consultations, better analyse constraints and start the process of identifying possible reforms. On the other hand, considering a greater number of technical areas for future programming also has its advantage, such as increasing the probability of identifying key constraints to inclusive growth.

UNDERSTANDING UNDERLYING POLICY GOALS

The diagnostic team will need to understand the underlying policy goals for future BER interventions. For example, supporting a drive for export-led economic transformation would require a different set of reforms to efforts

Figure 5.1: The BER Diagnostic Process



to expand formal job creation in MSMEs. Government officials may have goals that are distinct from those of the EU Delegation; the diagnostic will provide valuable information for purposes of reconciling the goals. For example, leaders may have made public pledges to dramatically improve their country's World Bank Doing Business scores; meeting those goals will be a priority for the government and can trump broader goals such as inclusive growth. In such a case, constructive engagement by a BER programme could mediate these goals and use initiatives designed to improve scores to open the door to reforms that also seek to meet other policy goals. As key underlying reform goals of stakeholders are identified, the BER diagnostic team should be able to focus research and field work on specific technical areas. Table 5.1 provides some guidelines linking selected policy goals to specific BER levels, functional areas and cross cutting issues.

How Does the Relevant External Investment Plan Investment Window Affect the Scope of the Diagnostic?

If the diagnostic is taking place in connection with an investment under the External Investment Plan (EIP), the scope of the diagnostic will also depend on the specific investment window. Table 5.2 provides some guidelines linking selected policy goals to specific BER levels, functional areas and cross cutting issues.

What Are the Objectives of the Diagnostic?

The scope of a business environment diagnostic will depend not only on what level(s), functional areas or cross-cutting issues are selected, but will also depend on practical considerations such as available budget, who is conducting the work, timing, and perhaps most importantly, the stated objectives of the diagnostic itself. The expected outcomes and impact have to be defined as well as the intervention logic.

A rapid diagnostic might cover a few of the bullet points under the diagnostic phase (such as identifying the main stakeholders, analysing major constraints and capacity to implement reforms), while a more in-depth diagnostic might also include the collection and analysis for baseline data, a more detailed analysis of constraints, engagement with public and private sector stakeholders and recommendations for detailed legal, institutional, procedural and technological solutions.

By way of illustration, at one end of the spectrum, diagnostic assessments conducted under the USAID-funded Business Climate Legal and Institutional Reform (BizCLIR) programme were broad in scope (covering 6 to 12 functional areas, in many cases including all 10 Doing Business technical areas, but with far more detail), required large teams of international and local consultants (6-10), several weeks of in-country consultations, interviews of 200-300 people, multiple roundtables and had as deliverables detailed recommendations on programming options for USAID missions and stakeholders in the host country. BizCLIR reports are accordingly very detailed and typically 80 to 150 pages long. The cost averaged USD $225,000 per assessment, and USAID ultimately did not extend the programme, in part due to high cost of the diagnostic process[1].

In contrast, the DFID Business Environment Reform Facility (BERF) conducted focused diagnostic investment climate assessments at the request of DFID Country Offices, typically addressing three or four technical areas or a single sector. These assignments were conducted by one or two experts, typically a team of an international and a national expert, over a short period of time. The diagnostic reports, are 25-35 pages long and do not provide as detailed programming recommendations as do BizCLIR reports. This reflects the fact that DFID-funded programmes typically include six-month design or inception phases, during which the implementing team conducts detailed diagnostic work and stakeholder consultation.

Whenever the EU Delegation in a host country contracts with outside experts to conduct the diagnostic assessment, the terms of reference should reflect the agreed-to scope and should list detailed deliverables.

What Has Already Been Done in the Partner Country?

The last decade has seen many business environment reforms in countries across Sub-Saharan including locally driven reforms spearheaded by national regulatory reform committees, regional legal harmonisation initiatives, and bilateral and multilateral donor-funded

[1] USAID, Evaluation of USAID BizCLIR Program, conducted by AMEX International Inc. (February 28, 2011)

Table 5.1: Matching Underlying Policy Goals to Specific BER Interventions

Underlying Policy Goals	Level(s)	Functional Areas of Regulation	Cross-Cutting Issues
Inclusive Growth / Job Creation	National, Subnational, Sectoral. Sectors identified in inclusive growth diagnostics (IGD)	Business Registration/Licensing, Trade Facilitation, Access to Finance, Improving Labour Laws, Access to Commercial Justice	Gender, Youth, Decreasing Informality / Supporting MSMEs, Fragility (as applicable), Governance, Environment / Climate Change
Inclusive Growth in Targeted Sub-National Areas	National and Subnational (with a focus on local implementation of national level laws and regulations; Sectoral (w/ focus on specific sectors identified as important to targeted region).	Business Registration / Licensing, Trade Facilitation, Access to Finance, Improving Land Titles and Construction Permits	Gender, Youth, Decreasing Informality / Supporting MSMEs, Fragility (as applicable), Governance, Environment / Climate Change
Formalisation, Strengthened MSMEs	National, Subnational, Sectoral. Focus on sectors identified in IGDs where MSMEs have most potential or play a major role	Business Registration / Licensing, Trade Facilitation, Access to Finance, Improving Labour Laws, Improving Overall Quality of Regulatory Governance, Commercial Justice	Gender, Youth, Decreasing Informality / Supporting MSMEs, Fragility (as applicable), Transparency/ Anticorruption, Governance, Environment / Climate Change
Increased FDI	Regional, National, Sectoral. Specific sectors identified as key for FDI	Tax Policy, FDI/Investment Policy, Facilitating Trade, Improving Land Titles and Administration, Commercial Justice	Governance, Environment / Climate Change,
Compliance with Trade Agreements or Treaties	Regional, National	Tax Policy and Administration, Investment Policy, Facilitating Trade, Specific areas of legal or regulatory reform identified in trade agreements or treaties	Governance, Environment / Climate Change,
Harmonisation of Laws & Regulations	Regional, National	Potentially all; depends on the underlying treaty or agreement (e.g. OHADA)	Governance, Environment / Climate Change,
Improved Doing Business Scores / Visible Legal and Regulatory Reforms[1]	National	Focus on DB Indicators that can be improved with legal and regulatory reforms. Focus on DB reforms that have not been undertaken yet.	Governance, Environment / Climate Change,

[1] Note that improving index scores for its own sake is not a compelling policy goal, but such improvement may have been promised by public sector officials and such reforms can constitute an entry point for further public private dialogue and reform.

Table 5.2: Matching EIP Investment Window to Specific BER Interventions

Underlying IEP Investment Window	Level(s)	Functional Areas of Regulation	Cross-Cutting Issues
MSME Financing	National, Subnational, Sectoral (Focus on sectors identified as key for MSMEs)	Business Registration / Licensing, Investment Policy, Access to Finance, Trade, Labour Policy / TVET, Commercial Dispute Resolution	Gender, Governance, Youth, Inclusive Growth / Supporting MSMEs, Fragility (as applicable), Digitalisation
Sustainable Energy and Connectivity	Regional, National, Subnational, Sectoral (Energy, Infrastructure)	Investment Policy, Access to Finance	Governance, Environment / Climate Change, Fragility (as applicable), Digitalisation
Sustainable Cities	National, Subnational, Sectoral (Energy, Infrastructure)	Tax Policy, Investment Policy, Access to Finance / Regulation of Financial Sector, Land and Property Rights	Gender, Governance, Youth, Environment / Climate Change, Inclusive Growth / MSMEs, Fragility (as applicable), Digitalisation
Sustainable Agriculture, Rural Entrepreneurs and Agri-business	Regional, National, Sub-national, Sectoral (Agriculture and Agribusiness), Subsector / Value Chain Specific	Business Registration & Licensing, Tax Policy, Investment Policy, Trade Policy, Access to Finance, Labour Policy, Land & Property Rights, Commercial Dispute Resolution	Gender, Governance, Youth, Environment / Climate Change, Inclusive Growth / MSMEs, Fragility (as applicable)
Digital for Development	Regional, National, Sub-national, Sectoral	Tax Policy and Administration, Trade, Access to Finance, Labour Policy / TVET Policy, Investment Policy	Governance, Youth, Inclusive Growth / MSMEs, Digitalisation

initiatives such as the Investment Climate Facility for Africa, the EU-funded ACP Business Climate Facility, and country-specific bilateral donor programmes throughout SSA. Accordingly, ascertaining what has already been done in the partner country in terms of diagnostics and business environment reform is an important part of the pre-diagnostic and research phase.

Tools and Resources:

- Publications / Websites of the Business Environment / Investment Climate Reform Committee for the Partner Country. Many countries have established national business environment or regulatory reform committees; obviously contacting such a committee will be a key first step, one that will likely already have been made by the EU Delegation.

- EU Delegation in Partner Country. Existing Assessments, Reports and other documentation produced or collected by the EU Delegation will also help determine what has already been done in the partner country in terms of business environment reform initiatives. For instance, chapters/provisions and related reports of a Free Trade Agreement (FTA) with the partner country contain relevant elements to the domestic business environment, as well as analysis and reports related to budget support programmes.
- ACP Business Climate Facility (BizCLIM) funded by the EU. This completed programme supported initiatives in a number of Sub-Saharan countries.
- DFID Business Environment Reform Facility (BERF). BERF undertakes research on business environment best practices as well as diagnostic assessments for DFID. This research, as well as a number of recent country-specific BER diagnostic studies are available on the BERF website. https://www.gov.uk/government/organisations/department-for-international-development/about/research
- USAID Development Experience Clearinghouse (DEC). USAID's knowledge management website is a repository of USAID project reports and studies and can be a valuable resource. This website is relatively easy to navigate. Searching by country with no filters will yield the best search results. https://dec.usaid.gov/dec/home/Default.aspx
- African Development Bank. The AfDB's documents are organised by country, with a variety of resources available. https://www.afdb.org/en/knowledge/publications/
- Other Ad Hoc Publications: Researchers should look for reports and publications from other international donor agencies and regional and partner country academic institutions, think tanks, government agencies and civil society organisations.
- Broader Trade and Private Sector Development Research: Just as the business environment and investment climate reform are elements of the wider trade and private sector development that the EU supports in partner countries, the design of an BER diagnostic should take into consideration broader economic development, trade and private sector development (PSD) research that has already been done with regard to the partner country, including national economic development strategies, PSD policy documents and inclusive growth diagnostics and similar efforts to identify key job-creating sectors in that country.

RESEARCH PHASE

As the scope of the BER diagnostic is established, the diagnostic team will commence conducting research and review of existing documentation. For example, the team may meet with partner country government officials and private sector representatives to obtain studies and background materials on existing initiatives. If there are international consultants selected to conduct the diagnostic, those experts will typically conduct research and review documents prior to the country visit. Thorough desk review of all this research is critical to conducting stakeholder consultation and analysis (See Section 5 below).

Guidance on research existing resources from ongoing and recent BER initiatives, country-specific global publications, and global surveys, indices and datasets reports are set out below.

Country-Specific Research: Standardized BER Assessments

World Bank / Investment Climate Assessments (ICA). These detailed assessments are run by the Investment Climate Department of the Private Sector Development Vice-Presidency Unit in response to requests from the field structures. Investment Climate Assessments identify key constraints to growth in a country and areas for reform. These reports analyse perception of entrepreneurs and firm performance in the country and their link to quantitative data found in investment climate surveys. ICAs have been prepared for over 60 countries (either covering the overall business environment or a specific sector) and several regions. If there is an ICA for the subject country, it is typically a very useful resource for a BER diagnostic: http://documents.worldbank.org/curated/en/docsearch/document-type/904594

USAID Business Climate Legal and Institutional Reform (BizCLIR). BizCLIR assessments are detailed diagnostic studies of the business environment, combining a review of legal and regulatory frameworks as well the social and economic context. In total, eleven BizCLIR assessments were conducted between May 2007 and

November 2010 including in Tanzania, Rwanda, Burundi, Uganda, Kenya and Zimbabwe. Even though these are out of date and cover only a limited number of countries, BizCLIR reports are useful resources. Many elements of the BizCLIR methodology have been adapted for this Toolkit. Unfortunately, the website is no longer available, so each report must be searched for individually on the Web.

The Economist Intelligence Unit (EIU). The EIU prepares country-level studies and reports on countries as well as a wealth of economic data. http://country.eiu.com

Global Surveys, Indexes and Datasets

The following resources cover most countries in the world using standardized indicators.

World Bank / Doing Business Survey. A country-specific report which includes the country's regional ranking as well as its distance to frontier (DTF) score can easily be generated from the Doing Business website (http://www.doingbusiness.org/).

World Bank / Enterprise Surveys. An Enterprise Survey is a firm-level survey of a representative sample of an economy's private sector. The surveys cover a broad range of business environment topics including access to finance, corruption, infrastructure, crime, competition, and performance measures. Since 2002, the World Bank has collected this data from face-to-face interviews with managers and business owners in over 130,000 companies in 135 economies. The Enterprise Surveys 'Country Profiles' provide key business environment indicators for a country with benchmarks against their respective regional and income groups. http://www.enterprisesurveys.org/about-us

World Bank / Business Environment Snapshots: Business Environment Snapshots is a 'one-stop guide' to business environment indicators, laws, and World Bank Group project information for 183 countries. It is currently limited to World Bank group materials. http://rru.worldbank.org/besnapshots/

World Economic Council / Global Competitiveness Index (GCI). The GCI assesses the competitiveness landscape of 140 economies, providing insight into the drivers of their productivity and prosperity. Using the website, it is easy to generate a country/economy profile. Note that only a few of the 12 GCI pillars are directly relevant to BER and unlike Doing Business, the GCI is based primarily on other indices rather than primary data and it does not provide guidance on specific reforms: http://reports.weforum.org/global-competitiveness-report-2015-2016/

The Ibrahim Index of African Governance (IIAG) measures and monitors governance performance in African countries. Business environment is one of the indicators of the IIAG index. https://mo.ibrahim.foundation/iiag

The Bertelsmann Transformation Index (BTI) analyses and evaluates the quality of democracy, a market economy and political management in 129 developing and transition countries. https://www.bti-project.org/en/home/

STAKEHOLDER CONSULTATION

While the research work outlined in Section 3 above is an important first step in the diagnostic process, in-country meetings with public and private sector stakeholders will be necessary. The research, the results of any public-private dialogue,as well as input from main local stakeholders of the private and public sectors, including MSEs, women and young people, the EU Delegation, resident EU Member States, the European private sector and IFI partners will all provide relevant inputs in the process of determining the scope of the stakeholder consultation and the persons interviewed.

In countries where a business environment or investment climate reform committee has been established, that committee will likely also be a starting point for the stakeholder consultation process.

The consultation of stakeholders which are usually underrepresented in existing public-private dialogue spaces is very important. This is the case for namely MSEs, women, rural, smaller and informal businesses and young people, as it has been acknowledged by the SB4A state of play report[2].

[2] Sustainable Business for Africa (SB4A) State of Play Report, 2019, DEVCO C4/TPSD Facility. Available at the DEVCO TPSD Knowledge sharepoint: https://myintracomm-collab.ec.europa.eu/networks/Textiles/SitePages/Home.aspx

Public-private dialogue can be instrumental in facilitating the structural transformations which are necessary to generate outcomes. It can also identify obstacles to achieve these goals. Effective public-private dialogues can significantly contribute to sustainable growth. For instance, Ethiopian textile industry has a long tradition that started during the era of Italian colonization. The Ethiopian case is interesting because it shows how it is possible to stimulate the production of the raw material starting from the production of value added goods. In fact, the development of the textile industry and its successful integration in the global production chain has led to investments for the production of cotton. With 3 million acres potentially cultivable within the country, the government has already developed a strategic plan for cotton (2015–2030) that can potentially attract investments and create decent jobs.

KEY INFORMANT INTERVIEWS

Key informant interviews are qualitative, in-depth interviews of individuals selected for their first-hand knowledge of the business environment constraints and initiatives to address those constraints. Such interviews are critical to understanding underlying motivations, behaviours and perspectives of the many stakeholders in the business environment. Key informants can help the diagnostic team understand the underlying political, social and economic issues, as well as to formulate recommendations[3].

Steps in Conducting Key Informant Interviews

Step 1: Formulate Questions. The preliminary research (described in Section 3 above) will help formulate the areas for interviews.

Step 2: Prepare a Short Interview Guide. This will be a short list of questions (usually no more than a dozen), tailored to the area being examined.

Step 3: Select Key Informants. During the research, the diagnostic team should be compiling a list of key institutions that the team should meet with. By way of illustration, for many areas of BER, that list will include government agencies, parliamentary committees, commercial courts, business associations, chambers of commerce, workers' associations, legal practitioners, civil society leaders, academic institutions, think-tanks, and businesses ranging in size from sole proprietorships to multinational corporations. That list should be circulated and discussed with the EU Delegation and partner IFIs (and/or other donor agencies).

Where possible, the diagnostic team should try to identify individuals with a diversity of political, social and cultural perspectives, so as to get a realistic assessment, including of which reforms are likely to get government support, who the winners and losers are from reform, and so forth. This analysis should follow a theory of change of the reform/s.

Step 4: Contact Institutions and Individuals to Set up Interviews. The use of senior national experts, whether they are part of the EU Delegation staff or consultants, is highly recommended for this part of the interview process. Such national experts can play a critical role in identifying and contacting potential interviewees, respecting protocol, obtaining the necessary permissions, arranging meetings and maintaining the schedule. All experts involved in the diagnostic should consider political and cultural sensitivities and follow directions from the EU Delegation leadership in terms of meetings. For example, the EU Delegation staff may not want the diagnostic team to contact certain ministries, or may want to avoid any mention of projected

Transparency with Respect to Interviewees

It is critical that interviewees be fully informed in advance of the context of the visit to avoid any misunderstandings. A government official or civil society leader may mistakenly assume that the meeting is an introductory visit for a new, approved EU funded programme rather than part of an initial diagnostic. Local consultants struggling to get appointments may be tempted to mislead potential interviewees by suggesting that a meeting will result in future funding, so it is critical to issue clear directives to local consultants.

3 USAID Center for Development Information, 'Performance Monitoring and Evaluation Tips: Conducting Key Informant Interviews (1996)

assistance funding levels under the EIP. Likewise, protocol considerations may preclude meetings with government officials above a certain level, or with judges unless ministry of justice and court president's approval has been obtained.

Step 5: Conduct Interviews. The nature of the interview will of course vary according to the context. A few key issues to keep in mind include the need to explain the purpose of the interview, the intended use of the information and the confidentiality. Interviewers should use probing techniques and should maintain a neutral attitude. Many interviewees, particularly in government agencies, will

Step 6: Take Adequate Notes. The team should take detailed meeting notes and should record contact information for each interviewee. In some cases, interviewees may ask that their name not be made public and that request should obviously be respected. The notes should be summarised and compiled so that the whole team (and future initiatives) can access them.

Stakeholder Focus Groups / Roundtables

If time and resources permit it, informal roundtable events or stakeholder focus groups can complement the key informant interviews, as well as set the stage for future public-private dialogue. These events can be organised around specific BER issues or sectors, or geographically where there is a subnational focus, and can bring together public and private sector stakeholders. If structured dialogue (or national public private dialogue) has already taken place on the issue, existing platforms may be used. Focus groups are particularly useful for collecting qualitative information that may not have been picked up through formal interviews or surveys. This becomes important when working on gender issues in particular, as many issues affecting women, such as restrictions on interacting with male officials or unpaid work in family businesses, are not easily identified in more formal settings. Engaging women directly in diagnostic assessments is therefore crucial. The World Bank/IFC have used 'women in business' forums, where women have been able to articulate successes and challenges in operating a business, as a basis for diagnosing and designing solutions to business environment constraints for women.

Another option is to hold a formal roundtable at the end of the assessment, which can provide an opportunity for the assessment team to present and discuss its initial conclusions with IFI partner and other donor agency staff, representatives of the host country government, and many of the individuals interviewed over the course of the assessment. The roundtable creates a forum for sparking a public-private dialogue that the EU Delegation and future BER programmes can maintain and nurture through future events.

Meetings with other Development Partner Programmes

There are usually a number of donor-funded economic development programmes and business environment reform initiatives in EU partner countries in SSA. Understanding what reforms are being supported by these programmes, what local stakeholders they are working with and meeting with the local teams can all be extremely useful to the BER diagnostic team. Other donor programmes can provide information and reports that may not be available elsewhere and can provide invaluable background information, esp. those by EU Member States within a overall agreed approach of 'working better together' at country level. The EU Delegations will usually have coordinated with these programmes, either locally or through headquarters and will be familiar with existing donor coordination mechanisms and relationships. There is considerable co-funding and collaboration between bilateral and multilateral donors in the area of BER. Depending on the personalities involved however there can also be complicated relationships between donor programmes.

POLITICAL ECONOMY ANALYSIS

Business environment reforms—no matter how much they are presented as neutral and technical—involve political and economic interests and usually have winners and losers. Ruling political and economic elites may have a very strong motivation to resist changes to the status-quo. Allegations of corrupt practices in an BER diagnostic report can result in reprisals against a donor programme. Accordingly, political economy analysis (PEA) can and should be used at all phases of BER programmes, including during the diagnostic process. PEA can help identify underlying policy goals, match those goals to specific reforms and allow politically smart analysis. PEA should likewise inform the desk research and field work.

PEA should not only be donor based but also include an analysis of less and more economic empowered groups and the existing dynamics that govern or influence their capacity of improving their opportunities.

The resources listed below can help integrate PEA into the diagnostic; for example, the 2011 DCED guide on PEA for BER provides a list of useful questions to help guide the analysis[4]. Likewise, in fragile and conflict affected states (FCAS), the EU Staff handbook on Operating in Situation of Conflict and Fragility and the online course on Conflict Sensitivity[5] will help PEA[6].

Resources: Political Economy Analysis (PEA)

- Peter Davis, The Political Economy of Business Environment Reform: An Introduction for Practitioners (DCED, May 2011), available at https://cdn.enterprise-development.org/wp-content/uploads/Political_Economy_An_Introduction_for_Practitioners.pdf
- DFID Legal Assistance for Economic Reform Programme (LASER), Politically smart approaches to donor investment climate programming: A Guidance Note (February 2016)
- DFID, Political Economy Analysis How to Note (2009)
- V. Bruce Tolentino, From Analysis to Implementation: The Practice of Political Economy: Approaches to Economic Reform (2010)
- Joy Moncrieffe and Cecilia Luttrell, An Analytical Framework for Understanding the Political Economy of Sectors and Policy Arenas (Overseas Development Institute, 2005).

CONFLICT ANALYSIS

Conflict sensitivity means ensuring that, to the best of its abilities, EU actions (political, policy, external assistance) avoid having a negative impact and maximise the positive impact on conflict dynamics, thereby contributing to conflict prevention, structural stability and peace building[7]. All EU action in a conflict affected setting can, and is likely to, have an impact on the conflict.

Given that countries that could be or are affected by violence and conflict are highly diverse, EU actions in a third country have to take account of and be adapted to the key dynamics of conflict that are highly context specific. Emerging best practice highlights the importance of the use of conflict analysis in the assessment of the context.

A conflict analysis uses a structured framework as the basis for information gathering, analysis, appreciation of the realms of the possible and prioritisation of responses. A range of conflict analysis frameworks and tools have been developed.

Resources: Conflict Analysis

- EU Staff Handbook on operating in situation of conflict and fragility. https://op.europa.eu/en/publication-detail/-/publication/1edf1a21-6986-4ccf-9f28-27898a6601b7/language-en/format-PDF/source-121037069
- Guidance note on the use of Conflict Analysis in support to EU external action. https://europa.eu/capacity4dev/public-fragility/wiki/guidance-note-use-conflict-analysis-support-eu-external-action
- DEVCO online course on Conflict Sensitivity. https://webgate.ec.europa.eu/devco-academy/enrol/index.php?id=71
- USAID Conflict Assessment Framework. https://pdf.usaid.gov/pdf_docs/pnady739.pdf

4 P. Davis (2011) The Political Economy of Business Environment Reform: An Introduction for Practitioners, (DCED)
5 DEVCO online course on Conflict Sensitivity: https://webgate.ec.europa.eu/devco-academy/enrol/index.php?id=71
6 EU Staff handbook on Operating in Situation of Conflict and Fragility: https://op.europa.eu/en/publication-detail/-/publication/1edf1a21-6986-4ccf-9f28-27898a6601b7/language-en/format-PDF/source-121037069
7 Guidance note on the use of Conflict Analysis in support to EU external action, https://europa.eu/capacity4dev/public-fragility/wiki/guidance-note-use-conflict-analysis-support-eu-external-action

DEVELOPING RECOMMENDATIONS FOR REFORMS

All the steps of a BER diagnostic — the research, stakeholder consultation and constraint analysis — ultimately serve to develop recommendations for reforms and suggestions for the design of technical assistance or support to an investment project. These recommendations are the most important deliverable from a BER diagnostic. The scope of the diagnostic will of course determine the nature of the recommendations. Below some general guidance on developing and presenting recommendations for reform are outlined.

Analysis across the four dimensions of BER: Policy, Legal and regulatory, Institutional and Social and political

Any of functional or technical areas being examined as part of an BER diagnostic should be analysed under the four dimensions of BER: Policy, Legal and Regulatory Frameworks, Institutions and Social and Political. Indeed, each functional area of BER is not just a set of 'technical issues' requiring a legislative or regulatory fix. Instead, effecting change and addressing constraints to growth in each area will involve engaging with a multi-institutional, political environment whose complexity includes layers of history, as well as a range of different interests, incentives and perspectives[8].

The BER diagnostic process — whether it's done in the context of preparing for a major investment under the EIP or the first step in designing and implementing a multi-year programme — will not be able to address or even identify all of these factors. However, adopting the approach set out below will diagnostic team start the analytical process and set the stage for a 'politically smart' approach. As the team undertakes the research and the field work, it will analyse each selected functional area of regulation along the four dimensions.

Some of the key questions that can be asked under each of these dimensions are set out below:

Policy: How effective is the policy-making process? How do stakeholders provide input into policies? For example, at the sector level, are national policies aligned with private sector actors working in the sector?

Legal and Regulatory Framework: How closely do existing laws and regulations reflect global standards? Are those global standards relevant? How well do they respond to commercial realities? Do embedded incentive structures track social and economic objectives?

Implementing Institutions: How well do administrative agencies and courts carry out their duties in terms of efficiency, transparency, and predictability? Do institutional behaviours create barriers to participation and predictability? In terms of supporting institutions: how deeply rooted in civil society are the laws and institutions that governs economic life? Do the many needed individual parts of the 'system' exist, and if so, do they work together efficiently? What evidence is available as to whether laws and regulations are implemented in practice? What are the incentives of the key stakeholders regarding implementation? Who will win and who will lose?

Social and Political Dynamics: How is economic power distributed? How do economic and political interests combine? How far does policy and the legal/regulatory framework actually guide decisions over business registration, granting licences etc. against informal and corrupt practices — are we operating in a rules-based or a deals-based environment? How well do administrative and legal systems respond to users' evolving needs? How receptive to change are the key stakeholders? What forces or factors govern the pace and direction of change in the system? Are specific ethnic groups or disadvantaged groups subject to discrimination and/or exclusion in the business environment (both the formal framework and informal practices)? Will conflict or fragility affect how regulations get implemented, or how the reform process will work? What are the key barriers to women's economic empowerment, and what do we know about how the business environment is different for women?

Designing gender-sensitive BER interventions

When designing gender-sensitive solutions to business environment constraints, stakeholders need to

[8] DFID Legal Assistance for Economic Reform Programme (LASER) (2016) Politically smart approaches to donor investment climate programming: A Guidance Note, referencing J. Boulton (2015) Embracing Complexity — Strategic Perspectives for an age of turbulence. Oxford University Press

adapt some of their more traditional approaches and interventions to address the specific factors that affect women. Solutions will differ widely depending on geographical, political and social context and this guide only aims to provide preliminary recommendations to practitioners for solutions design. However, below are some of the most common approaches that can be considered for addressing gender constraints to the business environment.

Support formalisation while protecting informal workers: It is widely recognised that there are many benefits to enterprise formalisation. Business owners can increase the productivity and growth of their business by gaining access to finance and technology while workers gain access to social protection as well as safety through more regulated working arrangements. Women, in particular, stand to gain from formalisation given the current high concentration of women in the informal sector. However, it should also be recognised that the informal economy represents a significant portion of the existing labour market, accounting for over half of global employment and as much as 90% of employment in some of the poorer developing countries[9]. So while formalisation is desirable, informality cannot be ignored and those operating in the informal sector need to be protected from the associated risks. Donors should therefore reform the business environment in a manner that encourages progressive formalisation while supporting those operating in the informal sector in the meantime through reforming legal frameworks to protect informal workers and their livelihoods; protecting informal workers' rights; investing in childcare for children of informal workers etc.[10]

Adapt financial inclusion approach to women: With access to finance being one of the main constraints to women's participation in the economy, increasing financial inclusion should be central to any donor intervention tackling business environment reform. However, when working to improve financial inclusion for women, donors should adapt their approach as women have different needs than men given the specific economic and social constraints they face. According to the Global Banking Alliance for Women, women want different things from a bank than men, which requires a diversified approach. Such an approach should combine financial services with access to information, education and networks[11].

Design gender-sensitive infrastructure solutions: The IMF has argued that improving women's labour market potential can bring significant macroeconomic gains. Similarly, according to McKinsey & Company, advancing women's equality could add $28 trillion of additional annual GDP in 2025. Increasing women's labour force participation should therefore be a principal objective for donors working on business environment reform. This requires addressing constraints faced by women both in the workplace and at home by investing in infrastructure and labour-saving technologies. In the workplace, the creation of gender-sensitive infrastructure can help increase women's labour force participation, such as the provision of gender-segregated toilets, safe transportation for women to and from work and work-based childcare facilities[12]. At home, addressing the time poverty of women by reducing the burden of unpaid work is essential. This requires facilitating access to basic infrastructure, particularly water and electricity, and investing in labour-saving technologies, such as stoves that burn kerosene or gas.

Increase women's voice: Increasing women's voice in the business environment reform process is essential to improving women's participation in the economy, which in turn can positively impact economic growth. Donors should therefore focus on ensuring that women are well represented in all stakeholder groups both at government-level and community level. At government level, women should be adequately represented in parliament and public institutions so that they can have an influence on reforms and policy formulation. At community level, donors should focus on ensuring that women are represented at senior levels within the private sector and within civil society organisations, including women's professional associations. This requires establishing public-private dialogue mechanisms that include women

9 The Informal Economy — A primer for development professionals on the importance of the informal economy in developing countries, Muyeye Chambwera, James MacGregor and Antonia Baker, International Institute for Environment and Development, 2011

10 http://www.gbaforwomen.org/the-approach/

11 http://www.gbaforwomen.org/the-approach/

12 Gender-Sensitive Business Environment Reform: Why does it matter? — A policy guide, Business Environment Working Group (Donor Committee for Enterprise Development), Katherine S. Miles, July 2017

and working closely with women's associations when designing solutions to business environment constraints. This will not only help identify the right issues to focus on, but will also help build understanding in civil society organisations of gender issues and strengthen their ability to adequately advocate to the government for gender-sensitive reforms.

Uganda: Gender Coalition—Building Capacity to Lobby for Change

Uganda's Ministry for Finance requested IFC to assess the country's business environment through a gender lens. The resulting analysis and recommendations were published in Uganda's Gender and Growth Assessment (GGA). An IFC GGA team followed up with a two-day workshop on advocacy and public-private dialogue. During the workshop a GGA coalition with representatives of seven women's organisations was formed to take the recommendations forward through lobbying and advocacy. Some of the result include the incorporation of the GGA recommendations into Uganda's Private Sector Development Strategy 2005–2009 (UP3) and the National Gender Strategy 2005–2014, as well as the reform of various labour laws (Employment Bill, Occupational Safety and Health Bill, Labour Dispute Bill and Labour Unions Bill).

Source: Gender and Economic Growth in Uganda—Unleashing the Power of Women, World Bank (2006)

Design solutions using ICT: Lack of access to market information is a major constraint for women to start or grow a business. This lack of access is primarily due to social norms that restrict women's mobility, education levels, and ability to communicate with unrelated men, as well as time poverty due to their family responsibilities. When designing solutions to business environment constraints for women, donors should consider how ICT can be leveraged to increase women's access to market information. Mobile phones, in particular, can provide an effective platform for sharing information with women, as they can, for instance, enable women to run home-based businesses or help them reach out to new customers without risking exposure to sexual harassment. It should however be noted that mobiles phones on their own are not sufficient to achieve business growth for women, particularly as women have significantly less access to mobile phones than men and certain norms may restrict women's ability to use them.

Integrate social norms in solution design: A number of social and cultural factors outside of conventional investment climate and business environment constraints affect women's ability to participate fully in the economy. Social and cultural norms that restrict women's access (to economic opportunities) and agency (to act on economic decisions) need to be taken into account when designing solutions. In order to do that, donors should engage men in the interventions, as men are key to shifting norms and expectations about women. Donors should also be careful to design interventions in a manner that avoids unintended negative consequences for women. For instance, increased economic empowerment for women can sometimes lead to increased domestic violence against women if husbands are not supportive of their economic empowerment.

PRESENTING RECOMMENDATIONS FOR REFORMS

There is no standard format for presenting recommendations for reforms—it will depend on the scope and purpose of the diagnostic. At a minimum the stakeholders involved, the type of reform or intervention (legal reform, regulatory reform, outreach, institutional strengthening, training, etc.), the time-frame and priority level should be specified. Two examples of recommendations are presented below. The first is quite broad, and part of a relatively short diagnostic under DFID BERF. The second, from a USAID BizCLIR assessment, is very detailed and only a tiny part of a 150-page diagnostic report.

Where experts have been hired to conduct a BER diagnostic for the EU Delegation, that team of experts will be responsible for preparing a written report for delivery to the EU Delegation upon completion of the assignment. The parameters for this report will be detailed in the terms of reference for the assignment. This report should at a minimum set out the parameters of the assignment and the scope of the diagnostic, provide background information on the current political, economic and social context in the country and/or specific target sectors, an analysis of each functional area of the business environment analysed during the diagnostic, a

Presenting Multiple Reform Approaches: Example of BER Diagnostic of Sierra Leone

Sierra Leone is one of the world's top ten business reformers, having climbed into the top half of the Sub-Saharan index of ease of doing business within a 5-year period. However, with a low capacity government faced with a highly complex set of business environment problems, and an extremely wide-ranging policy agenda, the country scores poorly on measures of government effectiveness. There are many government ministries and agencies involved with PSD / BER but there is limited coordination among them. Sierra Leone has pushed through a wide range of legislative reforms and developed a plethora of policies associated with improving the business environment. But the record on implementation and of real impact is mixed. The DFID BERF diagnostic recommended specific actions, organized by different approaches to reform.

Approach (1): Continue to 'chip away' at bottlenecks where there is demonstrated traction and capacity: Specific reform recommendations include: continue to support Companies Act reform; Streamline registration of other business forms; Continue to improve the Collateral Registry; Develop the Fast Track Commercial Court as a 'flagship' court; Address remaining bottlenecks at Freetown Port.

Approach (2): Improve policy coherence, enabling a more focused and prioritised approach in a resource-constrained and low capacity environment. Specific reform recommendations include: Strengthen private sector engagement with Local Content Policy; Develop coherent trade policy in light of WTO Trade Facilitation Agreement; Develop and implement key sector policies (tourism and fisheries);

Approach (3): Focus on government change mechanisms (a) to exploit Presidential convening power, complemented by (b) strengthening core processes. Specific reform recommendations include (a) Improve GoSL policy enforcement / implementation by strengthening Strategy and Policy Unit and launching a 'compact' between GoSL, private sector and donors to tackle complex and politically charged issues of key concern to private sector; (b) Strengthen and improve coordination between Law Officers' Department and Law Reform Commission; and (c) Instigate budget working group as part of the budget process

Approach (4): Improve private sector collective action. Specific reform recommendations include: Support market based/ problem driven approach to strengthening the demand side; Instigate strategic dialogue between GoSL, private sector and donors through the 'compact' proposed under approach (3) above, identifying a common reform framework.

Clare Manuel and Laureen Katiyo, DFID Business Environment Reform Facility / 'Business Environment Reform Diagnostic — Sierra Leone (March 2017).

Table 5.3: Summary Recommendations for Real Property Law Reform in Ethiopia: Example of BizCLIR Assessment, USAID, Ethiopia Commercial Law & Institutional Reform and Trade Diagnostic (2007) A Note on the Diagnostic Report

No.	Type	Recommendations
1.	Legal/Institutional reform	Clarify the division of powers and functions between the federal and the local bodies at each level.
2.	Legal/Institutional reform	State the powers and functions precisely and without overlap, and combine them into fewer levels to the extent that doing so is practicable and politically feasible.
3.	Legal reform/ Outreach	Specify in one place all of the approvals that are needed for the acquisition, use, lease, sale of, and construction on land by an Ethiopian citizen or a foreigner, and state the procedures for obtaining each approval and the time limit within which a proper application must be granted.
4.	Legal reform	Simplify many of the rigid rules in the present proclamations, such as the numerous separate limits on maximum lease terms for specific activities and specific geographic areas. These changes could be made using several methods, such as law revisions, website-posted rules, and so on. The methods should be determined centrally at the federal level.
5.	Legal reform/ Outreach	Because land leasing is so important, standardize and publish clear and objective rules for: Leasing land rights from the State, Selling, subleasing, and otherwise transferring those lease rights, Negotiating or otherwise setting rental amounts, Establishing or assuring renewal rights, and Ensuring that ownership of buildings is not severed from underlying land lease rights.
6.	Legal/Institutional reform	Because land as a financing device is so important, standardize and publish rules for mortgaging land rights, including those presented in the preceding bullet point.
7.	Institutional reform	Encourage an open and transparent market by establishing or encouraging land marketing agencies and systems for listing available properties, prices, and other terms.
8.	Legal/ Institutional reform	Encourage investment in Ethiopia by making the rules for land use by foreign persons clearer and more secure. Consider the following: — Allow certain foreign persons (such as long-term residents and persons or companies making investments of more than a specified amount) to have land use rights the same as or similar to those of Ethiopian citizens, and — Issue a formal regulation or law clarifying matters about which there may now be uncertainty, such as rules for: foreign ownership of buildings and other attachments on land; companies or joint ventures that are partly foreign-owned; the holding of land by Ethiopian citizens for the benefit of foreign persons; and eliminating or reducing investment license requirements for foreign holding of residential property.
9.	Legal/Institutional reform	Continue and encourage expansion of the land policy, survey, titling, and expropriation/compensation and urban leasing policy projects described above.
10.	Legal education/ Outreach	Establish training programs for federal, municipal, regional, woreda, and kebele officials on all of the above.

summary of ongoing BER reforms in the country, a discussion of the team's findings and specific recommendations to the EU Delegation regarding next steps and which BER to support in future programmes. A list of meetings, key informant interviews and workshop participants should be annexed, along with a complete list of documents obtained.

GENDER-SENSITIVE DIAGNOSTIC ASSESSMENT

A gender-sensitive diagnostic assessment should be undertaken in three basic steps: first the analysis should identify the respective roles women and men play in the economy, as entrepreneurs, employers and workers; second, it should analyse binding business environment constraints that are specific to women; third, it should seek to understand broader political and social factors, outside of the business environment, that may also impact on women's ability to participate in the economy.

STEP 1: IDENTIFY ROLE OF WOMEN AND MEN IN THE ECONOMY

The starting point for a gender-sensitive diagnostic assessment of the business environment should be an analysis of the roles and status of men and women in the economy — as entrepreneurs, employers and workers. Understanding where men and women are situated in the economy, and what their economic activities are, enables practitioners to tailor business environment reforms to address the specific constraints faced by each, and by women in particular.

The World Bank Enterprise Surveys collects data on many of the core characteristics of businesses, such as sector of operation, size, location, years in operation and management structure. Sometimes, this information can be disaggregated by the gender of the business owner, which can feed into an analysis of the role of women and men in the economy. However, further probing will have to take place to understand more of the specifics of the implications and the constraints that women face in such roles[13]. In the African context, a complementary source of information is the African Development Bank's (AfDB) Gender Equality Index, which rates women's and men's labour force participation rates, wages and incomes, business ownership and access to financial services. The roles of women and men in the economy should be identified across the following dimensions:

- **Sectors:** It is important to understand in which sectors women and men operate. In Sub-Saharan Africa, women are more likely to work in agriculture than men.
- **Employment Status:** The employment status of women and men also varies widely, with women less likely to be employers and more likely to be unpaid workers contributing to a family business than are men.
- **Informality:** Women form the minority of enterprise owners in the formal sector and operate businesses predominantly in the informal sector. Women's predominance in the informal sector is caused by a number of factors, including the time poverty they face as a result of unpaid household responsibilities and child and elderly care.

STEP 2: ANALYSE BUSINESS ENVIRONMENT CONSTRAINTS ON WOMEN

The second step in a gender-sensitive assessment of the is to identify business environment constraints and analyse the impact they have on women in particular. Many constraints impact both men and women, but where the impact is different for women, diagnostics need to be designed to capture these differences. For instance, women are more likely than men to suffer from harassment and requests for bribes from with public officials. Other constraints only affect women or have a disproportionate negative impact on them because of their family responsibilities or social norms that restrict their ability to access the same economic opportunities as men. Gender issues should be analysed across the main business environment constraints as below:

Legal and Regulatory: The legal and regulatory framework of a country can be significantly different for women. In some countries, laws explicitly limit women's ability to participate in economic activities by for example requiring male consent for a woman to start

[13] Gender Dimensions of Investment Climate Reform, A Guide For Policy Makers And Practitioners, Sevi Simavi, Clare Manuel, Mark Blackden, The World Bank, 2010

or operate a business. Other legal or regulatory constraints include gender based job restrictions on working hours, night working, sectors and occupations. Many countries also have inadequate or non-existing policies relating to maternity, paternity and parental leave, which tends to impact women more, given their disproportionate responsibility for childcare. Even when these policies exist in statute, they are often not implemented and therefore do not offer the social protection women need. Other laws outside of the business environment can also directly impact women's ability to work or operate a business, such as laws concerning marriage, family relations or inheritance. These factors influence women's economic productivity, formal workforce participation, contribute to a gender wage gap and limit the types and quality of jobs that they do[14].

- **Land:** Land titling is a major business environment constraint that impact women disproportionately. In Sub-Saharan Africa, women are widely excluded from ownership or control of land, representing on average only 15% of landholders, ranging from under 5% in Mali to 30% in countries such as Botswana, Cape Verde and Malawi[15]. Women's lack of access to land have repercussions on their ability to access credit, given their lack of traditional forms of collateral, which in turn limit their ability to manage or grow a business.
- **Access to Finance:** Lack of access to finance affects all businesses, whether owned by men or women, but women face particularly restrictive conditions to accessing financial services due to legal, administrative and social factors. Legally, women are constrained by their limited access to land titles and property rights, which makes them unable to meet collateral requirements to secure lending. Women often also face discriminatory banking laws, such as the need for a male signatory in order to open a bank account. Many administrative requirements, such as Know Your Customer (KYC) requirements, are more cumbersome for women who suffer from time poverty and lower levels of education than men. Socially, women's lower levels of education limit their financial literacy and therefore their ability to access financial services to grow their business.
- **Tax**: Even where tax policies and laws are seemingly gender-neutral, they can be biased against women. For instance, when the tax is higher for secondary earners this usually impacts women more as they often earn less than their husband due to reproductive and caring responsibilities. This may discourage women from formalising their employment or entrepreneurship. Furthermore, women are more vulnerable to unequal treatment, harassment or bribery during tax collection. These constraints have an impact on women's perceived value of paying taxes, their participation in the formal labour market and incentives to formalise their business, which in turn has an impact on governments' ability to collect taxes from women[16].
- **Infrastructure:** One of the main business environment constraints in Africa is the lack of well-developed infrastructure. While both men and women are negatively affected by poor infrastructure, women are particularly impacted by the lack of access to power and water, which increases the household burden on women and further restricts their ability to fully participate in the labour market.
- **Access to Information**: Another constraint is women's limited access to information, which prevents them from accessing crucial market or business knowledge, such as market prices, business registration procedures or overall business management requirements. Women's time poverty due to family responsibilities, low levels of education and literacy and constrained mobility due to social norms contribute to these difficulties.

STEP 3: UNDERSTAND SOCIAL AND POLITICAL DYNAMICS

When diagnosing the business environment from a gender perspective, a number of factors outside of formal laws and regulations have a significant influence over women's ability to participate in the economy:

[14] Gender-Sensitive Business Environment Reform: Why does it matter? — A policy guide, Business Environment Working Group (Donor Committee for Enterprise Development), Katherine S. Miles, July 2017

[15] Food and Agriculture Organisation, The State of Food and Agriculture 2010-11, Rome, 2011

[16] Gender-Sensitive Business Environment Reform: Why does it matter? — A policy guide, Business Environment Working Group (Donor Committee for Enterprise Development), Katherine S. Miles, July 2017

- **Social norms:** Even a legal and regulatory environment that does not explicitly discriminate against women can prove restrictive for women due to social and cultural norms that prevent them from becoming active economic participants. For instance, customary laws can prohibit women to own land, to be employed or to run a business. Therefore, any gender sensitive business environment reforms need not only address direct constraints to operating a business or participating in the labour market, but also need to take into account customary laws and practices that may constrain women.
- **Lack of voice**: A male dominated cultural and political environment where women's voices are not always well represented will limit women's economic opportunities. Low levels of female representation in parliament, public office, company management or corporate boards limit their voices both in business communities and policy making. It is important to gain sufficient understanding of political and sociocultural dynamics that shape the environment in which women operate in order to fully assess the constraints that women face. This requires an inclusive approach to the diagnostic process and involves close collaboration with key women's associations, trade unions, civil society groups and government representatives, in order to make sure that women's voices are heard in the process and the right issues are brought to the attention of policymakers. Stakeholders to consult with include:

- Government or other body responsible for defining and implementing BER;
- Government agency responsible for gender equity (usually a Ministry for Women's Affairs or for gender);
- Women's business associations and women in business; and
- Gender technical specialists (for example, in government, NGOs, or the donor community).

Chapter 6

Measurement and evaluation of BER initiatives

OVERVIEW

A key part of project design is the development of an internal project monitoring system for the project. Project monitoring refers to the ongoing collection, analysis and use of information about project progress and the results being achieved; internal project monitoring refers specifically to monitoring that is undertaken by the project's implementing partners, in contrast to external monitoring, which is undertaken by outside consultants or by the donor agency[1]. Typically project monitoring will include detailed indicators, with a results framework that includes inputs, activities, outputs, outcomes and impact.

The EU uses internationally accepted OECD DAC terminology for monitoring. A discussion of how to develop results framework is beyond the scope of these guidelines. We provide however EU resources and DCED examples and resources in this chapter.

The results framework is in principle be finalised during the project inception and implementation phases and may require the input of specialised measurement and evaluation (M&E) experts. The BER diagnostic may be an opportunity for the team to start the process of developing indicators for internal project monitoring.

The European Commission has developed the Sector Indicators Guidance (SIG) which should be helpful for task managers and consultants doing the design of BER and investment climate actions. Specific indicators have been developed both for BER and for investment climate. It is a suggested list of indicators.

EU SECTOR INDICATORS GUIDANCE (SIG) FOR BER

The Sector Indicator Guidance for action design has been developed by DEVCO and is intended for EU staff involved in the design of development actions to develop solid logical framework matrices. It identifies clear and measurable results statements that are in line with DEVCO policy priorities, as well as with the UN Sustainable Development Goals (SDGs), along with a range of good indicators to monitor progress (including those identified with EU Member States in joint programming exercises). It is updated regularly to reflect evolving priorities. Indicators included in this document as suggested as guidance.

The present version of the Sector Indicator guidance covers DEVCO strategies in various sectors, and presents for each sector:

1. EU policy priorities: a short narrative explaining EU policy priorities and commitments as articulated in key policy and strategic documents, including joint EU and Member States' strategies.
2. Results Chain: a diagram showing the main results (impact, outcomes, outputs) that EU development interventions are expected to achieve in the sector, reflecting EU policy priorities and commitments.
3. List of Sector Indicators: examples of measurable indicators associated to each result statement are provided, that may be used in Logframe Matrices at project/ programme level.

The Sector Indicators guidance can be accessed via the following link: http://indicators.developmentresults.eu/

The specific results chain for Business Environment Reform is available (see below) and proposes indicators at the level of impact, outcomes (medium and short term) and outputs. These can be used by EU staff and consultants when formulating programmes, where relevant. (NB in some cases, there is a joint results framework in place agreed with EU Member States in a joint programming document)

EU RESULTS FRAMEWORK INDICATORS

Project level monitoring should in turn be distinguished from the EU International Cooperation and Development Results Framework (RF). Its objective is to report at corporate level and it includes three levels: Level 1 (Impact: Development progress in EU partner countries), Level 2 (Outcomes and Outputs: EU Contributions to development progress in EU partner countries) and Level 3

[1] European Commission, 'Strengthening project internal monitoring: How to enhance the role of EC task managers: Tools and Methods Series Reference Document No. 3' (June 2007).

(Process and Inputs: DG International Cooperation and Development organisational performance)[2].

A limited number of indicators are therefore considered to this purpose. These indicators, where relevant, can also be included at programme level. Information on the results reporting exercise at corporate level can be found here: https://myintracomm.ec.europa.eu/dg/devco/evaluation-quality-results/quality-results/Pages/results-data.aspx

DCED RESOURCES FOR M&E BER ACTIONS

The DCED provides two main references which are useful when formulating a BER intervention.

The Annex to the BER guidelines of the DCED are focused on '**Measuring Donor-supported Business Environment Reform**'[3].

This document reflects main challenges of donors when measuring BER interventions and proposes some Principles which are useful to consider at the different phases of a BER action.

Moreover, it proposes general guide for BER-support programme managers who are thinking through the process of establishing a results measurement system.

A table with examples of indicators and means of verification at the level of impacts (impact on the economy, on the poor, on the firms), intermediate outcomes (reduced business risk, reduced business cost…), and outcomes and outputs is presented (related to business registration and licensing reforms, trade and customs reform, tax administration and reform, and business advocacy and public-private dialogue).

They are presented to illustrate the kinds of impacts and outcomes a BER-support programme might typically produce and the ways these might be measured.

Besides this publication, a series of case studies on measuring the results of business environment reform are as well available as examples for practitioners. The DCED document '**Case studies in the measurement of Donor-supported Business Environment Reforms**'[4] gathers examples which deal with key reform product lines: business registration and licensing, taxation reform, public private dialogue, and trade and customs reform.

CHALLENGES IN MEASURING BER

A number of challenges specific to BER programmes will need to be taken into consideration as indicators are developed. These include:

- Numerous external factors affect the business environment and investment climate beyond BER programmes (e.g. external shocks, global trends, other interventions);
- BER programmes involve long results chains with many elements (policy, legal and regulatory frameworks, administration and governance reforms) which require coordination;
- While factors like cost and time to obtain a permit can be relatively easily measured, there are many qualitative aspects of BER that are harder to capture, for example the quality of regulation;
- Many actors and stakeholders are involved; the impact of a single reform may not lead to the needed broader behavioural change;
- The ultimate impact of most reforms takes years to be realised and measured—often beyond the life of a programme;
- The links between changes in behaviour at the enterprise level and economy wide changes are complex, as are the links between economic growth and poverty reduction.

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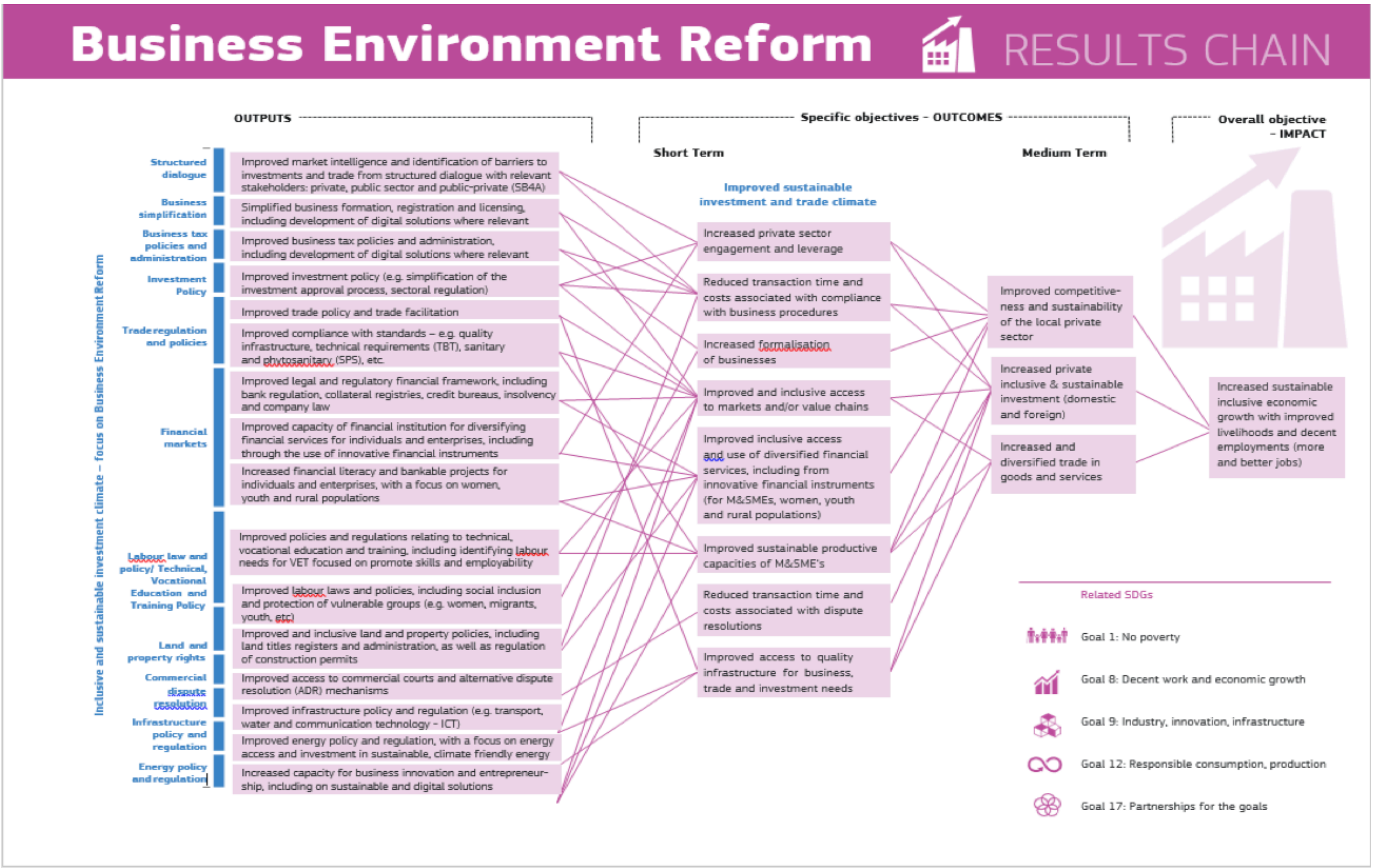
[2] Commission Staff Working Document 'A Revised EU International Cooperation and Development Results Framework in line with the Sustainable Development Goals of the 2030 Agenda for Sustainable Development and the New European Consensus on Development', SWD(2018) 444 final, 11/10/2018

[3] https://www.enterprise-development.org/wp-content/uploads/DonorGuidanceAnnexMeasuringResults.pdf

[4] https://cdn.enterprise-development.org/wp-content/uploads/Donor_Guidance_Annex_on_Measuring_BER_Results_Ca.pdf


Business Environment Reform
RESULTS CHAIN
OUTPUTS
Specific objectives - OUTCOMES
Overall objective - IMPACT
Short Term
Medium Term
Inclusive and sustainable investment climate – focus on Business Environment Reform
Structured dialogue
Improved market intelligence and identification of barriers to investments and trade from structured dialogue with relevant stakeholders: private, public sector and public-private (SB4A)
Business simplification
Simplified business formation, registration and licensing, including development of digital solutions where relevant
Business tax policies and administration
Improved business tax policies and administration, including development of digital solutions where relevant
Investment Policy
Improved investment policy (e.g. simplification of the investment approval process, sectoral regulation)
Trade regulation and policies
Improved trade policy and trade facilitation
Improved compliance with standards – e.g. quality infrastructure, technical requirements (TBT), sanitary and phytosanitary (SPS), etc.
Financial markets
Improved legal and regulatory financial framework, including bank regulation, collateral registries, credit bureaus, insolvency and company law
Improved capacity of financial institution for diversifying financial services for individuals and enterprises, including through the use of innovative financial instruments
Increased financial literacy and bankable projects for individuals and enterprises, with a focus on women, youth and rural populations
Labour law and policy/ Technical, Vocational Education and Training Policy
Improved policies and regulations relating to technical, vocational education and training, including identifying labour needs for VET focused on promote skills and employability
Improved labour laws and policies, including social inclusion and protection of vulnerable groups (e.g. women, migrants, youth, etc)
Land and property rights
Improved and inclusive land and property policies, including land titles registers and administration, as well as regulation of construction permits
Commercial dispute resolution
Improved access to commercial courts and alternative dispute resolution (ADR) mechanisms
Infrastructure policy and regulation
Improved infrastructure policy and regulation (e.g. transport, water and communication technology - ICT)
Energy policy and regulation
Improved energy policy and regulation, with a focus on energy access and investment in sustainable, climate friendly energy
Increased capacity for business innovation and entrepreneurship, including on sustainable and digital solutions
Improved sustainable investment and trade climate
Increased private sector engagement and leverage
Reduced transaction time and costs associated with compliance with business procedures
Increased formalisation of businesses
Improved and inclusive access to markets and/or value chains
Improved inclusive access and use of diversified financial services, including from innovative financial instruments (for M&SMEs, women, youth and rural populations)
Improved sustainable productive capacities of M&SME's
Reduced transaction time and costs associated with dispute resolutions
Improved access to quality infrastructure for business, trade and investment needs
Improved competitiveness and sustainability of the local private sector
Increased private inclusive & sustainable investment (domestic and foreign)
Increased and diversified trade in goods and services
Increased sustainable inclusive economic growth with improved livelihoods and decent employments (more and better jobs)
Related SDGs
Goal 1: No poverty
Goal 8: Decent work and economic growth
Goal 9: Industry, innovation, infrastructure
Goal 12: Responsible consumption, production
Goal 17: Partnerships for the goals

Resources: M&E for BER

- European Commission, Sector Indicator Guidance: Business Environment Reform (2018). http://indicators.developmentresults.eu/
- Commission Staff Working Document 'A Revised EU International Cooperation and Development Results Framework in line with the Sustainable Development Goals of the 2030 Agenda for Sustainable Development and the New European Consensus on Development', SWD(2018) 444 final, 11/10/2018. http://ec.europa.eu/transparency/regdoc/rep/10102/2018/EN/SWD-2018-444-F1-EN-MAIN-PART-1.PDF
- DCED 'Case Studies in the Measurement of Donor-Supported Business Environment Reform Results', Simon White, 2013. https://cdn.enterprise-development.org/wp-content/uploads/Donor_Guidance_Annex_on_Measuring_BER_Results_Ca.pdf
- DCED 'Supporting Business Environment Reforms. Practical Guidance for Development Agencies. Annex: Measuring Donor-supported Business Environment Reform', 2013. https://www.enterprise-development.org/wp-content/uploads/DonorGuidanceAnnexMeasuringResults.pdf
- European Commission, Strengthening project internal monitoring: How to enhance the role of EC task managers (June 2007) (Tools and Methods Series Reference Document No. 3).
- European Commission, Commission Staff Working Document: Launching the EU International Cooperation and Development Results Framework (26.3.2015)
- Donor Committee for Enterprise Development (DCED), 'Practical Guidance on Business Environment Reform Annex: Measuring Donor-Supported Business Environment Reform' (October 2013). www.business-environment.org
- DCED, The DCED Standard for Measuring Results in Private Sector Development: Control Points and Compliance Criteria (Version VIII, April 2017). https://www.enterprise-development.org/measuring-results-the-dced-standard/implementing-the-dced-standard/
- IFC, Enterprise Surveys Indicator Descriptions (September, 2017), available at http://www.enterprisesurveys.org/data
- IFC, 'The Monitoring and Evaluation Handbook for Business Environment Reform' (2008). Prepared in association with GTZ and DFID
- http://www.businessenvironment.org/dyn/be/docs/detail2/167/4
- Swiss Agency for Development and Cooperation (SDC), Monitoring and Measuring Results in Private Sector Development (2016).
- Governance and Social Development Resource Centre (GSDRC), Helpdesk Research Report: Indicators for investment and business climate (17 August 2012) (Enquiry from DFID, prepared by Sumedh Rao).

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