

Methodology

The indicators presented in *Investing Across Borders 2010* (IAB) assess laws that affect foreign direct investment (FDI) and the efficiency of administrative processes in 87 economies. The project's methodology is based on that of the World Bank Group's *Doing Business* project.ⁱ The indicators highlight differences among countries in their regulatory treatment of FDI to identify good practices, facilitate learning opportunities, stimulate reforms, and provide cross-country data for research and analysis.

The indicators are based on a survey of lawyers, other professional service providers (mainly accounting and consulting firms), investment promotion institutions, chambers of commerce, law professors, and other expert respondents in the countries covered. Between April and December 2009 more than 2,350 respondents were surveyed in 87 countries (that is, 27 per country, on average).ⁱⁱ The average number of respondents across countries varied. It was higher in countries with higher levels of income, institutional capacity, and greater degree of professional specialization of the expert respondents.

IAB'S THEMATIC FOCUS AREAS, RESPONDENTS, AND ECONOMIES

Selection of thematic focus areas

IAB indicators focus on 4 thematic areas (referred to in this report also as topics) of FDI regulation selected over a 2-year process from a much wider range of investment climate factors, including foreign equity ownership restrictions, investment promotion, approval procedures, performance requirements, access to land, employment of expatriate personnel, restrictions on board members, currency convertibility and repatriation, protection against expropriation, protection of intellectual property, provision of national treatment principles, investment incentives, and access to international commercial and investment arbitration. During this 2-year process the IAB team consulted academic literature on FDI determinants, investor surveys on barriers to doing business, and FDI specialists comprising IAB's expert consultative groups. The team also conducted pilot tests in 23 economies.ⁱⁱⁱ The feasibility and desirability of including topics were evaluated using the following criteria:

- Is the topic already sufficiently covered by *Doing Business* or other annual benchmarking exercises? Many resources measure the quality and competitiveness of business environments worldwide. The IAB indicators are designed to complement these resources by focusing on areas of regulation particularly pertinent to FDI.
- Is the topic affected by public policy, regulatory and administrative frameworks, or does it mostly depend on other factors—such as natural resource endowments or market size?
- Can public authorities take short-term actions in the topic area that the IAB indicators could track and capture on a regular basis, or does the topic lend itself more to long-term reforms?

- Is a regular survey of investment lawyers and other business intermediaries the appropriate data collection method for this topic, or would the topic require a different type of respondent—such as a foreign investor?
- Is it possible to collect objective and verifiable data on the topic, or is its nature such that it should be evaluated through subjective data based on survey respondents' perceptions and sentiments?
- Can survey questions capture standard, everyday treatment of a typical foreign investor, or is the nature of the topic such that it mostly depends on ad hoc, discretionary decisions and actions by public authorities?
- Is there sufficient heterogeneity of performance across economies to warrant developing a global indicator set, or is there a relatively small set of economies whose policies and regulations treat the topic differently from most other economies?
- Does IAB have sufficient human and financial resources to measure each topic?

Applying the above selection criteria narrowed the list of possible topics to the current set of 4 IAB indicator areas. Over time, IAB will consider adding topics to its thematic coverage.

Selection of survey respondents

As noted, law firms, other professional services providers (mainly accounting and consulting firms), investment promotion institutions, chambers of commerce, law professors, and other local experts in the measured economies were the principal respondents to the IAB survey. These individual and organizations had both knowledge of their economies' legal and regulatory frameworks for FDI and experience advising foreign investors on market entry and operations.

Respondents were self-selected based on their interest, availability, and willingness to contribute to IAB on a pro bono basis. About 25% of those invited to complete the surveys elected to participate in the project, on average. IAB identified its potential pool of respondents based primarily on the following sources of information:

- International guides identifying leading providers of legal services, including their specialization, in each country. The guides include Chambers and Partners, Martindale, IFLR1000, Helpline Law, HG Law, International Correspondence Lawyers and Financial Experts, The Internet's Lawyer Directory, and Terra Lex.
- Large international law and accounting firms with extensive global networks of offices or local partner groups.
- Members of the International Bar Association, country bar associations, chambers of commerce, and other membership organizations.
- Professional services providers identified on Web sites of embassies, investment promotion institutions, business chambers, and other local organizations.
- Professional services providers recommended by country offices of the World Bank and International Finance Corporation (IFC).

Foreign investors were not invited to fill out the surveys. The IAB team had interviewed investors in several countries during the initial pilot tests, and found that they were often not

familiar with the specifics of the countries' legal and regulatory frameworks and that their survey responses were limited to unique sector-specific experiences at one point in time. In contrast, commercial lawyers—many of whom serve as local counsel to foreign investors—and other professional service providers were ideally positioned to complete the IAB survey. They were able to provide more up-to-date responses based on their experiences advising clients in various sectors. Indeed, the group of respondents providing IAB data in each country had, on average, roughly 180 foreign clients during a 12-month period before data collection. This significantly increases the number of transactional experiences as a basis for IAB data.

Selection of economies

IAB covers 87 economies in 7 regions (box 1), selected based on the following criteria:

- All economies where the IAB indicators were piloted in 2007–08.
- Population size, to capture the larger countries.
- Economies in the current and expected future project portfolio of the World Bank Group's Investment Climate Advisory Services.
- Economies that have requested *Doing Business* reform assistance, and have thus shown interest in using indicators to motivate reforms.
- Economies that have demonstrated commitment to business environment improvements and been recognized by *Doing Business* as leading reformers.
- Post-conflict economies, which are one of IFC's corporate priorities.
- Middle- and high-income economies that have done particularly well in attracting FDI, and could thus be interesting comparators and case studies for identifying good practices.

Box 1: Economies covered by this report

Sub-Saharan Africa (21 economies): Angola, Burkina Faso, Cameroon, Côte d'Ivoire, Ethiopia, Ghana, Kenya, Liberia, Madagascar, Mali, Mauritius, Mozambique, Nigeria, Rwanda, Senegal, Sierra Leone, South Africa, Sudan, Tanzania, Uganda, Zambia.

East Asia and the Pacific (10 economies): Cambodia, China, Indonesia, Malaysia, Papua New Guinea, Philippines, Singapore, Solomon Islands, Thailand, Vietnam.

Eastern Europe and Central Asia (20 economies): Albania, Armenia, Azerbaijan, Belarus, Bosnia and Herzegovina, Bulgaria, Croatia, Georgia, Kazakhstan, Kosovo, Kyrgyz Republic, FYR Macedonia, Moldova, Montenegro, Poland, Romania, Russian Federation, Serbia, Turkey, Ukraine.

Latin America and the Caribbean (14 economies): Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Ecuador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Peru, República Bolivariana de Venezuela.

Middle East and North Africa (5 economies): Arab Republic of Egypt, Morocco, Saudi Arabia, Tunisia, Republic of Yemen.

South Asia (5 economies): Afghanistan, Bangladesh, India, Pakistan, Sri Lanka.

High-income OECD (12 economies): Austria, Canada, Czech Republic, France, Greece, Ireland, Japan, Republic of Korea, Slovak Republic, Spain, United Kingdom, United States.

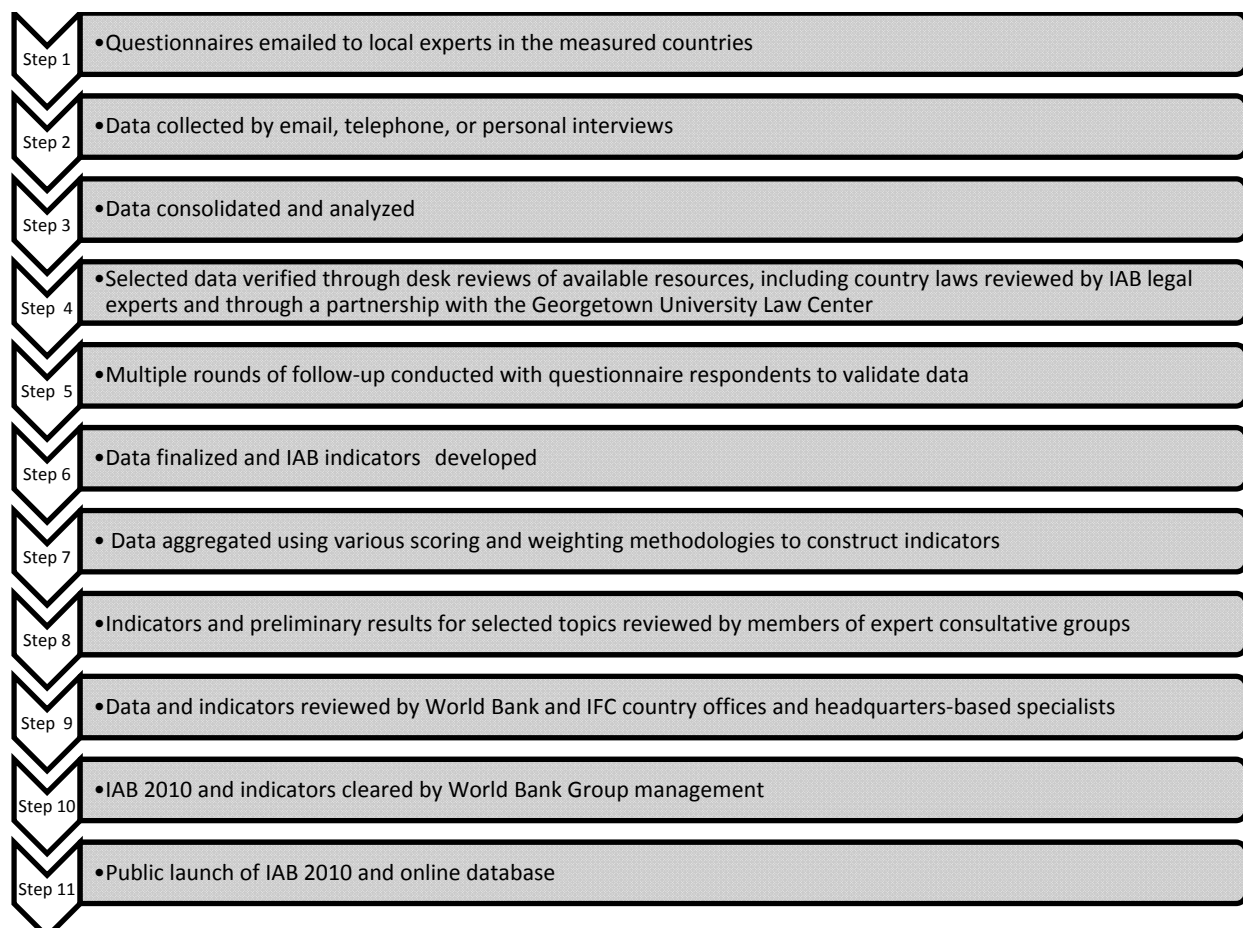
Given the report's pilot nature and the project's resource constraints, not all economies were included in IAB 2010. In future years, IAB plans to expand its coverage of economies. This increase will be driven primarily by demand and resource availability.

CONSTRUCTION AND CHARACTERISTICS OF THE IAB INDICATORS

Data collection and analysis

The IAB indicators are based on primary data collected mostly by email (and in some cases by telephone or personal interviews) using standardized questionnaires completed in each economy by expert respondents. (Questionnaire templates are available on the project's Web site <http://www.investingacrossborders.org>.) Figure 1 shows the steps involved in data collection, verification, and analysis.

Figure 1: IAB's data collection, verification, and analysis process



To ensure accuracy of collected data, the IAB team engaged in several rounds of interactions by email and telephone with many survey respondents to verify data and explore the reasons for inconsistent responses. This approach was followed until the conflicting responses were reconciled. The IAB team, along with law students from the Georgetown University Law Center, also reviewed countries' laws and regulations when respondents' answers to the survey questions were inconsistent. In addition, the IAB team traveled to 18 of the 87 economies for personal interviews with survey respondents.^{iv}

Respondents were asked both to fill out questionnaires and provide references to relevant laws and regulations to facilitate data verification for quality assurance. The surveys captured more than 1,200 data points for each economy. Raw data from the questionnaires were electronically extracted and compared with the original surveys to minimize transcription errors. Every step was documented to ensure traceability of data and derivation of the final data set.

Structure and characteristics of the IAB indicators

The IAB indicators comprise measures of the characteristics of laws and regulations (de jure indicators) and their implementation (de facto indicators; Table 1).

De jure indicators are based on a country's legal framework. Data for these indicators were collected through close-ended survey questions that assessed whether certain provisions and clauses are present in a country's legal and regulatory frameworks. All de jure indicators are objective and publicly verifiable. Examples of IAB's legal indicators include the foreign equity ownership indexes and strength of arbitration laws index.

In some cases IAB complemented these de jure indicators with de facto measures of how laws are actually applied in practice. For example, a regulation might stipulate a time limit within which a public agency must complete an administrative requirement, such as registration of a foreign-company. But if this time limit is rarely respected in practice, the IAB indicators recognize this through the de facto indicators. Thus the combination of the de jure and de facto data provide a more comprehensive and realistic measure of investment climates for FDI.

Table 1: De jure and de facto indicators used in *Investing Across Borders*

| Indicator | Indicator type |
|---|-----------------------|
| Investing Across Sectors indicators | |
| Foreign equity ownership indexes (0-100) | De jure |
| Starting a Foreign Business indicators | |
| Time (days) | De facto |
| Procedures (number) | De facto |
| Ease of establishment index (0–100) | De jure and de facto |
| Accessing Industrial Land indicators | |
| Strength of lease rights index (0–100) | De jure |
| Strength of ownership rights index (0–100) | De jure |

| | |
|---|----------------------|
| Access to land information index (0–100) | De jure and de facto |
| Availability of land information index (0–100) | De jure and de facto |
| Time to lease private land (days) | De facto |
| Time to lease public land (days) | De facto |
| Arbitrating Commercial Disputes indicators | |
| Strength of arbitration laws index (0–100) | De jure |
| Ease of arbitration process index (0–100) | De jure and de facto |
| Extent of judicial assistance index (0–100) | De jure and de facto |

The Starting a Foreign Business and Accessing Industrial Land indicators also use specific de facto indicators to measure the amount of time a foreign company needs to establish a subsidiary and access industrial land in the local economy. These indicators were collected following the standard time and motion studies used by Hernando de Soto^v and *Doing Business*.^{vi} Each administrative process was broken down into separate steps to ensure more precise estimates. Survey respondents with significant and routine experience in the relevant transactions provided the time estimates. IAB uses the following definitions to measure procedures and time:

- *Procedure*: any interaction between a foreign company (owners, managers, and/or their legal representatives) and other parties (government agencies or departments, public entities or public authorities, local banks).
- *Time*: the time involved in completing each procedure is calculated in calendar days (rather than business days) and based on the median time needed in practice to complete each procedure in the experience of each respondent.

All indexes (such as extent of judicial assistance index) are aggregates of individual survey questions. The topic- and index-specific methodology sections on IAB's Web site identify the exact questions that fed into each index. All questions were equally weighted. Alternative weighting methods were also explored (including factor and principal component analysis, expert judgment, and others).^{vii} Due to the high correlation of results among the various methods, the equal weights approach was selected because it is most commonly used by other indicator sets, is easily replicable (and so facilitates verification of results), and is most easily understood and communicated to a variety of audiences.

The IAB indicators are not aggregated at a topic level and are not ordered to produce a ranking of economies' performance. IAB will consider introducing rankings of economies in the future years after the project's methodology has been stabilized.

IAB maintains respondents' anonymity. Although all data are based on respondents' answers and information provided through the questionnaires, all original data are treated confidentially and the indicators cannot be traced to the responses of individual survey contributors.

Regional and global averages of indicator scores in this report are all based on IAB's current data set for 87 economies. If another source was used, it is clearly identified. The classification of

economies by region and income group is based on the World Bank Group's country classification criteria and conforms to the system used by *Doing Business*.^{viii}

LIMITATIONS OF THE IAB INDICATORS

This section presents the main limitations of the IAB project and the topic-specific IAB indicators in 3 areas: substantive, focusing on the content and thematic coverage of the indicators; methodological, concerned with the questionnaire design and data collection; and limits to the implications of the indicators, addressing their potential interpretation, uses, and relationships with various economic and social data. Readers and users of the IAB indicators are urged to keep these limitations in mind when interpreting the data.

Substantive limitations

- IAB focuses on regulation of FDI, not portfolio investment.^{ix} For example, the Investing Across Sectors indicators consider both greenfield FDI and mergers and acquisitions when assessing sector-specific restrictions on foreign equity ownership. The Starting a Foreign Business and Accessing Industrial Land indicators focus more on greenfield FDI by evaluating the process of establishing a local subsidiary and its options for and ease of accessing industrial land. The IAB indicators do not delve into any of the factors critical to portfolio investment, such as countries' capital markets, sovereign credit ratings, or currency stability.
- IAB focuses on national laws and, in some cases, on countries' ratifications of international conventions governing selected aspects of FDI. The indicators do not measure international investment agreements such as bilateral and regional investment treaties and free trade agreements (Box 2). The topic-specific chapters of this report list the laws that serve as the basis for the indicators.
- While IAB recognizes that many developing countries attract significant FDI in special economic zones (SEZs) and that these are in many countries important to FDI competitiveness, legal regimes for SEZs, export processing zones (EPZs), and other areas governed by special legal frameworks are excluded from the scope of the project. SEZ development has grown rapidly but is concentrated in relatively few countries and few product areas—sometimes with mixed results. Most FDI ends up outside SEZs. IAB's goal is to measure the treatment of FDI by national legislation, which is most relevant to a large sample of countries and a large share of global FDI. This methodology allows IAB to provide comparable data on the regulation and efficiency of administrative processes for FDI across all economies covered by the project.
- Some IAB indicators can apply to FDI as well as to domestic investment. While IAB's objective is to provide measures of FDI regulation, laws in many countries afford equal treatment to foreign and domestic businesses in several areas covered by IAB. For example, the land rights are often the same for all locally incorporated companies regardless of whether they are domestically- or foreign-owned. However, access to land often presents a greater administrative and bureaucratic hurdle for foreign companies unfamiliar with local

regulations. Thus IAB indicators focus on practical issues commonly identified as obstacles by foreign investors, rather than exclusively measuring areas of regulation that differentiate between domestic and foreign investment.

Box 2: IAB and international investment agreements

International investment agreements have various purposes, including promoting and protecting investments, and liberalizing investment regimes. Many of these agreements cover the same issues, such as scope and definition of foreign investment, admission of investment or pre-establishment, treatment of investment (both national treatment and most favored nation treatment), guarantees and compensation related to expropriation, transfer of funds and repatriation of capital and profits, and dispute settlement—both between states and between investors and states.

But individual international investment agreements treat these issues very differently, making it challenging to use a standardized survey to assess how laws and regulations are administered across countries. Bilateral investment treaties and free trade agreements are increasingly complex, raising concerns about implementation challenges. In addition, many of these treaties and agreements have exemption clauses that allow the country which has taken the exemption the freedom to regulate some issues in a different way from the one committed to in the agreement. For example, the United States took such a reservation in the North American Free Trade Agreement (NAFTA) for the national treatment of foreign investors in telecommunications and broadcasting services.

IAB does not measure country commitments to international investment agreements for the following reasons:

- Nearly 3,000 bilateral investment treaties are in place. The United Nations Conference on Trade and Development (UNCTAD) tracks them and, to an extent, analyzes their content. Doing anything beyond what UNCTAD has done—and doing it consistently on a global scale—would be a very demanding undertaking.
- The contents of international investment agreements of any one country vary depending on the agreements' bilateral or regional partners and on when they were negotiated and signed. Methodologically, the appropriate step would be to analyze all of them—which, again, would require significant resources.
- IAB aims to give governments tools to affect change unilaterally and in relatively short periods. While governments can change domestic legislation, they have much less ability to alter bilateral investment treaties and free trade agreements, which would require renegotiation. This is particularly the case for developing countries trying to negotiate or renegotiate agreements with high-income countries.

While recognizing that international agreements play an important role in sending a positive signal to foreign investors, the IAB indicators provide a more timely and accurate picture of a country's FDI policies because they measure the current state of national laws, regulations, and policies, rather than countries' commitment to liberalizing and promoting investment. The indicators reflect de jure policies on FDI equally applicable to investors from all countries.

Methodological limitations

- IAB is not a survey of perceptions of investors or companies. The IAB indicators are based on legal facts and expert responses collected through a standardized set of questionnaires completed by a small number of FDI specialists in each measured economy.
- IAB data are not based on a statistically significant sample of respondents in each economy. To counterbalance this limitation, an intensive consultation process with respondents was used to verify data. But as in all global studies, the quality of the final results is based primarily on the quality of the underlying data. As one would expect, IAB data for large middle- and high-income economies tend to be more robust and are based on responses from more respondents than those for small low-income economies.
- The IAB indicators are not necessarily representative of all investment projects. They aim to measure the typical experience of a foreign company looking to enter and operate in a new market. Uniformity and comparability of data are achieved through detailed assumptions of a case study tailored for each IAB topic. Actual experiences of foreign companies are however likely to vary depending on the nature of their commercial activities, the size of their investments, their relationships with the government and business community, their negotiating power, the location of their investment, and other factors.
- IAB data on the efficiency of administrative processes are specific to the country's largest business city (examples are indicators on the number of days to start a foreign business or to lease industrial land). The case study underlying IAB data assumes that a foreign company will seek to incorporate and operate in a country's center of commercial activity, thereby interacting with public authorities in that city. Thus IAB data are not necessarily representative of common practices in other cities in each economy, particularly in large or federal economies.
- IAB measures of time, captured in particular through some of the de facto indicators, involve an element of judgment by expert respondents. The reported time represents the median value of several responses given under the assumptions of the standardized case.^x Furthermore, the methodology assumes that an investor and its legal counsel have full information on what is required and do not waste time when completing procedures. In practice, completing a procedure may take longer if the investor and its legal counsel lack information or are unable to follow up promptly. Alternatively, they may choose to disregard some burdensome procedures. For both reasons, the times to complete administrative processes reported in IAB could differ from the perceptions of entrepreneurs reported in the World Bank Group's Enterprise Surveys or other investor surveys.
- The IAB indicators are not designed to indicate whether treatment of FDI is more or less favorable than treatment of domestic investment. The IAB indicators across the 4 topics and 87 economies provide a mixed picture. For some indicators (such as Arbitrating Commercial Disputes) the legal rules afforded to foreign companies are typically more favorable than those for domestic businesses. For others (such as Starting a Foreign Business) there tend to be additional requirements for FDI. Finally, laws often provide the same rules for foreign and domestic companies. For example, if a particular economic sector is closed to both domestic and foreign private sector participation because it is dominated by a state-owned monopoly, the Investing Across Sectors indicators reflect this scenario as a restriction on FDI even

though the restriction also applies to domestic investors. Accordingly, the indicators are not structured to clearly measure derogations from the national treatment principle. As such, the indicators do not present exact measures of areas where laws and regulations discriminate against foreign or domestic companies. They evaluate legal and regulatory frameworks from the perspective of foreign investors and include all restrictions that affect foreign investors, even if those restrictions also affect domestic businesses.

Main limitations of interpreting IAB data

- IAB's thematic coverage is limited to 4 areas of FDI regulation. As discussed, the IAB indicators do not provide comprehensive measures of countries' legal and regulatory frameworks for FDI. The 4 thematic areas were selected from a wider set of possible variables because of their policy relevance, relative ease and precision in measurement, reform potential, and other practical considerations. Given the importance of other factors to attracting FDI, it should not be assumed that improvement in the indicator scores will necessarily lead to increased FDI.
- IAB data should not be used as a proxy for government reforms in general. The main purpose of the IAB indicators is to benchmark FDI regulations around the world—and in so doing, facilitate policy dialogue by identifying good practices, track reforms, facilitate sharing of reform experiences, and enable research and analysis on the links between reforms in measured areas and desired outcomes. Any reforms that countries wish to undertake should be considered in a broader context of priorities.

The indicators are structured to reward good regulation and efficient processes. Transparent, predictable, and effective laws and regulations are critical to ensuring that foreign investment results in a win-win situation for investors, host economies, and their citizens. A solid, consistently applied legal framework gives investors confidence in the security of their property, investments, and rights. The IAB project does not advocate for reducing all regulatory barriers, but hopes to improve understanding of how to maximize the development benefits of FDI through appropriate regulatory frameworks.

The following section presents limitations of each of the 4 specific topics covered by IAB. These limitations are additional to the general project-wide limitations presented above.

Limitations specific to the indicator topic area

Investing Across Sectors

- The absence of foreign ownership restrictions as measured by the Investing Across Sectors indicators is an important but insufficient condition for attracting FDI. Aside from openness to foreign ownership, other determinants of FDI include market size, infrastructure quality, political stability, and economic growth potential. Restrictions on foreign ownership limit and in some cases prohibit FDI in certain sectors. But abolishing foreign ownership

restrictions and having a completely open economy do not guarantee success in attracting more FDI.

- The indicators cover a large share of economic sectors but are not all-encompassing. Coverage of the primary and manufacturing sectors is relatively limited given that past studies have shown—and this report confirms—that most countries do not restrict foreign ownership in these sectors. The coverage of the service sectors, though more extensive than in past studies, is also not exhaustive. For example, the indicators do not include certain public utilities (such as water or natural gas distribution), professional services (such as legal, accounting, and consulting services), and social services (such as education). These and other service sectors were not included in the survey questionnaire for one or more of the following reasons: FDI plays a small role in the sector, FDI restrictions (if present) often do not take the form of equity limits, views in the development literature diverge on the appropriate role of foreign capital in the sector, and methodological constraints limited the length of the questionnaire and potential quality of responses. Finally, sectors where countries may have legitimate security, cultural, or religious reasons for prohibiting FDI are omitted from the indicators' coverage. These include weapons, nuclear power, and manufacturing of tobacco products and alcoholic beverages.
- Because one of the underlying principles of IAB is to collect objective, verifiable, quantifiable information, the Investing Across Sectors indicators are currently limited to analyzing legal restrictions on FDI (*de jure* measures). This is in contrast to other IAB indicators, which also measure how laws are applied in practice (*de facto* measures). As a result, countries may score higher on the Investing Across Sectors indicators than they would if their actual openness to foreign presence in various sectors were measured by the *de facto* constraints or by actual FDI. Despite the project's efforts, capturing actual practices in all the measured sectors proved infeasible with the existing survey instrument given the relatively small sample of respondents in each country and the wide variety of reasons that could prevent FDI in a particular market. These reasons include a sector's underlying market structure and the discretionary authority of regulatory bodies granting sector-specific licenses (especially in service sectors).
- Even in the realm of *de jure* restrictions, limits on foreign equity are just one among many possible legal and regulatory impediments to FDI. Binding constraints on market access might also include limits on the number of operators allowed, types of legal entities, and minimum values of transactions or assets. Some of this information was collected through the Investing Across Sectors questionnaires and is available on IAB Web site (<http://investingacrossborders.org>). But given that this information is incomplete, it was not used in the construction of the indicators. The indicators also do not measure the ability of foreign companies to bid on concession contracts.
- The indicators focus on restrictions captured in countries' statutes, and not on commitments to open sectors to FDI captured in international investment agreements (such as bilateral investment treaties or free trade agreements) or WTO commitments (Box 3).

Box 3: IAB and commitments under the General Agreement on Trade in Services

Unlike trade policy, cross-country comparisons of foreign investment regimes have received insufficient analysis.^{xi} Early attempts to quantify national FDI restrictions have been limited to simply counting the number of policies that undermine FDI, without weighing the relative

importance of the individual policies.^{xii} Recognizing that service sectors are more restricted than primary and manufacturing sectors, other attempts at a numeric presentation of FDI restrictions have mainly relied on the General Agreement on Trade in Services.^{xiii}

Most of the IAB Investing Across Sectors indicators deal with FDI in services. There is no international agreement on standardized reporting of policies for FDI in services, with the partial exception of schedules for the General Agreement on Trade in Services (GATS) governed by the World Trade Organization (WTO). But GATS schedules are a weak guide to FDI policies in most countries because they generally underestimate how much countries have opened up services to FDI.

GATS commitments are made in the form of “positive” lists representing official commitments to open markets, in contrast to “negative” lists of exceptions to liberalization. Under GATS, the absence of a positive commitment does not necessarily imply a restriction. To retain policy flexibility, a country may simply have chosen not to list the sector in its schedule. Alternatively, if the sector is restricted, GATS may be silent on the nature of the restriction—creating ambiguity about the country’s actual policies.

Furthermore, current GATS schedules date from about 2000 and may not capture more recent country-level changes. Thus country policies and practices are typically more open than what countries commit to in international agreements like GATS. For example, India has committed to allowing 51% foreign equity ownership in software, construction, and tourism under its GATS commitments. But in national law and practice, it permits 100%. In telecommunications India’s GATS commitment is 25%, but in national law and practice it is 74% or more. Most tellingly, while India has not even listed commitments in transport, the sector is not closed. Indeed, India allows 100% foreign ownership in road and maritime transport.

The Investing Across Sectors indicators provide an up-to-date and accurate picture of a country’s equity restrictions because they measure the present state of the laws and policies, rather than the country’s commitment to liberalize, now or at some point in the future. The indicators reflect de jure policies on FDI applicable to all countries in a non-discriminatory manner.

Starting a Foreign Business

- The process for establishing a foreign-owned subsidiary may differ by city, province, or region within countries—especially large or federal countries. The Starting a Foreign Business indicators assume that the establishment process occurs in the country’s largest business city and do not explore possible variations in other parts of the country.
- Because the case study stipulates that a subsidiary will be established as a limited liability companies (LLC), the Starting a Foreign Business indicators do not measure the number of procedures required to establish other type of a business (such as corporation or partnership). The indicators also do not consider other types of foreign investment projects (such as joint

ventures, licensing agreements, or establishment of branch offices), which are often treated differently—both by law and in practice—than foreign subsidiaries.

- The case study also stipulates that the foreign subsidiary will be operating a manufacturing facility and engage in international trade (importing some production inputs and exporting some manufactured goods). Thus the indicators consider obtaining a trade license a required procedure for the start-up process.
- Because the foreign company is assumed not to be applying for special benefits or privileges from host countries (such as extraordinary tax holidays, breaks, or exemptions; or customs duty exemptions) apart from automatic investment incentives, procedures that are only required to obtain special benefits are not considered essential to the start-up process.
- The indicators also do not cover the following types of licenses:
 - Sector-specific licenses (such as exploration or mining permits).
 - Permits for international and domestic (including municipal) health, food safety, and product and labor standards and regulations.
 - Work and residency permits for foreign employees, though these play an important role in the start-up a foreign-owned subsidiary.
 - Government reviews of foreign acquisitions in sensitive and strategic sectors. Such reviews are often conducted for reasons of national, economic, and trademark security and protection.

Accessing Industrial Land

- The process for accessing industrial land may differ by city, province, or region within countries—especially large or federal countries. The indicators assume that the process of leasing land occurs in the country’s largest business city and they do not explore possible variations in other parts of the country.
- The Accessing Industrial Land indicators do not cover:
 - The ease of acquiring agricultural land by foreign individuals and companies. Many countries there may have additional restrictions for foreign investment in agricultural land (as in the European Union and the United States). Due to the sensitive nature of the topic and its potential negative consequences for communal land holders in rural areas, it was deliberately excluded.
 - The time and procedural steps involved in purchasing private or public land, because purchasing land is not possible in some of the economies surveyed.
 - The amount of land (public or private) registered in land or property registration systems, and the quality of this information.
 - Aspects of the functionality of land registries and cadastres.
 - The proportion of land held privately rather than publicly.
 - The ease of acquiring, securing, and using land by individuals—domestic or foreign.
 - The ease of acquiring land for specialized purposes such as developing residential real estate, renting office space, and buying or leasing land in special economic zones or industrial parks.

- The amount of land available for investment in or near the country's largest business city. Many large urban centers have limited industrial land available for investment, but this is not measured by the indicators.
 - Acquisition of land along a country's borders or coastlines.
 - The ease of developing land, including factors such as land privatization, land use planning, location permits, construction permits, rezoning applications, utility connections, and sector-specific regulations.
 - The quality and effectiveness of complementary financial and legal institutions (such as credit bureaus and courts).
 - Land and property tax regimes for foreign companies and investors.
 - The cost of acquiring land (through lease or purchase).
 - Environmental and social protections for host countries, beyond what is measured by the Ease of leasing land indicators.
- The Accessing Industrial Land indicators do not encourage governments to promote efficient land transactions at the cost of environmental and social protections. Despite an explicit effort to strike the proper balance between the benefits and costs of regulation in the indicators, major limitations remain. As noted, the indicators do not highlight issues related to environmental and social protections for host countries, though the IAB survey did examine these in the context of leasing land. In most countries environmental and social impact assessments are not conducted when a foreign company leases or buys land, but instead when it intends to construct on it or to begin operations in a sector sensitive to environmental and social concerns.
 - When interpreting and using the Accessing Industrial Land indicators, it should be kept in mind that they focus primarily on laws and regulations governing foreign companies' access to industrial land, and less on legal protections for host countries' citizens and environments. The indicators (like many other data sets) should not be considered in isolation, but in conjunction with other indicators and reports—such as the Land Governance Assessment Framework (LGAF)^{xiv}—that reflect a country's other needs, circumstances, and socioeconomic development.

Arbitrating Commercial Disputes

- The methodology for the Arbitrating Commercial Disputes indicators is primarily limited to analyzing objective and verifiable data, such as the legal framework and most common practices in each country. The survey used a methodology consisting mainly of yes or no questions about whether certain laws or regulations exist in the country. It contained few perception-based questions. Thus coverage of actual practice is limited, given the survey methodology and the nature of arbitration, which is private and confidential.
- There is no such thing as a “one size fits all” arbitration regime. But by asking standardized questions in the survey, the IAB project aims to identify good practices that can help countries benchmark the strength of their arbitration regimes.
- Many countries that have recently adopted arbitration statutes (such as Afghanistan and the Solomon Islands) have little or no experience with international arbitration. This makes it hard to compare them with countries where arbitration is a well-established mechanism for

resolving commercial disputes. Countries with little or no experience are excluded from some of the analysis on court assistance and enforcement.

- The indicators do not cover:
 - Evaluation of arbitration clauses in bilateral investment treaties, investment chapters of free trade agreements, investment treaty arbitrations, and enforcement of arbitration awards by the International Centre for Settlement of Investment Disputes (ICSID).^{xv}
 - Levels of awareness and acceptance of arbitration practices by countries' legal and business communities.
 - Levels of training of countries' arbitration practitioners and judges.
 - Effectiveness of arbitral institutions.
 - Extent to which arbitration is preferred over other dispute resolution tools in each country.
 - Effectiveness of commercial litigation (which is already measured by the World Bank Group's *Doing Business* enforcing contracts indicator).^{xvi}

Due to these and other limitations, the IAB indicators are only partial measures of the topic areas they cover. They are limited in scope and explanatory power relative to actual policies and business realities. The specific contexts of each economy must be considered when interpreting the indicators and their implications for that country's policies and investment climate.

The following section presents all 4 IAB topics and their specific data methodology, assumptions, and indicator designs. It provides an overview of how the topic-specific data are analyzed, structured, and presented.

INVESTING ACROSS SECTORS

The Investing Across Sectors indicators measure overt statutory restrictions on foreign ownership of equity in new investment projects (greenfield FDI) and on the acquisition of shares in existing companies (mergers and acquisitions, M&As). The indicators are based on the text of investment codes, commercial laws, merger and acquisition laws, and other related statutes.

The indicators focus on 33 sectors, aggregated into 11 broader sector groups that conform with economic classifications and aggregation, in order to facilitate data presentation and analysis (Table 2).

Table 2: Investing Across Sectors indicators cover 33 sectors, aggregated into 11 sector groups

| | Sector group | Sector | Details |
|-----------------|---------------------|-------------|--|
| Primary sectors | Mining, oil and gas | Mining | A foreign company seeking to develop and exploit a medium-sized deposit of metal ore (for example iron, copper, nickel, gold, and silver). Note: The following types of mining activities are excluded from the definition: (1) oil and gas extraction, (2) diamond mining, (3) coal / lignite mining, and (4) exploration of a deposit. |
| | | Oil and gas | A foreign company seeking to develop and exploit a medium-sized gas or oilfield. |

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| | Agriculture and forestry | Agriculture | A foreign company seeking to own a commercial farm. Note: It is assumed that the foreign company is able to acquire a long-term lease on the land, and that the raising and hunting of animals is excluded from the definition. |
| | | Forestry | A foreign company seeking to own a commercial forestry or logging operation. |
| Manufacturing sectors | Light manufacturing | Light manufacturing | A foreign company seeking to own a factory for manufacturing a variety of consumer products (for example, electric household appliances). |
| | | Manufacturing of food products | A foreign company seeking to own a manufacturing plant for processing the primary products of agriculture, forestry, and fishing into food (for example, meat, fish, fruits and vegetables, oils, milk products, grain mill products). |
| | | Pharmaceutical products | A foreign company seeking to own a manufacturing plant to produce finished medicines. Note: Excluded from the definition are (1) medicinal chemicals, (2) active pharmaceutical ingredients, and (3) research and development (R&D) activities. |
| | | Publishing | A foreign company seeking to own a publishing business for books, brochures, dictionaries, maps, periodicals. Note: Excluded from the definition are (1) software publishing, (2) publishing of films and music, and (3) printing services. The content of the literature is not political in nature. |
| Services sectors | Telecom- munications | Fixed-line infrastructure | A foreign company seeking to own and operate a wired telecommunications infrastructure for the transmission of voice, data, text, sound, and video (switching and transmission facilities to provide point-to-point communications via landlines or cable distributions systems). |
| | | Fixed-line telephony services | A foreign company seeking to provide fixed-line telecommunication services using available infrastructure, which the foreign company does not own or operate. |
| | | Wireless/mobile infrastructure | A foreign company seeking to own and operate a wireless telecommunications infrastructure for the transmission of voice, data, text, sound, and video (cellular or other wireless telecommunication networks). Note: Provision of satellite telecommunications services is excluded from the definition. |
| | | Wireless/mobile services | A foreign company seeking to provide wireless/mobile telecommunication services using available infrastructure, which it does not own or operate. |
| | Electricity | Electric power generation – coal | A foreign company seeking to own a coal-fired power plant. |
| | | Electric power generation – hydro | A foreign company seeking to own a hydroelectric power plant (for example dams on rivers). |
| | | Electric power generation – biomass | A foreign company seeking to own a biomass-fueled power plant (for example using plants, trees, but not coal or petroleum). |
| | | Electric power generation – solar | A foreign company seeking to own a solar power plant. |
| | | Electric power generation – wind | A foreign company seeking to own a wind power plant. |
| | | Electric power transmission | A foreign company seeking to own transmission systems that transmit electricity from the generating facility to the distribution centers/substations. |
| | | Electric power distribution | A foreign company seeking to own distribution systems that convey electricity from the distribution centers/substations to the final consumer. |
| | Banking | Banking | A foreign company seeking to provide retail banking services to public and commercial clients through establishing a subsidiary or investing in a local bank. Note: Excluded from the definition are (1) equity restrictions on opening foreign bank branches (as opposed to subsidiaries), (2) investment banking, and (3) other specific types of financial services. |
| | Insurance | Insurance | A foreign company seeking to own a provider of health and/or life insurance services. Note: Excluded from the definition are (1) reinsurance, (2) property insurance, (3) social security/pension insurance, and (4) other forms of insurance. |
| | Transportation | Railway freight | A foreign company seeking to provide railway freight transport using its own rolling stock (wagons and locomotives). Excluded from the definition are (1) passenger transport, (2) ownership and/or operation of railroad infrastructure, and (3) ownership and/or operation of terminals. |
| | | Domestic air | A foreign company seeking to own an airline providing passenger transportation on scheduled domestic flights. Note: Excluded from the definition are cargo transport and charter flights. |
| | | International air | A foreign company seeking to own an airline providing international passenger transportation. Excluded from the definition is cargo transport. |
| Airport operation | | A foreign company seeking to own and operate a commercial airport facility. | |

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| | Port operation | A foreign company seeking to own and operate container terminals at the country's main commercial port(s). Note: Excluded from the definition are maritime auxiliary services (for example cargo handling services, storage and warehousing, customs clearance services, freight forwarding services). |
| Media | Television broadcasting | A foreign company seeking to program and broadcast a complete television channel on a countrywide scale. Note: Excluded from the definition are production of mere television program elements and radio broadcasting. |
| | Newspaper | A foreign company seeking to own a daily or weekly newspaper. Note: Excluded from the definition is publication of issue-specific magazines, monthlies. |
| Sector group 1 Construction, tourism, and retail | Construction | A foreign company seeking to provide construction and development of residential real estate. Note: Excluded from the definition is the construction of (1) commercial and industrial real estate, and (2) public works/civil engineering projects. |
| | Tourism | A foreign company seeking to own large high-end resorts or business hotels to provide short-term accommodation. Note: Excluded from the definition is ownership of restaurants, bars, and travel agencies. |
| | Retail distribution services | A foreign company seeking to own medium or large- retail outlet stores (for example department stores, supermarkets, hypermarkets) in order to sell a variety of consumer goods. Note: Excluded from the definition is wholesale distribution. |
| Sector group 2 Health care and waste management | Health care | A foreign company seeking to own and operate hospitals or clinics. Note: Excluded from the definition are ownership of pharmacies and drug distribution. It is assumed that health care facilities will only employ properly licensed local medical staff. |
| | Waste management and recycling | A foreign company seeking to own a provider of solid waste collection, disposal, and recycling services. Note: Toxic waste is excluded from the definition. |

Foreign equity ownership indexes are constructed for each of the 33 sectors, aggregated into 11 sector groups. The indexes take values from 0 to 100, where 100 denotes the absence of statutory ownership restrictions to FDI, and 0 means that foreign companies are not allowed to own equity in a sector or sector group.

At the most disaggregated level, restrictions on foreign ownership are measured separately for greenfield and M&A investments in each of the 33 sectors covered. The equity restrictions expressed in percentages are converted to index scores linearly. For example, a score of 49 denotes that a foreign company can own up to 49% of shares in a business in a particular sector in a particular economy, meaning that it can only be a minority shareholder. The Foreign equity ownership indexes for each of the sectors are calculated as the simple average of the greenfield and M&A scores, because in most countries and sectors the restrictions for those 2 investment types are identical.

The 33 sector scores are aggregated to 11 sector group scores using equal weights. Each sector group (with the exception of banking and insurance) comprises several sectors (table 7.2). Alternative systems of weights were also considered and tested: Different weights were assigned to the individual sectors and extracted on the basis of their economic importance (in GDP and FDI, tested separately). Factor Analysis was used to exploit variations in the data to account for cross-country performance. The results obtained by using each of the methodologies were highly correlated with each other. In the interest of simplicity, consistency with the other IAB topics, and ease of replicability, equal weighting was selected as the preferred methodology.

Table 3 below illustrates the scoring and aggregation methodology of the Foreign equity ownership indexes utilizing sample data for Indonesia.

Table 3: Scoring and aggregation methodology of the Foreign equity ownership indexes

| Sector group | Sector | Max. foreign ownership allowed by law or policy (%) | | Example: Indonesia |
|--|-------------------------------------|---|-----------------------------|----------------------------------|
| | | In greenfield FDI | In mergers and acquisitions | Foreign equity ownership indexes |
| Mining, oil and gas | Mining | 100 | 100 | 97.5 |
| | Oil and gas | 95 | 95 | |
| Agriculture and forestry | Agriculture | 95 | 95 | 72.0 |
| | Forestry | 49 | 49 | |
| Light manufacturing | Light manufacturing | 100 | 100 | 68.8 |
| | Manufacturing of food products | 100 | 100 | |
| | Pharmaceutical products | 75 | 75 | |
| | Publishing | 0 | 0 | |
| Telecommunications | Fixed-line infrastructure | 49 | 49 | 57.0 |
| | Fixed-line telephony services | 49 | 49 | |
| | Wireless/mobile infrastructure | 65 | 65 | |
| | Wireless/mobile services | 65 | 65 | |
| Electricity | Electric power generation – coal | 95 | 95 | 95 |
| | Electric power generation – hydro | 95 | 95 | |
| | Electric power generation – biomass | 95 | 95 | |
| | Electric power generation – solar | 95 | 95 | |
| | Electric power generation – wind | 95 | 95 | |
| | Electric power transmission | 95 | 95 | |
| Banking | Banking | 99 | 99 | 99.0 |
| Insurance | Insurance | 80 | 80 | 80.0 |
| Transportation | Railway freight | 49 | 49 | 49.0 |
| | Domestic air | 49 | 49 | |
| | International air | 49 | 49 | |
| | Airport operation | 49 | 49 | |
| | Port operation | 49 | 49 | |
| Media | Television broadcasting | 0 | 20 | 5.0 |
| | Newspaper | 0 | 0 | |
| Sector group 1: Construction, tourism, and retail | Construction | 55 | 55 | 85.0 |
| | Tourism | 100 | 100 | |
| | Retail distribution services | 100 | 100 | |
| Sector group 2: Health care and waste management | Health care | 65 | 65 | 82.5 |
| | Waste management and recycling | 100 | 100 | |

Foreign equity ownership indexes are based strictly on statutory (that is, de jure) restrictions. As explored in the Investing Across Sectors chapter of this report, any additional actual restrictions that might exist in practice—that is, de facto restrictions—are excluded from the analysis.

To ensure consistency and comparability of data across all 86 economies, the Foreign equity ownership indexes are based on a specific set of assumptions about the foreign investor and its home country:

- The foreign investor's home country does not enjoy any special economic, trade, or investment relationship with the host country nor is part of the same economic union or cooperation block, such as the EU, GCC, SADC, or ASEAN. IAB recognizes that in many countries the bulk of FDI flows come from economies that enjoy a preferential trade and investment regime with the recipient country. For methodological reasons, comparisons of preferential investment rules within various economic blocks would not have been an appropriate measure for benchmarking equity restrictions across countries. IAB's Web site notes cases where equity limits differ for countries inside a customs union or free trade area, where survey respondents provided this information.
- The host country enjoys normal political relations with the home country of the investor.
- The foreign investor is a private multinational company with no equity interest or management control by the government of its home country (that is, the investor is not a state-owned enterprise, sovereign wealth fund, an individual, or an institutional investor such as a pension fund). IAB recognizes that in many countries sovereign wealth funds have been a significant source of investment flows, and that institutional and private investors have played an increasingly important role in the countries' capital markets. However, as stated above, to ensure consistency and comparability of data, these types of investments are not included in the IAB indicators. It is also assumed that the foreign company will not be investing in an export processing zone (EPZ), special economic zone (SEZ), or any other zone governed by a special FDI regime in the host country. While IAB recognizes that many developing countries attract significant FDI into their SEZs and that they are growing in importance to FDI competitiveness, the legal regimes for SEZs, EPZs, or any other specifically designated areas governed by a special legal framework are excluded from the scope of the report. The survey examines the host country's general FDI regime, because IAB's objective is to measure the treatment of FDI governed by countries' national legislation, which is most relevant to a large sample of countries and a large share of global FDI.
- The foreign company is not yet incorporated or otherwise established in the host country, and it is interested in undertaking a medium- to large-scale investment project in each of the sectors defined.
- The respective investment project in the host country has no political affiliations.

STARTING A FOREIGN BUSINESS

The Starting a Foreign Business indicators quantify the procedural burden that foreign companies face when entering a new market. They build on the data gathered by the *Doing Business* starting a business indicator and highlight areas that are of specific interest to foreign investors. Consideration is given to both the regulatory framework and its implementation in practice, thus ensuring a more comprehensive measure of the business environment faced by

investors. The Starting a Foreign Business indicators comprise 3 components measuring the time, procedural steps, and regulatory regime for establishing a foreign-owned subsidiary (Box 4).

Box 4: What the Starting a Foreign Business indicators measure

1. Procedures (number): This indicator covers the number of procedural steps involved in establishing a wholly foreign-owned subsidiary. Both pre- and post-incorporation procedures that are officially required for a foreign investor to formally operate a business are recorded.

2. Time (days): This indicator measures the number of days needed for each of the procedural steps required to establish a subsidiary of a foreign company.

3. Ease of establishment index: This index evaluates the characteristics of the regulatory regimes for business start-up. It focuses on the following areas:

- Restrictions on the composition of the board of directors or appointment of managers.
- Requirements forcing the use of a local third party (counsel, notary, investment promotion agency) during the establishment process.
- Possibility of expediting establishment procedures through an official channel (availability of fast-track procedures).
- Requirement of an investment approval (nature of investment approval requirement, possibility of appeal, minimum required amount of investment, period of validity).
- Business registration process.
- Restrictions on holding a foreign currency bank account.
- Minimum capital requirements.
- Availability of electronic services (online laws, regulations, documents, and registration).

Procedures

The Starting a Foreign Business indicators record all the procedures required to establish a wholly foreign-owned, domestically incorporated company. IAB uses information from the *Doing Business* project on the procedures required to start a locally owned SME as a basis for its data.^{xvii} Based on the experience of the expert survey respondents, the additional procedures required of foreign companies with IAB case study's characteristics is then added to the *Doing Business* list of procedures. In some countries, there is no difference between the requirements for domestic and foreign companies, and in that case IAB's list of procedures is identical to that of *Doing Business*. In most countries, however, foreign companies are required to complete additional administrative steps, such as submitting authenticated legal documentation of the parent company, obtaining a trade license, or acquiring an investment approval.

A procedure is defined as any interaction of the parent company or its legal representatives with external parties (for example, government agencies or notaries). Interactions between company founders or company officers and employees are not counted as procedures. Procedures that must be completed in the same building, but in different offices, are counted as separate procedures. If the same office has to be visited several times for different sequential procedures, each is counted separately. Each electronic procedure is counted separately. If 2 procedures can be completed through the same Web site but require separate filings, they are counted as 2 procedures.

Both pre- and post-incorporation procedures that are officially required for a foreign company to formally operate a business are recorded. Only procedures required of all businesses are covered; industry-specific procedures are excluded. For example, procedures to comply with environmental regulations are included only when they apply to all businesses conducting general commercial or industrial activities. Procedures that the company undergoes to connect to electricity, water, gas, and waste disposal services are not included.

Procedures required for official correspondence or transactions with public agencies are also included. For example, if a company seal or stamp is required on official documents, such as tax declarations, obtaining the seal or stamp is counted. Similarly, if a company must open a bank account before registering for sales tax or value added tax, this transaction is included as a procedure. Shortcuts are counted only if they fulfill 4 criteria: they are legal, they are available to the general public, the majority of companies use them, and avoiding them causes substantial delays.

Time

Time is recorded in calendar days. The measure captures the median duration that incorporation lawyers and other expert respondents indicate is necessary to complete each procedure, with minimum follow-up with government agencies and no extra payments. It is assumed that the minimum time required for each procedure is 1 day. Although procedures may take place simultaneously, they cannot start on the same day (that is, simultaneous procedures start on consecutive days). A procedure is considered completed once the company has received the final document, such as the company registration certificate or tax number. If a procedure can be fast-tracked for an additional fee, the fastest procedure is chosen. It is assumed that the foreign company does not waste time and commits to completing each remaining procedure without delay. The time that the foreign company spends on gathering information is discounted.

Ease of establishment index

The Ease of establishment index evaluates the characteristics of the regulatory regimes for business start-up. The index takes values from 0 to 100, where higher values denote a start-up regime with fewer to no legal and administrative restrictions on the establishment process. Table 4 presents a complete list of survey questions about the start-up regime characteristics that

constitute the Ease of establishment index. The last column illustrates how each question is scored. Higher scores indicate best practice.

Table 4: Ease of establishment index survey questions and scores

| Survey questions comprising the Ease of establishment index | How the question was scored | Example: Canada |
|--|---|-----------------|
| Are your laws and regulations available online through a public institution's Web site (for example parliament, official gazette)? | "Yes" = 1 or "No" = 0 | Yes = 1 |
| Does your country have any restrictions on the composition of the board of directors of foreign-owned but locally incorporated companies (such as nationality, ethnicity, race, gender)? | "Yes" = 0 or "No" = 1 | No = 1 |
| Is the parent company required by law to establish its subsidiary through a local private third party? | "Yes" = 0 or "No" = 1 | No = 1 |
| Is the parent company required by law to establish its subsidiary through a public entity? | "Yes" = 0 or "No" = 1 | No = 1 |
| Is the investment approval/authorization a mere formality, only requiring submitting a notification to an appropriate authority? | "N/A" = 1, "Yes" = 0.5, or "No" = 0 | Yes = 0.5 |
| Does your country give the investor the right to appeal the decision on the investment approval/authorization? | "N/A" = 1, "Yes" = 0.5, or "No" = 0 | N/A = 1 |
| Is a minimum of projected annual sales required for an investment approval/authorization? | "N/A" = 1, "Yes" = 0.5, or "No" = 0 | N/A = 1 |
| Is there a limit on the period of validity of a foreign investment approval (apart from any operational licenses/permits that need to be renewed)? | "N/A" = 1, "Yes" = 0.5, or "No" = 0 | N/A = 1 |
| Do laws and regulations specify a time limit within which authorities must notify the foreign company of the result of its registration? | "Yes" = 1 or "No" = 0 | No = 0 |
| If Yes, is this limit usually respected? | "Yes" = 1, "No" or "N/A" = 0 | N/A = 0 |
| Is the company registration documentation downloadable online? | "Yes" = 1 or "No" = 0 | Yes = 1 |
| If Yes, can the investment registration documentation be submitted online? | "Yes" = 1, "No" or "N/A" = 0 | Yes = 1 |
| Can the registration process be monitored online? (checking the status of registration) | "Yes" or "N/A" = 1, "No" = 0 | N/A = 1 |
| Can the foreign company hold a commercial bank account in a foreign currency in your country? | "Yes" = 1 or "No" = 0 | Yes = 1 |
| If Yes, must the foreign company seek approval/authorization before opening such an account? | "Yes" or "N/A" = 0, "No" = 1 | No = 1 |
| If Yes, how long does it take, on average, to receive such an approval/ authorization? | "N/A" = 1 1–10 days = 0.6 11–40 days = 0.3 Over 41 days = 0 | N/A = 1 |
| Does your country have a paid-in capital requirement for a foreign-owned limited liability company? | "Yes" = 0 or "No" = 1 | No = 1 |
| If Yes, is this requirement a different amount than that for domestic companies? | "Yes" = 0 except in countries where this requirement is more favorable for foreign than | N/A = 1 |

| | | |
|---|--|---|
| | domestic companies; “N/A” or “No” = 1 | |
| Is your country a party to the Hague Apostille Convention? | “Yes” = 1 or “No” = 0 | No = 0 |
| Points | Total possible = 20 | Canada = 16.5 |
| Canada’s score on the Ease of establishment index, normalized on a 0–100 scale | | 82.5 |
| Bonus Question | | |
| Can the parent company expedite any of the establishment procedures through an official channel (fast-track procedure)? | “Yes” = + 1, “No” or “N/A” = Not scored | The federal incorporation process takes on average 5 days to complete. No fast-track procedure is available. No = Not scored |
| Canada total points + bonus: | | 16.5 (out of 20) |
| Canada’s index score: | | 82.5 (out of 100) |

All questions receive equal weight in the construction of the index. Alternative sets of weights, based on expert judgment and principal component analysis, were also tested. The bonus question is only scored if the economy includes the practice, and like all other questions is equally weighted. The results obtained by using each of the methodologies were highly correlated with each other. In the interest of simplicity, consistency with the other IAB topics, and ease of replicability, equal weighting was selected as the preferred methodology. As can be seen in the example above, Canada scored 16.5 points out of a maximum total of 20 points. Because the Ease of establishment index is measured on a scale of 0–100, Canada scores 82.5 on this index.

The case study assumptions

To ensure consistency and comparability of data across all 87 countries, the Starting a Foreign Business indicators are based on a case study setting out assumptions about a foreign company that is establishing a local subsidiary. The intent of IAB is to define by means of the case study a foreign company’s standard, representative investment project, one that does not receive any extraordinary treatment from the public authorities.

The foreign company:

- Will be locally incorporated in the host country’s largest business city as a limited liability company (LLC) or equivalent of this legal form applicable to the country.
- Will be wholly foreign-owned and controlled by its parent company.
- Is being established by a parent company, which is a multinational private company with no equity interest or management control by the government of its home country (that is, the investor is not a state-owned enterprise or a sovereign wealth fund).
- Will be the parent company’s first investment project in the host country.
- Plans an initial capital investment of \$10,000,000.

- Plans to manufacture electric household appliances (such as electric or microwave ovens). Its manufacturing facility will be located on the outskirts of the host country's largest business city.
- Plans to initially employ 50 people.
- Is not applying to receive any special benefits and privileges from the host country (for example, extraordinary tax holidays, breaks, or exemptions; customs duty exemptions), apart from the investment incentives available automatically on a legal basis.
- Will not be investing in an EPZ, SEZ, or any other zone governed by a special FDI regime in the host country.
- Plans to sell its manufactured product locally as well as to export it. However, it does not want to pre-commit to any specific export requirements.
- Will import about 60–70% of the value of its production inputs other than its capital equipment.

ACCESSING INDUSTRIAL LAND

The Accessing Industrial Land indicators quantify several aspects of land administration regimes important to foreign companies seeking to acquire land for their industrial investment projects: the strength of land rights, the scope of available land information, and the process of leasing land in or near a country's largest business city. The indicators focus both on the economies' land administration legal framework for investors and its implementation in practice. They advocate for predictable, transparent, and well-regulated land administration systems, which both do not overburden investors and provide sufficient protections for environments and citizens. The Accessing Industrial Land indicators comprise:

- Strength of lease rights index (0-100)
- Strength of ownership rights index (0-100)
- Access to land information index (0-100)
- Availability of land information index (0-100)
- Time to lease private land (days)
- Time to lease public land (days)

Strength of lease rights index

The Strength of lease rights index compares economies on the security of legal rights they offer to investors interested in leasing industrial land—whether or not foreign and domestic companies are treated differently and whether the land can be subleased, subdivided, mortgaged, or used as collateral. Another factor measured is how easy it is to transfer the land to another entity.

The index takes values from 0 to 100, where 100 denotes a regime offering the most options and security to investors. Table 5 presents the complete list of survey questions that comprise the Strength of lease rights index. The middle column indicates how each question is scored, using a

simple binary system where a good practice answer is scored with a “1” and a poor practice answer is scored “0.” The index also includes a list of bonus questions used to reward countries that offer companies additional options and enhance the protection of investments. The bonus questions do not penalize countries that do not offer these options and protections.

Table 5: Composition of the Strength of lease rights index

| Survey Question | How the question was scored | Example: Bolivia |
|---|---|------------------|
| Can a locally incorporated wholly foreign-owned company lease land from the government (e.g. public land)? | “Yes” = 1 or “No” = 0, N/A = Not applicable / Not scored ^{xviii} | Yes = 1 |
| Does a locally incorporated wholly foreign-owned company need an approval from minister level government official or parliament to lease public land? | “Yes” = 0 or “No” = 1, N/A = Not applicable / Not scored | No = 1 |
| Are procedures for leasing industrial land the same for foreign- and domestically-owned companies? | “Yes” = 1 or “No” = 0, N/A = Not applicable / Not scored | Yes = 1 |
| Would a foreign-owned company be required to pay any transaction costs above those paid by domestic companies? | “Yes” = 0 or “No” = 1, N/A = Not applicable / Not scored | No = 1 |
| What is the statutory maximum duration of a lease (in years) that a locally incorporated, wholly foreign-owned company would be able to obtain? | Maximum number of years divided by 100. If it’s 100 years or more or there was no statutory maximum, the country receives a score of 1. | 10 years = .1 |
| Are locally incorporated, wholly foreign-owned companies allowed to renew their leases? | “Yes” = 1 or “No” = 0, N/A = Not applicable / Not scored | Yes = 1 |
| Are locally incorporated, wholly foreign-owned companies allowed to transfer their leases? | “Yes” = 1 or “No” = 0, N/A = Not applicable / Not scored | Yes = 1 |
| If Yes, can a locally incorporated, wholly foreign-owned company transfer land to another foreign-owned, domestically incorporated company? | “Yes” = 1 or “No” = 0, N/A = Not applicable / Not scored | Yes = 1 |
| Can a locally incorporated, wholly foreign-owned company sublease land from an existing leaseholder? | “Yes” = 1 or “No” = 0, N/A = Not applicable / Not scored | Yes = 1 |
| Can a locally incorporated, wholly foreign-owned company subdivide its lease? | “Yes” = 1 or “No” = 0, N/A = Not applicable / Not scored | No = 0 |
| Can a locally incorporated, wholly foreign-owned company sublease its acquired land? | “Yes” = 1 or “No” = 0, N/A = Not applicable / Not scored | No = 0 |
| Can a locally incorporated, wholly foreign-owned company use the leased land as collateral for the purchase of production equipment? | “Yes” = 1 or “No” = 0, N/A = Not applicable / Not scored | No = 0 |
| Can a locally incorporated, wholly foreign-owned company mortgage the leased land? | “Yes” = 1 or “No” = 0, N/A = Not applicable / Not scored | No = 0 |
| Can a locally incorporated, wholly foreign-owned company to lease an unlimited amount of land? | “Yes” = 1 or “No” = 0, N/A = Not applicable / Not scored | Yes = 1 |
| Bolivia total points: | | 9.1 (out of 14) |
| Bonus Questions | | |
| Is there a fast-track option for lease registration | “Yes” = + 1, No or N/A = Not scored | No = Not |

| | | |
|---|-------------------------------------|------------------------|
| that allows foreign-owned companies to pay a higher fee to have their lease application processed faster? | | scored |
| Is a locally incorporated, wholly foreign-owned company legally required to do an environmental impact assessment during the process of leasing industrial land? | “Yes” = + 1, No or N/A = Not scored | No = Not scored |
| Is a locally incorporated, wholly foreign-owned company legally required to do a social impact assessment and community consultation during the process of leasing industrial land? | “Yes” = + 1, No or N/A = Not scored | No = Not scored |
| Bolivia total points + bonus: | | 9.1 (out of 14) |
| Bolivia index score: | | 65 (out of 100) |

As can be seen in the country-specific example presented in the last column, Bolivia has a maximum statutory limit of 10 years on lease contracts for industrial land (a score of .1), does not allow the industrial land to be used as collateral or for mortgages (both scores of 0), and does not allow foreign-owned companies to sublease or subdivide their leased land (both scores of 0). All other questions receive full credit and Bolivia does not get any bonus question points, giving it a total of 9.1 out of a total possible 14 points. This is equivalent to an index score of 65 on the 0-100 index scale.

The Strength of lease rights index is constructed by using the simple (equal) weighted average of the scored answers to the 14 questions for each country, in line with the *Doing Business* methodology. The 3 bonus questions are only scored if the country includes the practice. They are also equally weighted. All scores are then normalized on a scale of 0-100. Preliminary sensitivity analysis of the data using alternative sets of weights has yielded similar results.

Strength of ownership rights index

The Strength of ownership rights index compares economies on the security of legal rights they offer to investors interested in purchasing industrial land in those countries that allow it. 18 of the 87 economies surveyed do not allow private ownership of land, as all land is owned by the state. These 18 economies offer only leasehold land rights and are therefore not included in this index.

The Strength of ownership rights index measures options and security of land held in private ownership. IAB does not intend to advocate for governments to make implementing land ownership a policy priority. Rather, the Strength of ownership rights index encourages choice and proper protection and security for companies and citizens alike.

The index takes values from 0 to 100, where 100 denotes a regime offering the most options and security to interested investors. Table 6 presents the complete list of survey questions that comprise the Strength of ownership rights index. The middle column indicates how each question is scored, using a simple binary system where a good practice answer is scored with a “1” and a poor practice answer is scored “0.” The index also includes a bonus question to assess

whether the country offers a fast-track option. The bonus question does not penalize countries that do not offer this option.

Table 6: Composition of the Strength of ownership rights index

| Survey Question | How the question was scored | Example: Kazakhstan |
|---|--|------------------------|
| Can a locally incorporated, wholly foreign-owned company buy industrial land without entering into a partnership with a national? | “Yes” = 1 or “No” = 0, N/A = Not applicable / Not scored | Yes = 1 |
| Can a locally incorporated, wholly foreign-owned company buy an unlimited amount of industrial land? | “Yes” = 1 or “No” = 0, N/A = Not applicable / Not scored | No = 0 |
| Can a locally incorporated, wholly foreign-owned company sell the industrial land once purchased? | “Yes” = 1 or “No” = 0, N/A = Not applicable / Not scored | Yes = 1 |
| Does a locally incorporated, wholly foreign-owned company need permission to sell the land? | “Yes” = 0 or “No” = 1, N/A = Not applicable / Not scored | Yes = 0 |
| Can a locally incorporated, wholly foreign-owned company sell the industrial land to another foreign-owned, domestically incorporated company? | “Yes” = 1 or “No” = 0, N/A = Not applicable / Not scored | Yes = 1 |
| Can a locally incorporated, wholly foreign-owned company subdivide and sell part of the industrial land? | “Yes” = 1 or “No” = 0, N/A = Not applicable / Not scored | No = 0 |
| Can a locally incorporated, wholly foreign-owned company use the purchased industrial land as collateral for the purchase of production equipment? | “Yes” = 1 or “No” = 0, N/A = Not applicable / Not scored | Yes = 1 |
| Can a locally incorporated, wholly foreign-owned company mortgage the industrial land? | “Yes” = 1 or “No” = 0, N/A = Not applicable / Not scored | Yes = 1 |
| Kazakhstan total points | | 5 (out of 8) |
| Bonus Question | | |
| Is there a fast-track option for purchase registration that allows foreign-owned companies to pay a higher fee to have their registration processed faster? | “Yes” = + 1, No or N/A = Not scored | Yes = +1 |
| Kazakhstan total points + bonus: | | 6 (out of 9) |
| Kazakhstan index score: | | 67 (out of 100) |

As can be seen in the country-specific example presented in the last column, Kazakhstan requires government permission to buy industrial land (score of 0); places a limit on the amount of the land that may be purchased, depending on the economic activity (score of 0); and does not allow foreign-owned companies to subdivide their purchased industrial land (score of 0). All other questions are scored with full credit and Kazakhstan receives 1 bonus point, because it offers a fast-track procedure for a higher fee to interested foreign-owned companies seeking to register their industrial land purchase quickly. This gives Kazakhstan a total of 6 out of a total possible 9 points (including bonus point). This is equivalent to an index score of 67 on the 0-100 index scale.

The Strength of ownership rights index is constructed by using the simple (equal) weighted average of the scored answers to the 8 questions for each country, in line with the *Doing Business* methodology. The bonus question is scored only if the country includes the practice, and like all other questions is equally weighted. Preliminary sensitivity analysis of the data to alternative sets of weights has yielded similar results.

Access to land information index

The Access to land information index compares economies on the ease of access to land-related information through land administration systems — land registries, cadastres and land information systems. The index also evaluates the modernity of those systems. The index does not measure the quality of information provided through these institutions. The index takes values from 0 to 100, where 100 denotes a regime that offers easiest access to information, using the most modern and well-coordinated land administration and information management institutions.

Table 7 presents the complete list of survey questions that comprise the Access to land information index. The middle column indicates how each question is scored, using a simple binary system where a good practice answer is scored with a “1” and a poor practice answer is scored “0.”

Table 7: Composition of the Access to land information index

| Survey Question | How the question was scored | Example: Angola |
|--|--|-----------------|
| Is there an investment promotion agency (IPA) that provides information about land plots available for interested foreign-owned companies? | “Yes” = 1 or “No” = 0, N/A = Not applicable / Not scored | No = 0 |
| Is this agency linked with other publicly provided land information (such as a land registry or cadastre) to share data and coordinate and maintain accurate land information? | “Yes” = 1 or “No” = 0, N/A = Not applicable / Not scored | N/A |
| Is there a land registry with public information about registered land plots? | “Yes” = 1 or “No” = 0, N/A = Not applicable / Not scored | Yes = 1 |
| Does the registry have an inventory of public lands? | “Yes” = 1 or “No” = 0, N/A = Not applicable / Not scored | No = 0 |
| Does the registry have an inventory of private lands? | “Yes” = 1 or “No” = 0, N/A = Not applicable / Not scored | No = 0 |
| Does the registry provide information about available lands accessible remotely? | “Yes” = 1 or “No” = 0, N/A = Not applicable / Not scored | No = 0 |
| Does the registry provide information online for everyone? | “Yes” = 1 or “No” = 0, N/A = Not applicable / Not scored | No = 0 |
| Does the registry provide information on both the land plots and buildings/physical structures on the land? | “Yes” = 1 or “No” = 0, N/A = Not applicable / Not scored | Yes = 1 |

| | | |
|--|--|------------------------|
| Does the law require all transactions to be registered at the registry? | “Yes” = 1 or “No” = 0, N/A = Not applicable / Not scored | Yes = 1 |
| Is there a cadastre with descriptions of land parcels? | “Yes” = 1 or “No” = 0, N/A = Not applicable / Not scored | Yes = 1 |
| Does the cadastre make information about land parcels available to everyone? | “Yes” = 1 or “No” = 0, N/A = Not applicable / Not scored | No = 0 |
| Does the cadastre provide information about land parcels online for specific interest parties? | “Yes” = 1 or “No” = 0, N/A = Not applicable / Not scored | No = 0 |
| Does the cadastre make information accessible online? | “Yes” = 1 or “No” = 0, N/A = Not applicable / Not scored | No = 0 |
| Does the cadastre provide information about both land plots and buildings? | “Yes” = 1 or “No” = 0, N/A = Not applicable / Not scored | Yes = 1 |
| Are the land registry and cadastre located together within same public agency? | “Yes” = 1 or “No” = 0, N/A = Not applicable / Not scored | No = 0 |
| Are the land registry and cadastre linked to share data? | “Yes” = 1 or “No” = 0, N/A = Not applicable / Not scored | No = 0 |
| Is there a single searchable electronic database for all land-related information, also known as a land information system (LIS)? | “Yes” = 1 or “No” = 0, N/A = Not applicable / Not scored | No = 0 |
| Is there a single searchable electronic database for all land-related spatial/geographic information, also known as a geographic information system (GIS)? | “Yes” = 1 or “No” = 0, N/A = Not applicable / Not scored | No = 0 |
| Would you typically consult the land registry to look for land information if you were hired by a foreign-owned company? | “Yes” = 1 or “No” = 0, N/A = Not applicable / Not scored | Yes = 1 |
| Would you typically consult the land cadastre to look for land information if you were hired by a foreign-owned company? | “Yes” = 1 or “No” = 0, N/A = Not applicable / Not scored | Yes = 1 |
| Angola total points: | | 7 (out of 19) |
| Angola index score: | | 37 (out of 100) |

As can be seen in the country-specific example presented in the last column, Angola does not have its land laws available online (scores of 0) nor does it have an investment promotion body with land information (score of 0). Despite the fact that Angola has both a land registry and a cadastre, they do not have inventories of public or private lands (scores of 0) and the agencies are not linked to share data (scores of 0). The information is not available remotely or online (scores of 0), and Angola also does not have an LIS or GIS (scores of 0). Note that since Angola does not have an IPI, the question on whether the IPI is linked with other public records is not scored, and Angola is thus evaluated on a total of 19 points and not 20 points. With a total of 13 “no” answers to the 19 possible questions. This is equivalent to an index score of 37 on the 0-100 index scale.

The Access to land information index is constructed by using the simple (equal) weighted average of the scored answers to the 20 questions for each country, for a total of 20 possible

points, in line with the *Doing Business* methodology. Preliminary sensitivity analysis of the data using alternative sets of weights has yielded similar results.

Availability of land information index

The Availability of land information index compares economies on the availability of key land-related information to interested private parties through the countries' public land administration institutions. Again, the index does not measure an often even more critical factor related to land information - the quality of land information provided by public institutions.

The index takes values from 0 to 100, where 100 denotes a regime that offers the most information to interested private parties. Table 8 presents the complete list of survey questions that comprise the Availability of land information index. The middle column indicates how each question is scored, using a simple binary system where availability of information is scored with a "1" and its absence is scored "0."

Table 8: Composition of the Availability of land information index

| Survey Question | How the question was scored | Example: Thailand |
|--|--|-------------------|
| Is there publically available information about annual lease payments? | "Yes" = 1 or "No" = 0, N/A = Not applicable / Not scored | No = 0 |
| Are land laws or regulations available online? | "Yes" = 1 or "No" = 0, N/A = Not applicable / Not scored | Yes = 1 |
| Is the following information about land plots available to foreign-owned companies? | | |
| Information about the land contract (lease versus ownership, number of years on the lease)? | "Yes" = 1 or "No" = 0, N/A = Not applicable / Not scored | Yes = 1 |
| Land plot size? | "Yes" = 1 or "No" = 0, N/A = Not applicable / Not scored | Yes = 1 |
| Appraisal of land value? | "Yes" = 1 or "No" = 0, N/A = Not applicable / Not scored | Yes = 1 |
| Street address? | "Yes" = 1 or "No" = 0, N/A = Not applicable / Not scored | Yes = 1 |
| Mailing address, if different from the street address? | "Yes" = 1 or "No" = 0, N/A = Not applicable / Not scored | No = 0 |
| Immovable property on the land (a description of the buildings and physical structures on the land)? | "Yes" = 1 or "No" = 0, N/A = Not applicable / Not scored | Yes = 1 |
| Spatial information/land boundaries? | "Yes" = 1 or "No" = 0, N/A = Not applicable / Not scored | Yes = 1 |
| Geotechnical report/geographic location description? | "Yes" = 1 or "No" = 0, N/A = Not applicable / Not scored | No = 0 |
| Documentation about any environmental impact assessments completed? | "Yes" = 1 or "No" = 0, N/A = Not applicable / Not scored | No = 0 |
| Zone classification? | "Yes" = 1 or "No" = 0, N/A = Not applicable / Not scored | Yes = 1 |
| Tax classification? | "Yes" = 1 or "No" = 0, N/A = Not applicable / Not scored | Yes = 1 |

| | | |
|--|--|------------------------|
| Information on surroundings (whether the land is near residential, commercial, or industrial lands)? | “Yes” = 1 or “No” = 0, N/A = Not applicable / Not scored | Yes = 1 |
| Carrying capacity of the land (maximum # of units allowed per plot)? | “Yes” = 1 or “No” = 0, N/A = Not applicable / Not scored | No = 0 |
| Local population density? | “Yes” = 1 or “No” = 0, N/A = Not applicable / Not scored | No = 0 |
| Whether the land has utility connections? | “Yes” = 1 or “No” = 0, N/A = Not applicable / Not scored | Yes = 1 |
| Encumbrances (liens or mortgages held against the land)? | “Yes” = 1 or “No” = 0, N/A = Not applicable / Not scored | Yes = 1 |
| Existing land claims (disputes held against the land)? | “Yes” = 1 or “No” = 0, N/A = Not applicable / Not scored | Yes = 1 |
| Legal jurisdiction to which the land belongs (which municipality, neighborhood, or locality)? | “Yes” = 1 or “No” = 0, N/A = Not applicable / Not scored | Yes = 1 |
| Thailand total points: | | 14 (out of 20) |
| Thailand index score: | | 70 (out of 100) |

As can be seen in the country-specific example presented in the last column, Thailand does not have public information about lease payment prices, mailing addresses, geotechnical descriptions of property, documentation on environmental impact assessments, carrying capacity of the land and local population density (all scores of 0). With a total of 6 “no” answers to the 20 possible questions, Thailand receives 14 points. This is equivalent to an index score of 70 on the 0-100 index scale.

The Availability of land information index is constructed by using the simple (equal) weighted average of the scored answers to the 20 questions for each country, for a total of 20 possible points, in line with the *Doing Business* methodology. The 20 questions focus on whether key land information is available to interested private parties. If the information is available the country receives a score of “1”, if not it receives a score of “0”.

Ease of leasing land indicators: Time to lease private and public land

The Ease of leasing land indicators are 2 separate quantitative measures that compare economies on the time (number of calendar days) it takes to lease land from both a private holder and the government. To ensure consistency and comparability of data across all 87 economies, the Ease of leasing land indicators are based on a hypothetical case study of a manufacturing company seeking to acquire industrial land. Survey respondents are asked to use the case study to indicate the step-by-step procedures that a foreign-owned company and/or its legal representatives would go through in order to formally lease land both from a private individual and from the government. This allows the focus of the indicators to be on objective and verifiable data, rather than opinion- and perception-based information. The details of the case study assumptions are provided below:

Assumptions about the foreign company:

- Has recently been locally/domestically incorporated in the country's largest business city as a limited liability company (LLC), or an equivalent of this legal form. This LLC is the parent company's first investment in the host country.
- Is a wholly foreign-owned and controlled subsidiary of its parent company, which is a multinational private company with no equity interest or management control by the government of its home country (that is, the investor is not a state-owned enterprise or a sovereign wealth fund).
- Is looking to lease an appropriate site on the outskirts of the country's largest business city to set up a manufacturing plant. The indicators thus measure access to land for a foreign-owned, domestically incorporated company, and not for a foreign investor as a natural person. This distinction is important, as many economies have specific residency requirements related to the acquisition of land by foreign individuals, whereby it is often more difficult for a foreign national to acquire land than for a foreign company.
- Is not applying to receive any special benefits and privileges from the country (for example, extraordinary tax holidays, breaks, or exemptions; customs duty exemptions), apart from the investment incentives available automatically on a legal basis.

Assumptions about the land:

- Is designated for industrial use (no rezoning will be required).
- Is not part of an export processing zone (EPZ), special economic zone (SEZ), or any other industrial zone that is governed by a special investment legal or regulatory regime.
- Is currently unoccupied by any buildings or other immovable property, and the foreign company intends to construct a production facility that meets all zoning regulations on the site.
- Is not close to a national border, coastline, or any other area where land may not be privately held for national security reasons.
- Covers 3 acres (1.21 hectares), providing sufficient space for the construction of a main building, warehouse, and loading and unloading dock as well as space for future expansion and storage.
- Has no natural reserves, natural water sources, historical monuments, or occupants (legal or illegal) of any kind.
- Should be free of all encumbrances, such as mortgages, liens, restrictive covenants, easements.
- Will only be used for its designated purpose of manufacturing the foreign company's product. As a result, there are no requirements for special permits such as permits for residential use, waste management, or specialized agricultural activities.

In order to calculate the amount of time it takes foreign companies to lease private and public land, IAB uses the methodology pioneered by *Doing Business*. The Ease of leasing land indicators record all procedures required for a foreign-owned company to lease land based on the experience of the expert survey respondents using the case study assumptions (above). The list of procedures for leasing land from a private holder and from the government are different, although both lists assume that the foreign-owned company intends to acquire the land in the form of a lease, which must be registered with the appropriate public institution.

For the indicator on the time to lease private land, it is assumed that a private owner owns the land. This could include communal or customarily held freehold land, if applicable, depending on the country. The starting point (that is, the first procedural step) is when the foreign-owned company contacts the private owner with an expressed interest in leasing a piece of land for its manufacturing facility. The ending point (that is, the last procedural step) is when the land is fully registered under a long-term lease in the name of the foreign-owned company. In those economies where there is no private ownership of land (for example, Tanzania, where all land is owned by the state) the case study assumes that the foreign company will sublease the land from an existing private long-term leaseholder (who already holds the land in lease contract from the government).

For the indicator on the time to lease public land, it is assumed that the land is currently held by the national, subnational, or municipal government, or any other administrative subdivision, as applicable. If several of these options are possible in the country, the most common leasing arrangement is analyzed. The starting point is when the foreign-owned company's representatives contact the appropriate public authority with an expressed interest in leasing a piece of land for the company's manufacturing facility. The ending point is when the land is fully registered under a long-term lease in the name of the foreign-owned company.

Only the time for procedures required of all foreign-owned companies leasing land is covered. Time for industry-specific procedures are excluded. For example, procedures to comply with environmental regulations are included only when they apply to all investors leasing land for their general commercial or industrial activities. Procedures that the company undergoes to connect to electricity, water, gas, and waste disposal services, and those procedures required for construction on the piece of land once it is registered are not included.

Once the list of procedures is drawn up and agreed upon by expert survey respondents, the total time in calendar days is recorded. It measures the median duration that expert respondents indicate is necessary to complete each procedure with minimum follow-up with government agencies and no extra payments. It is assumed that the minimum time required for each procedure is 1 day. Although procedures may take place simultaneously, they cannot start on the same day (that is, simultaneous procedures start on consecutive days). A procedure is considered completed once the company has received the final documentation, such as a lease registration certificate, confirming that the lease is registered with the relevant public authority (in most cases the land or real property registry). If a procedure can be accelerated for an additional cost, the fastest procedure is chosen. It is assumed that the foreign-owned company does not waste time and commits to completing each remaining procedure without delay. The time that the foreign company spends on gathering information is ignored.

ARBITRATING COMMERCIAL DISPUTES INDICATORS

The Arbitrating Commercial Disputes indicators quantify 3 aspects of arbitration regimes that are essential for foreign and domestic companies seeking to resolve commercial disputes outside of

domestic courts. These factors are the strength of a country's arbitration laws (including adherence to international conventions on arbitration); the ease of process for the parties conducting arbitration proceedings in that country; and the extent to which domestic courts assist the arbitration process, both during the proceedings and regarding the enforcement of arbitral awards. These 3 factors also measure, to a certain extent, the ease of resolving disputes through commercial arbitration between foreign-owned companies and state entities, and other elements of alternative dispute resolution (ADR), such as the use of mediation.^{xix} These elements are considered essential to the operation of an effective arbitration regime that prioritizes predictability, transparency, efficiency, due process and party autonomy.

There are 2 types of questions asked in the Arbitrating Commercial Disputes indicators:

- Legal questions, measuring the strength of laws and regulations applicable to foreign-owned companies in the respective country. Responses to these survey questions are based on the provisions of the laws, regulations and judicial precedents, if applicable. These questions are therefore *de jure*, meaning that they measure what the law states.
- Procedural questions, measuring the duration and difficulty of arbitration related procedures. Responses to these survey questions are based on the respondents' practical experience. These questions are *de facto*, meaning that they measure what exists in fact, or in other words, practice on the ground.

Each index takes values from 0 to 100, where a score of 100 denotes a regime offering most reassurance and security to foreign companies interested in commercial arbitration in their country of incorporation.

- Strength of laws index (0-100)
- Ease of process index (0-100)
- Extent of judicial assistance index (0-100)

The 3 tables below present the complete list of survey questions which comprise the 3 indexes. For each index, the last column indicates how each question was scored. For all 3 Tables, a simple binary system is used where a good practice answer is scored with a "1" and a poor practice answer is scored with a "0".

For each index, there are also additional "bonus" questions: 1 bonus question for Strength of laws index (1 point); 2 bonus questions for Ease of process index (2 points); and 2 bonus questions for Extent of judicial assistance index (2 points). These bonus questions provide additional points for countries that implement good arbitration practices, even though they are not considered essential for an effective arbitration regime. Countries that do not implement such practices are not penalized. They simply do not receive the bonus points. In other words, the maximum score attainable for a country is 100, as all countries are judged on a scale of 0-100.

Where there are several parts to the question, they are scored as a decimal of 1. For instance, a question with parts (a), (b), (c) and (d) will be assigned 0.25 as the best score for each part.

Where there are several categories to answer one question, the highest value assigned is 1, and the lowest 0. For instance, if there are 3 possible categories to answer a question, “Almost always”, “Usually” and “Rarely”, the first category will receive a value of 1, the second category will receive a value of 0.5 and the third category will receive 0.

A handful of countries have no arbitration practice. These countries are not included in the scoring for the indexes where they lack practice, and this is indicated in their country page for example Afghanistan and Solomon Islands in the Extent of judicial assistance index.

Strength of laws index

The Strength of laws index compares the strength of countries’ arbitration regimes by examining the laws and regulations that a country relies on to regulate its domestic and international arbitrations, as well the country’s adherence to specific international conventions. Specifically, 3 concepts are examined in the Strength of laws index:

- (1) Legislation: what laws on alternative dispute resolution are in place, whether different laws apply to domestic and international arbitrations taking place in that country, and whether the country has entered into leading international conventions on arbitration, specifically the 1958 New York Convention and the ICSID Convention;
- (2) Arbitrability: whether the law restricts the subject matter of commercial disputes being submitted to arbitration, including certain disputes arising out of contracts with state entities; and
- (3) Form: whether the law restricts the form that an arbitration agreement can take in order to be legally binding on the parties. For instance, some laws require that an arbitration agreement must be in writing and in the main contract. Other laws state that the arbitration agreement can be in a separate document and incorporated into the contract by reference.

Table 9 presents the complete list of survey questions which comprise the Strength of laws index. There are a total of 10 points spread over 10 equally weighted questions, plus an additional bonus question.

Table 9: Composition of the Strength of laws index

| Survey questions comprising the Strength of laws index | How the question was scored | Example: Bangladesh |
|---|-------------------------------------|----------------------------|
| Does your national law recognize arbitration as a means of dispute resolution between private parties in commercial transactions? | “Yes” = 1 or “No” = 0 | Yes = 1 |
| Has your country enacted a specific statute on commercial arbitration? | “Yes” = 1 or “No” = 0 | Yes = 1 |
| Please indicate the Web site(s) where the statute(s) can be consulted | “Web site” = 1 or “No Web site” = 0 | No = 0 |
| Are the following types of disputes arbitrable | | |

| | | |
|--|--|--|
| under your country's national law: (a) Disputes over rights over immoveable property located within your country; (b) Any intra-company disputes; (c) Disputes involving shareholder arrangements; (d) Disputes involving patents/trademarks (excluding administrative actions)? | (a) "Yes" = 0.25 or "No" = 0 (b) "Yes" = 0.25 or "No" = 0 (c) "Yes" = 0.25 or "No" = 0 (d) "Yes" = 0.25 or "No" = 0 | (a) Yes = 0.25 (b) Yes = 0.25 (c) Yes = 0.25 (d) Yes = 0.25 |
| Under your national law, is an arbitration agreement severable from the main contract? | "Yes" = 1 or "No" = 0 | Yes = 1 |
| Can an arbitration agreement be incorporated by reference? | "Yes" = 1 or "No" = 0 | Yes = 1 |
| Can the following methods of concluding an agreement constitute a binding arbitration agreement: (a) By electronic communication, including email? (b) By fax? (c) By oral agreement? (d) By conduct, for example performance on the part of one party | (a) "Yes" = 0.25 or "No" = 0 (b) "Yes" = 0.25 or "No" = 0 (c) "Yes" = 0.25 or "No" = 0 (d) "Yes" = 0.25 or "No" = 0 | (a) Yes = 0.25 (b) Yes = 0.25 (c) No = 0 (d) No = 0 |
| Has your country ratified the 1958 New York Convention? | "Yes" = 1 or "No" = 0 | Yes = 1 |
| Under your national law, are the state and state entities allowed to enter into arbitration with foreign owned companies in connection with the following: (a) Concession agreements; (b) Infrastructure contracts; (c) Contracts dealing with natural resources; and | (a) "Yes" = 0.33 or "No" = 0 (b) "Yes" = 0.33 or "No" = 0 (c) "Yes" = 0.33 or "No" = 0 | (a) Yes = 0.33 (b) Yes = 0.33 (c) Yes = 0.33 |
| Has your country ratified the ICSID Convention? | "Yes" = 1 or "No" = 0 | Yes = 1 |
| Bangladesh total points | | 8.49 (out of 10) |
| Bonus Questions | | |
| Has your country adopted a specific statute on commercial mediation or conciliation of commercial disputes? | Bonus point "Yes" = +1 or No = Not scored | No = Not scored |
| Bangladesh total points +bonus | | 8.49 (out of 10) |
| Bangladesh index score | | 84.90 (out of 100) |

The Strength of laws index is constructed by using the simple (equal) weighted average of the scored answers for each country for the 10 questions included, in line with the *Doing Business* methodology. The 1 bonus question is only scored if the country includes the practice and like all other questions, is equally weighted. Preliminary sensitivity analysis of the data to alternative sets of weights has yielded similar results. As can be seen in the example, Bangladesh has a strong legal framework, although it does not adopt a wide definition of an "arbitration agreement" requiring it to be in writing, and there are certain restrictions on contracts with state entities. It does not receive the bonus point regarding having a statute on commercial mediation,

giving it, when averaged out, a total score of 8.49 out of a total possible 10 points for a final index score of 84.90.

Ease of process index

The Ease of process index compares the ease of parties to design arbitration proceedings in their chosen manner and conduct fair and predictable arbitrations in the country that respect due process. Specifically, 4 concepts are examined in the Ease of process index:

- (1) Party autonomy: this is an essential value underpinning arbitration as a dispute resolution tool, and laws may enshrine it by providing parties with the freedom to select integral elements of the arbitration process including any seat of arbitration, any arbitrators and foreign counsel. These restrictions are also measured in relation to arbitrating with state entities;
- (2) Tribunal integrity: measures whether the law expressly enshrines the values of independence and impartiality of arbitrators, and confidentiality of the arbitration proceedings;
- (3) Choice of institutions: whether the law permits parties to choose institutional or ad hoc arbitration proceedings, whether online arbitration is available, and whether there are domestic arbitral institutions administering arbitrations and mediations; and
- (4) Practice: practitioners' estimates regarding the average period of time to establish an arbitral tribunal in the country's most used arbitration institution, the average time to render an award in the country's most used arbitration institution, how frequently state entities include arbitration clauses in their contracts with foreign companies and how frequently mediation is used to resolve commercial disputes between businesses.

Table 10 presents the complete list of survey questions which comprise the Ease of process index. There are a total of 35 points spread over 35 equally weighted questions, plus additional 2 "bonus" questions.

Table 10: Composition of the Ease of process index

| Survey questions comprising the Ease of process index | How the question was scored | Example: Romania |
|--|-------------------------------------|---|
| In a domestic/international arbitration, may the parties freely choose arbitrators without regard to the arbitrator's nationality? | "Yes" = 1 ^{xx} or "No" = 0 | No = 0 (domestic) Yes = 1 (international) |
| In a domestic/international arbitration, may the parties freely choose arbitrators without regard to the arbitrator's gender? | "Yes" = 1 or "No" = 0 | Yes = 1 (domestic) Yes = 1 (international) |
| In a domestic/international arbitration, may the parties freely choose arbitrators without regard to the arbitrator's professional qualifications? | "Yes" = 1 or "No" = 0 | Yes = 1 (domestic) Yes = 1 (international) |
| In a domestic/international arbitration, may the parties freely choose any language of the proceedings? | "Yes" = 1 or "No" = 0 | No = 0 (domestic) Yes = 1 (international) |
| In a domestic/international arbitration, may | "Yes" = 1 or "No" = 0 | Yes = 1 (domestic) |

| | | |
|--|---|--|
| the parties freely choose the method of appointing arbitrators to resolve their dispute e.g. by subscribing to arbitration institutional rules? | | Yes =1 (international) |
| In a domestic/international arbitration, may the parties freely choose the number of arbitrators to resolve their dispute? | “Yes” = 1 or “No” = 0 | Yes =1(domestic) No =0 (international) |
| In a domestic/international arbitration, does your national law expressly provide that all arbitrators must be independent and impartial? | “Yes” = 1 or “No” = 0 | Yes =1 (domestic) Yes = 1 (international) |
| In a domestic/international arbitration, may the parties retain a foreign lawyer not licensed to practice in your country to represent it in arbitration proceedings? | “Yes” = 1 or “No” = 0 | No = 0 (domestic) Yes = 1 (international) |
| In a domestic/international arbitration, under your national law, are arbitrators expressly bound to preserve confidentiality of arbitration proceedings? | “Yes” = 1 or “No” = 0 | Yes = 1 (domestic) Yes = 1 (international) |
| In a domestic/international arbitration, is online arbitration (electronic ADR) an available method of dispute resolution in your country? | “Yes” = 1 or “No” = 0 | Yes = 1 (domestic) Yes = 1 (international) |
| In a domestic/international arbitration, are parties free to choose any arbitration institution, even one that is outside of your country to administer their arbitration? | “Yes” = 1 or “No” = 0 | No= 0 (domestic) Yes = 1 (international) |
| Are there any arbitration institutions administering commercial arbitrations in your country? | “Yes” = 1 or “No” = 0 | Yes = 1 |
| Do the institutions have official Web sites available? | “Yes” = 1 or “No” = 0 | Yes = 1 |
| In domestic/international arbitrations, how long would you estimate the period to be from the filing of the request for arbitration to the constitution of the arbitral tribunal? | Under 30 days = 1 30-180 days = 0.66 181 – 1 year = 0.33 Over 1 year = 0 | 30-180 days = 0.66 (domestic) 30-180 days = 0.66 (international) |
| In domestic/international arbitrations, how long would you estimate the period to be from the first hearing of the arbitration tribunal on the merits to the rendering of the arbitration award? | Under 30 days = 1 31-180 = 0.66 181 – 1 year = 0.33 Over 1 year = 0 | 30-180 days = 0.66 (domestic) 181 – 1 year = 0.33 (international) |
| In an arbitration between a foreign owned company and the state/state entity, can the parties freely choose the seat of arbitration? | “Yes” = 1 or “No” = 0 | Yes = 1 |
| In an arbitration between a foreign owned company and the state/state entity, can the parties freely choose institutional arbitration or ad hoc arbitration? | “Yes” = 1 or “No” = 0 | Yes = 1 |
| In an arbitration between a foreign owned company and the state/state entity, can the parties freely choose the nationality of the arbitrators? | “Yes” = 1 or “No” = 0 | No = 0 |
| In an arbitration between a foreign owned company and the state/state entity, can the | “Yes” = 1 or “No” = 0 | No = 0 |

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| parties freely choose foreign counsel? | | |
| In an arbitration between a foreign owned company and the state/state entity, can the parties freely choose the applicable procedural rules? | “Yes” = 1 or “No” = 0 | Yes = 1 |
| Is there a public authority designated to handle administrative, logical and other issues related to investors’ disputes with the state or state entity? | “Yes” = 1 or “No” = 0 | Yes = 1 |
| Is there an institution in your country that administers mediation or conciliation of commercial disputes? | “Yes” = 1 or “No” = 0 | Yes = 1 |
| Romania total points | | 26.31 (out of 35) |
| Bonus Questions | | |
| How often does the state include arbitration clauses in their contracts with foreign companies? | Bonus point: Always or nearly always = 1 Usually = 1 Occasionally = Not scored Rarely = Not scored | Occasionally = Not scored |
| How frequently do private parties in your country agree to attempt to settle their commercial disputes through mediation or conciliation? | Bonus point: Always or nearly always = 1 Usually = 1 Frequently = Not scored Rarely = Not scored | Rarely = Not scored |
| Romania total points + bonus | | 26.31 (out of 35) |
| Romania index score | | 75.17 (out of 100) |

The ease of process index is constructed by using the simple (equal) weighted average of the scored answers for each country for the 35 questions included, in line with the *Doing Business* methodology. The 2 bonus questions are only scored if the country includes the practice and like all other questions, is equally weighted. Preliminary sensitivity analysis of the data to alternative sets of weights has yielded similar results. As can be seen in the example, Romania has restrictions in domestic arbitrations regarding the nationality of the arbitrator and the language of the proceedings (score of 0). It also has restrictions in appointing foreign counsel in domestic arbitration proceedings (score of 0) and limitations on what the foreign company can do when arbitrating with state entities. Romania receives no bonus points given that it only occasionally includes arbitration clauses in contracts with its state companies and given that mediation is rarely used as an ADR tool to resolve disputes. This gives Romania a total score of 26.31 for a final index score of 75.17.

Extent of judicial assistance

The Extent of judicial assistance index compares the extent of judicial assistance to the arbitration proceedings through the domestic courts. It examines assistance before, during and after the arbitration proceedings.

The Extent of judicial assistance is divided into 2 categories, each of which receives 50% of the points in this index: (i) assistance and rules for enforcement questions, which include de jure and

de facto questions relating to how domestic courts assist the arbitral process and rules relating to enforcement of domestic and foreign arbitration awards; and (ii) time questions which relate to the number of days it takes to enforce an arbitral award in a local court. The 2 time questions that fall within the second category are awarded 50% of the total points in this index, given the high importance of time-efficient and effective enforcement proceedings for investors.

- Assistance and rules for enforcement: whether domestic courts support arbitration and have articulated a “pro-arbitration” policy, as well as upholding the parties’ agreement that the arbitration tribunal can rule on its own jurisdiction, whether the law expressly provides for courts to assist the arbitration process by ordering interim relief, the production of documents and the appearance of witnesses and the grounds for setting aside or refusing to enforce arbitration awards, both for awards rendered in the country and foreign arbitration awards.
- Time: the time it takes to enforce an arbitration award in a court of the surveyed country for awards rendered in both the surveyed country and a foreign country. This is calculated by aggregating 3 time periods: (i) the time it takes from the filing of an application for enforcement to the date of a hearing in the first instance court; (ii) from the date of the first hearing to the first instance court decision assuming no objection to enforcement has been filed; and (iii) from the final court decision granting enforcement to a writ of execution being issued attaching the assets. These responses have been quantified by aggregating the 3 time periods described above, and then dividing the 87 countries into quintiles. The quintiles have been divided into the following categories: “fast” = 1; “moderately fast” = 0.75; “average” = 0.5; “slow” = 0.25; and “very slow” = 0.

Table 11 presents the complete list of survey questions which comprise the ease of process index. There are a total of 23 points spread over 23 questions. 21 questions relate to assistance and enforcement of awards rendered in the host country and foreign awards, and carry a weight of 50% of the total points. Two questions relate to time of enforcement of awards rendered in the host country and foreign awards and carry a weight of 50%. There are 2 additional bonus questions.

Table 11: Composition of the Extent of judicial assistance index

| Survey questions comprising the Extent of judicial assistance index | How the question was scored | Example: United Kingdom |
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| Have the courts in your country stated a “pro-arbitration policy” that is, a general policy in favor of enforcing arbitration agreements and arbitration awards. Case citation required. | “Yes” = 1 or “No” = 0 | Yes = 1 (domestic) Yes = 1 (international) |
| If the parties have expressly agreed that the arbitration tribunal can rule on its own jurisdiction, will that be upheld by your national courts? | “Yes” = 1 or “No” = 0 | Yes = 1 |
| In domestic/international arbitrations, if a party brings an action in a court of your country with respect to a dispute that the parties have agreed should be arbitrated, how frequently would the courts in your country decline to hear the case and refer the parties to arbitration? | In nearly all cases = 1 Usually = 0.5 Rarely = 0 | In nearly all cases = 1 (domestic) In nearly all cases = 1 (international) |

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| Does your national law provide for domestic courts to assist the arbitration process by ordering the production of documents or the appearance of witnesses in domestic/international arbitrations? | “Yes” = 1 or “No” = 0 | Yes = 1 (domestic) Yes = 1 (international) |
| Are such requests generally granted in domestic/international arbitrations? | “Yes” = 1 or “No” = 0 | Yes = 1 (domestic) Yes = 1 (international) |
| In domestic/international arbitrations, does your national law provide for your courts to assist the arbitrators or parties by granting interim relief to prevent immediate and irreparable injury while the arbitration is pending/before the arbitration has commenced? | “Yes” = 1 or “No” = 0 | Yes = 1 (domestic) Yes = 1 (international) |
| If an immediate need can be shown, how often do courts grant such requests? | In nearly all cases = 1 Usually = 0.5 Rarely = 0 | Usually = 0.5 |
| May a judgment of that court enforcing the award rendered in your country be appealed to a higher court? | “No” = 1 or “Yes” = 0 | No = 1 |
| In the case of a domestic award, if Company B ^{xxi} brings an action in court to set aside the award in favor of Company A, is the court authorized to review that award on the merits? | “No” = 1 or “Yes” = 0 | No = 1 |
| In the case of an international award, if Company A ^{xxii} brings an action in court to set aside the award in favor of Company C, is the court authorized to review that award on the merits? | “No” = 1 or “Yes” = 0 | No = 1 |
| What is the likelihood that your courts would enforce a domestic/international arbitration award such as the one described above, if no objection to enforcement were filed? | In nearly all cases = 1 Usually = 0.5 Rarely = 0 | In nearly all cases = 1 (domestic) In nearly all cases = 1 (international) |
| May a judgment of that court enforcing or denying enforcement of the foreign award be appealed to a higher court? | “No” = 1 or “Yes” = 0 | Yes = 0 |
| May a foreign arbitration award be denied recognition or enforcement on: (a) The ground of an error of law? (b) The ground that the award is not supported by substantial evidence; or (c) On any additional grounds other than the ones stated in the survey? | (a) “No” = 0.33 or “Yes” = 0 (b) “No” = 0.33 or “Yes” = 0 (c) “No” = 0.33 or “Yes” = 0 | (a) No = 0.33 (b) No = 0.33 (c) No = 0.33 |
| What is the likelihood that your courts would enforce a foreign award, if no objection to agreement were filed? | In nearly all cases = 1 Usually = 0.5 Rarely = 0 | In nearly all cases = 1 |
| In arbitrations involving a state or state entity, can your courts review the arbitration awards on its merits in connection with recognition and enforcement proceedings? | “No” = 1 or “Yes” = 0 | No = 1 |
| | United Kingdom points for enforcement and assistance | 19.49 (out of 21) |
| Bonus Questions | | |
| Is the court for enforcement of arbitration awards rendered in your country, a higher level court or a | “Yes” = +1 or No = Not scored | Yes = 1 |

| | | |
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| specialized court? | | |
| Is the court for enforcement of foreign arbitration awards rendered outside your country, a higher level court or a specialized court? | “Yes” = +1 or No = Not scored | Yes = 1 |
| | United Kingdom total points for enforcement and assistance (including bonus) | 21.49 (out of 23) – 50% of total score |
| Time Questions | | |
| How many days on average are necessary to enforce a domestic and international arbitration award in your country from the filing of an application for enforcement to a writ of execution attaching Company B’s assets? | Quintile of countries with min and max days for each quintile reported. Quintile 1:Fast = 1 Quintile 2: Moderately fast = 0.75 Quintile 3: Average = 0.5 Quintile 4: Slow = 0.25 Quintile 5: Very slow = 0 | Fast = 1 |
| How many days on average are necessary to enforce a foreign arbitration award in your country from the filing of Company C’s application for enforcement to Company C obtaining a writ of executing attaching Company A’s assets? | Quintile of countries with min and max days for each quintile reported. Quintile 1:Fast = 1 Quintile 2: Moderately fast = 0.75 Quintile 3: Average = 0.5 Quintile 4: Slow = 0.25 Quintile 5: Very slow = 0 | Fast = 1 |
| | United Kingdom points for time | 2 (out of 2) – 50% of total score |
| United Kingdom index score | | 96.71 (out of 100) |

Preliminary sensitivity analysis of the data to alternative sets of weights has yielded similar results. As can be seen in the example, the courts of the United Kingdom are supportive of commercial arbitration, and the United Kingdom almost receives a perfect score. Domestic courts do not always grant interim relief, which is where the United Kingdom loses 0.5 of a point. In calculating the days to enforce both a domestic and foreign arbitration award, the United Kingdom falls within the first quintile, and so is awarded 1 point. Arbitration awards, whether domestic or foreign, are enforced in a higher court or specialized court, and so the United Kingdom is awarded the 2 bonus points.

The case study and assumptions

In order to ensure comparability of results, there are 2 different case studies: (i) domestic commercial arbitration and (ii) international commercial arbitration, where the seat of arbitration for both arbitrations is in that country’s largest business city.

- (i) The first case study relates to a domestic arbitration between 2 companies incorporated in the same country. Company A is 100% foreign-owned by a multinational corporation. Company B is owned by a domestic investor.
- (ii) The second case study relates to an international arbitration between our local Company B and a multinational Company C, which is incorporated and operates in a foreign country.

Accordingly, IAB also assumes 3 different types of arbitral awards:

- A domestic arbitration award given in the respective host country.
- An international arbitration award given in the respective host country in favor of a foreign company.
- A foreign arbitration award given in a foreign country following arbitration proceedings in that country, which is not the host country.

For procedural questions regarding the timing of arbitration proceedings,^{xxiii} IAB asked respondents to answer based on the assumption that arbitration proceedings take place before 3 arbitrators, using the most commonly used arbitral institution, with no court assistance.

For procedural questions regarding the timing of enforcement proceedings^{xxiv} (for awards rendered in the country, and in a foreign country), IAB asked respondents to answer based on the assumption that the award is in the amount of \$100,000 and that proceedings are commenced in the competent court situated in the country's largest business center. IAB further asked them to assume that legal counsel does not use any strategies to delay proceedings, and that court deadlines are complied with.

It should also be noted that the terms mediation and conciliation have been used interchangeably for the purposes of this data.

ⁱ The methodology of the Doing Business project can be viewed online at <http://www.doingbusiness.org>.

ⁱⁱ More detailed statistics on the number of respondents are available on IAB's Web site.

ⁱⁱⁱ The group of pilot countries comprised Argentina, Austria, Bangladesh, Cameroon, Canada, Chile, China, Colombia, Egypt, Ethiopia, Ghana, Madagascar, Mozambique, Nicaragua, Nigeria, Peru, Russian Federation, Serbia, Singapore, the United States, Republica Bolivariana de Venezuela, Vietnam, and the Republic of Yemen.

^{iv} The group of countries where data was collected through face-to-face interviews comprised Afghanistan, Angola, Azerbaijan, Bangladesh, Burkina Faso, Cambodia, Cote d'Ivoire, Haiti, Kenya, Liberia, Mali, Montenegro, Papua New Guinea, Rwanda, Senegal, the Solomon Islands, South Africa, and Sudan.

^v de Soto (1989).

^{vi} Ibid.

^{vii} For example, the correlation coefficient of the end results utilizing various scoring, weighting, and aggregation methodologies for the Investing Across Sectors data was 0.98. Given the high correlation coefficient, simple weights were adopted for the reasons explained in the text.

^{viii} See: <http://www.worldbank.org/data/countryclass>. *Investing Across Borders 2010* reports 2008 gross national income per capita as published in the World Bank's *World Development Indicators 2009*. Income is calculated using the Atlas method (current \$). For population data, *Investing Across Borders 2010* uses mid-year 2008 population statistics as published in *World Development Indicators 2009*.

^{ix} Portfolio investment, in contrast to foreign direct investment, represents passive holdings of securities such as foreign stocks, bonds, or other financial assets and does not convey significant control over the management or operations of the foreign firm.

^x The de facto indicators may still not capture the degree of variation an investor may experience when completing the procedures. The project thus investigates whether or not a measure of the degree of variation of the individual responses should be included so as to compare consistency of treatment across economies. For example, if in one

country it takes a median of 90 days to establish a foreign-owned company with a standard deviation of 5, while another takes only 60 days with a standard deviation of 45, an investor is likely to want to ensure that the burden of the regulation takes 2 months rather than somewhere between 2 weeks and 4 months.

^{xi} Christiansen (2004).

^{xii} Hoekman (1997); Sauvé, Pierre and Karsten Steinfath, "Assessing the Scope for Further Investment Regime Liberalisation: An Analysis Based on Revealed Liberalisation Preferences," OECD, unpublished.

^{xiii} Pacific Economic Cooperation Council (1995).

^{xiv} Burns and Deininger (2009).

^{xv} Countries have different numbers of bilateral investment treaties, and even the same treaty can have differences across countries in their substantive and dispute resolution clauses. Thus the IAB methodology is not suitable to measure the quality of countries' frameworks for bilateral investment treaties.

^{xvi} World Bank, *Doing Business, Enforcing Contracts* (Washington, D.C.: World Bank Group (<http://www.doingbusiness.org>)).

^{xvii} The list of Doing Business procedures for starting a business in each economy can be found at <http://www.doingbusiness.org/ExploreTopics/StartingBusiness/>.

^{xviii} N/A means that the question is not applicable because the question is not possible to answer given the country's legal system. For example, it may not allow full ownership rights of land and thus the question of whether or not purchase land can be mortgaged cannot be answered.

^{xix} State entities include state constituent parts such as ministries, corporate entities owned by the state. However, these questions are not intended to deal with disputes arising out of international investment treaties.

^{xx} As this question is asked twice, the desirable/good practice points should be doubled.

^{xxi} For purposes of this question, Company A (a foreign owned company which is organized in, and operates in the surveyed country) has obtained an award in local currency equivalent in value to \$100,000 against Company B, a domestic company organized and operating in the surveyed country. The award is rendered in an arbitration fully conducted in the surveyed country. Company A intends to attach Company B's assets located in the surveyed country's largest business city.

^{xxii} For purposes of this question, Company C, a company organized and operating in a foreign country, has obtained an award of \$100,000 against Company A (a foreign owned company which is organized in, and operates in the surveyed country). The award was rendered in the surveyed country and Company C intends to attach Company A's assets located in the surveyed country's largest business city.

^{xxiii} Questions 19-21 in the Arbitrating Commercial Disputes survey.

^{xxiv} Questions 32 and 38 in the Arbitrating Commercial Disputes survey.