FIAS | THE MULTI DONOR INVESTMENT CLIMATE ADVISORY SERVICE OF THE WORLD BANK GROUP

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Investing Across Borders

Global Indicators of FDI Regulations

Partnership Proposal

Summary

FIAS is inviting its donors and other partners to collaborate on the development and operation of the ***Investing Across Borders*** (IAB) indicators, which benchmark the ease of starting and operating a foreign company in countries around the world. The project has been designed in collaboration with the *Doing Business* (DB) team of the World Bank Group, and focuses on areas of regulation relevant for foreign investors that are not yet captured by DB indicators. This flagship product will expand on the existing work of FIAS' advisory practice in investment policy and promotion, and provide an integrated tool for guiding technical assistance for investment climate reforms. The project has the strong support of IFC's CEO and FIAS' Supervisory Committee.

As the project completes the pilot phase and gets ready for global rollout, FIAS is looking for partners to help finance and undertake the annual operation of this FIAS flagship product. The **project's launch in 80 countries is scheduled for January 2009**, with full global coverage planned for 2010.

The IAB indicators aim to **stimulate investment policy reforms** by benchmarking the quality of investment climates worldwide, identify good practices in investment policy design and implementation, and provide annual cross-country data for research and analysis. The indicators are based on an annual survey of private sector intermediaries – investment lawyers, accountants and bankers advising foreign investors – and combine an evaluation of the quality of laws and regulations, and their implementation and enforcement in practice.

Encouraging feedback from the client countries

"It is very important that an external institution is doing this evaluation…government will not reform until there is a credible outside evaluation." – survey respondent in Chile

"What you have in the survey is the type of questions I keep encountering when I am providing services to new investors." – survey respondent in Ghana

"These projects are important to us, please talk to us and help us improve the business legislation and business environment." – survey respondent in Mozambique

Key Results To Date

- Development of detailed survey instruments on four dimensions of a country's investment policy frameworks (available on FIAS' website, www.fias.net, along with the project's Concept Note):
  - Investing across sectors
  - Starting a foreign business
  - Accessing land
  - Arbitrating disputes
- Completion of pilot tests in 22 countries worldwide and the associated consultations with over 400 government officials, corporate executives and private sector intermediaries.
- Presentations at the OECD Global Forum on International Investment (Paris, March 2008) and the World Association of Investment Promotion Agencies' World Investment Forum (Accra, April 2008).
- Commendations from FDI experts from key international organizations and academic institutions.

The indicators have been piloted in a diverse set of 22 economies in four successive phases since November 2007 to ensure that each indicator survey is well calibrated to accurately measure the country's investment policy framework. More than 400 in-depth consultations with governments, investors and investment lawyers have demonstrated a **high demand for this product** from a variety of stakeholders. Expert-level reviews by various organizations (e.g., OECD, UNCTAD, etc.) and presentations at international conferences have introduced the project to a global audience and elicited commendations from leading academics and policymakers.

This "Partnership Proposal" provides in three sections (1) an overview of the project, (2) its activity plan and progress report, and (3) a description of the proposal for partnership.

Project Overview

I. Project Objectives

The IAB indicators aspire to be **practical and actionable tools for**:

- **Governments and investment promotion agencies (IPAs)** to advocate, prioritize, and implement investment policy reforms. The project will identify regional and international good practices and foster competition for improved FDI policy climates among countries.

- **Development partners** to guide their advisory services to client governments on some of the key policy-level constraints to increasing FDI competitiveness. It is expected that the indicators will connect investment climate diagnostics with solution design and implementation assistance. This linkage has already been demonstrated by the *Doing Business* project, where the DB indicators have stimulated client demand for greater assistance in business environment reform solutions (FIAS' DB Reform Unit has to date received requests for assistance from more than 50 governments). The project will also analyze regional and global good practices to allow development partners to better target and design their advisory assistance to client governments, and to monitor and analyze the impact of investment climate reforms.

- **Foreign investors and site location consultants** to help guide their investment location decisions and policy-level dialogue with governments.

The project aims to **add value to the current family of investment climate indicators and assessments** by:

- Identifying specific legal, regulatory and administrative impediments affecting investment competitiveness;
- Measuring administrative efficiency and institutional capacity, in addition to the quality of legal and regulatory frameworks;
- Extending country coverage to the global level;
- Using primarily objective and verifiable information, rather than perception- and opinion-based data;

- Collecting information through a survey of local practitioners, complemented by a review of laws and regulations;
- Linking indicator results to tailored technical assistance on investment climate reforms.

II. Thematic Coverage

The IAB indicators focus on the following critical **policy dimensions of investment climates**[1]**:**

- Investing across sectors
- Starting a foreign business
- Accessing land
- Arbitrating disputes
- Getting information[2]

Investing across sectors indicator measures foreign ownership restrictions in the following **sectors:**

- Air transport
- Banking
- Construction
- Electricity generation
- General manufacturing and assembly
- Health care
- Insurance
- Media
- Mining
- Oil and gas
- Retail trade
- Telecommunications
- Tourism

Two additional topics are under development, and will be considered for inclusion in 2010: (1) dealing with expropriation, and (2) transferring foreign exchange. Additionally, over time, over time other indicators will be considered for possible development, in particular restrictions on the employment of foreign workers, and protection and enforcement of intellectual property rights.

III. Methodology and Linkage with the *Doing Business* Project

The IAB indicators apply an adapted methodology developed by the *Doing Business* project. **Key characteristics of the methodology** include:

- Annual data collection through a set of survey instruments administered to private sector intermediaries (investment lawyers, consultants, accountants, bankers, and so forth) advising foreign investors on investment laws, regulations and policies;
- Survey data complemented by a desk review of laws and regulations and survey responses by government agencies (IPAs and others) collected for reference and validation purposes;
- Combined evaluation of the quality of laws and policies, and their execution, implementation and enforcement in practice measured through a case study approach of a hypothetical investment project.

IAB will initially be operated as a FIAS initiative within the *Doing Business* family of indicators. Over time, the IAB indicators' inclusion in the *Doing Business* project will be considered. The *Doing Business* project was recently evaluated by the World Bank Group's Independent Evaluation Group (IEG). IAB is capitalizing on the findings and conclusions of the evaluation to strengthen the project's design and methodology. The evaluation report offers five key

[1] There are other important aspects of investment climates that the indicator scope excludes, for example the quality of infrastructure, human resources, transparency, corruption, competition, and trade policy. The IAB indicators are focused on a select set of key policy variables, and do not intend to provide a comprehensive and exhaustive measure of the quality of business conditions for foreign investors.

[2] The *Getting Information* indicator is being developed through the *Global Investment Promotion Benchmarking*, a separate FIAS project undertaken in conjunction with IAB.

recommendations for extending the DB methodology to other indicators. Table 1 illustrates that the IAB indicators have been designed in full alignment with these recommendations:

Table 1: Application of DB Methodology to Other Topics

IEG recommendations for new DB indicators	IAB indicators
Choose what to measure and start small: Use existing or new research to identify a few issues within a sector/theme that can serve as at least partial proxies for development. Then specify some quantitative variables that can be measured relatively easily, have an intuitive appeal, and are easily understood. This implies accepting that the indicators will be limited in scope, not comprehensive.	The IAB indicators are focused on five areas of investment policy that provide proxy measures for the ease of a foreign investor's entry and operation in a particular country. These indicators were selected from an extensive list of investment policy variables based on the (1) results of investor opinion surveys on key policy-level business constraints, (2) review of academic literature and econometric analysis on principal determinants of FDI flows, (3) discussions with members of the Expert Consultative Group, and (4) feasibility of applying the DB measurement methodology to the selected indicator topics.
Look for efficiency in data collection and processing: Data collection methods need to be simple. Use an appropriately diverse range of expert informants and provide informants with a common reference point such as a hypothetical scenario.	Pilot tests with over 400 investment law and policy specialists in 22 countries have helped determine an appropriate mix of survey respondents. Each indicator is measured through a simple case study of a representative investment project to ensure practical and comparable data across countries.
Identify target audience: Country benchmarking can be an effective door-opener and motivate a wider dialogue. Consider in advance whom the indicators should aim to influence and who could participate in the dialogue.	Given the principal objective of the project – to stimulate reforms by benchmarking countries' investment climates – the IAB indicators have been presented and discussed with over 30 senior executives of IPAs worldwide. Additionally, the project has built a wide network of stakeholders.
Create and maintain competitive pressure: Any indicator can be effective only to the extent it is widely communicated and understood by the target audience and can generate competition among countries and pressure to reform. The DB's assertive marketing and communication strategy combined with its use of rankings helped to generate and maintain country interest.	FIAS will utilize the IFC's marketing and communication strategy to disseminate project's results and help create space for reform.
Do not overstate the implications of the rankings: Cross-country rankings inherently miss country-specific issue nuances. They have to be used in conjunction with other analyses to help countries determine the direction, nature, and sequence of reforms.	FIAS has been careful to appropriately present the project as a set of narrowly defined indicators providing measures of some aspects of countries' investment policy frameworks. Similarly to all statistical and other quantitative measures, the indicators will not provide a comprehensive and exhaustive picture of the quality of investment climates, but will instead aim to be used as tools to stimulate discussion and create space for reform.

The design and focus of each IAB indicator has been developed through **consultations** with various legal and regulatory experts from the following organizations:

- The World Bank Group – including the World Bank, IFC, Multilateral Investment Guarantee Agency (MIGA), and International Center for the Settlement of Investment Disputes (ICSID)
- OECD
- IMF
- UNCTAD
- Overseas Private Investment Corporation (OPIC)
- International Bar Association (IBA)
- International Chamber of Commerce (ICC)
- Various international law and accountancy firms
- Others

Additionally, the following investment policy specialists have advised on the overall project design and content:[3]

- Sveinbjorn Blondal, Economics Department, OECD
- Rainer Geiger, Directorate for Financial and Enterprise Affairs, OECD
- Stephen Golub, Department of Economics, Swarthmore College
- Anne Miroux, Division on Investment, Technology and Entreprise Development, UNCTAD
- Theodore Moran, School of Foreign Service, Georgetown University
- Don Wallace, International Law Institute and Georgetown University Law Center
- Louis Wells, Harvard Business School

Timeline and Progress Report

Development and rollout of the IAB indicators has been undertaken in **four phases**: **(1) project design, (2) pilot testing, (3) first year of operation, and (4) subsequent years of operation** (see table 2). It is expected that by the second year of operation the project will cover most of the countries included in the *Doing Business* report.

Table 2: Timeline for Development and Rollout of IAB Indicators

Project phase	Timing	Country coverage	Estimated resource Requirements
Design	Mar 07 - Oct 07	Preliminary design completed and currently under testing.	$100,000
Pilot testing	Nov 07 - Oct 08	22 pilot countries (Argentina, Austria, Bangladesh, Cameroon, Canada, Chile, China, Colombia, Egypt, Ethiopia, Ghana, Madagascar, Mozambique, Nicaragua, Nigeria, Peru, Russia, Serbia, Singapore, United States, Vietnam, Yemen). *Investing Across Borders: Report on Pilot Results* available.	$400,000
Operation - 1st year	Nov 08 - Oct 09	Around 80 countries. First *Investing Across Borders* report available.	~ $1,000,000
Operation - subsequent years	Jan - Dec of each year	Global country coverage.	~ $1,600,000 per annum

The ongoing **pilot tests in 22 countries have resulted in an improved design, focus and methodology of the indicator surveys**, and have provided preliminary country data, which is currently being analyzed. The pilot phase is scheduled to conclude in October 2008, at which time the project will undergo an overall review and evaluation of the indicators design, substantive coverage and methodology in preparation for the **first year of operation scheduled to commence in January 2009**. Reports on the preliminary pilot results are being developed for each indicator topic to serve as a basis for an evaluation by the expert review committees formed for each indicator. Figure 1 shows examples of some of the preliminary results emerging from the pilot tests (data as of September 2008; all results are preliminary and subject to change).

[3] The project aims to formalize the relationship with these and other individuals and organizations through establishing an Expert Consultative Group.

Figure 1: Selected Preliminary Results from IAB Indicators Pilot Tests

Example 1: Investing across sectors

Sector openness index (0-100)

Many countries continue to have sector-specific restrictions on FDI. Ethiopia, for example does not allow any foreign participation in fixed-line telecommunications, financial services, media, and retail. Russia also appears to restrict foreign investment in airlines, fixed-line telecommunications, extractive industries, financial services, and media.

Example 2: Starting a foreign company

Can a foreign company establish a subsidiary without an investment approval?		
	Yes/No	Average number of days to get the approval
Cameroon	No	14 days
Ethiopia	No	10 days
Ghana	Yes	N/A
Mozambique	No	60 days
Nigeria	Yes	N/A

Several countries in sub-Saharan Africa require an approval to establish foreign-owned companies. It can take weeks to obtain this investment approval. Domestic companies do not face this administrative burden.

Example 3: Accessing land

Quality of land use rights index (0-100)

The quality of land rights for foreign investors varies considerably across the world. The quality of land rights is stronger in Latin America than in sub-Saharan Africa (with the exception of Nicaragua). Mozambique scores very poorly, its complicated zoning system and required government approval to transfer the title makes the 50 year lease (or license to develop) less secure for investors than the freely held, freely transferable system in countries like Chile and Colombia.

Example 4: Arbitrating disputes

Ease of international arbitration proceedings index (0-100)

Quality of laws governing international commercial arbitration varies across countries in Latin America and the Caribbean. Most pilot countries have enacted good arbitration laws, or are in the process of introducing new laws (Colombia, Argentina). In addition, it appears that very few countries' laws are still "hostile" to international arbitration proceedings taking place in their country.

Partnership Proposal

The World Bank Group, through its own as well as donor-contributed funds, has provided full financing for the project's development and pilot testing phase.[4] Going forward, FIAS is soliciting contributions from interested donors to **directly co-finance the operation of the project on an annual basis**. A minimum contribution of $250,000 per annum for a period of three years, renewable, is expected from each donor considering a partnership with FIAS on this flagship initiative.

Partnership can include the following opportunities for the partner and FIAS:

- Leveraging the IAB indicators as tools for advancing technical assistance with the client governments, and facilitating strategic dialogue with publicpolicy makers and private sector;
- Global recognition for thought leadership on FDI benchmarking and policy through annual IAB reports and indicators database, press releases, etc.;
- Advance knowledge on project design and January '09 rollout;
- Input into the selection of 80 countries included in the first year of operation;
- Knowledge transfer between the partner and FIAS/World Bank Group on private sector development solutions;
- Membership in the high-level Expert Consultative Group for the project, and/or indicator-specific expert committees;
- Collaboration with FIAS and other partners in delivering advisory services in response to the client's demand for assistance generated by the project in selected countries.

Contact Us

If you would like to partner with FIAS on the *Investing Across Borders* project, please contact:

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More information about IAB is available online at www.fias.net/ifcext/fias.nsf/Content/fdiindicators.

[4] 50% of the contributions came from IFC's retained earnings, and 50% from FIAS' core funding, including a generous contribution of the Government of Austria.