

## The BizCLIR Indicators: Background and Uses by the Assessment Team

**Introduction.** Since 1998, USAID has sponsored the in-depth examination of the legal, institutional, and social underpinnings of economies in developing countries around the world. The purpose of this diagnostic process, implemented in conjunction with the consulting firm of Booz Allen Hamilton, is to identify with precision the areas where targeted legal and institutional reforms can result in tangible economic change and growth. Between 1998 and early 2007, USAID's commercial legal and institutional reform and trade initiative (hereinafter CLIR-Trade) employed an indicator-based diagnostic tool in 24 countries, compiling a large set of detailed written reports and scored indicators.<sup>1</sup> In 2007, USAID enlisted the newly established Business Climate Legal and Institutional Reform (BizCLIR) project to oversee the updating and redesign of the diagnostic tool. The resulting database of indicators now provides a refreshed and more flexible basis on which to analyze a country's enabling environment for business, trade, and economic growth. (Additional sets of indicators, which will examine the agricultural and health care environments of individual countries or entire regions, are currently being developed.)

This document explains the background of the BizCLIR indicators; the process for creating the new BizCLIR indicators; the resulting database of indicators; and the use of the indicators in the BizCLIR diagnostic process.

### Discussion

#### I. Background: The CLIR-Trade indicators: 1998-2007

Beginning in 1998, USAID and Booz Allen Hamilton commenced work to develop and refine a highly detailed method of inquiry pertaining to commercial law and institutional reform and trade facilitation in developing countries.<sup>2</sup> The purpose of the initiative was to set the stage for the creation of appropriately focused interventions, whether sponsored by local actors or by the donor community. Seven sets of indicators emerged from the original exercise, which pertained exclusively to Europe and Eurasia.<sup>3</sup> Over the years, USAID and Booz Allen expanded the indicators to cover 16 discrete subject-matter areas, each set closely examining one aspect of the conditions underlying a country's potential for growth. The indicators were also expanded to apply to economies all over the world, rather than being focused exclusively on Europe and Eurasia.

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<sup>1</sup> These reports are available at the BizCLIR website, [www.bizclir.com](http://www.bizclir.com). For a number of years, the CLIR-Trade indicators were executed under the USAID initiative known as the Seldon Project for Global Trade Law Assessment and Assistance.

<sup>2</sup> The methodology for the creation of the original indicators in 1998 is set forth in a document entitled Commercial Legal and Institutional Reform (C-LIR) Assessments for Europe and Eurasia, Diagnostic Methodology Handbook (November 15, 1999).

<sup>3</sup> The original indicators consisted of those examining bankruptcy, collateral (secured transactions), company, competition, contracts, foreign direct investment, and international trade law.

Ultimately, USAID and Booz Allen created indicators for the following topics: (1) bankruptcy; (2) collateral law/secured transactions; (3) commercial dispute resolution; (4) company law; (5) competition; (6) contract law; (7) court administration; (8) financial crimes; (9) flow of goods and services; (10) flow of money; (11) flow of people; (12) foreign direct investment; (13) infrastructure; (14) intellectual property rights; (15) international trade law; and (16) real property. Collectively, the indicators covered areas that, when properly functioning, constitute the building blocks of a successful economy. In total, the indicators included hundred of points that were each scored on a scale of 10 or five points, depending on their relative weight. The original indicators were kept and scored in Microsoft Excel format.

From the outset, the indicators established a four-part method of inquiry. Each set entails a detailed look at a single subject matter area covers its legal framework, implementing institutions, supporting institutions, and social dynamics.<sup>4</sup> Specifically, the indicators in their original form addressed the following issues, and this form remains today:

**Legal Framework.** These indicators first examine the laws and regulations of country being studied that serve as the structural basis for its ability to achieve and sustain market-based development. They pose the following questions: How clear are the laws, and how closely do existing laws reflect emerging global standards? How well do they respond to commercial realities that end-users' face? What inconsistencies or gaps are present in the legal framework? Often discovered through this review are opportunities to make relatively small changes that may result in significant openings for business development and expansion.

**Implementing Institutions.** Next, the indicators examine those institutions holding primary responsibility for implementation and enforcement of the legal framework and subsidiary laws, regulations, and policies. These institutions typically include government ministries, authorities, and registries, or, in certain cases, private institutions such as banks and credit bureaus. In addition, courts are often examined with respect to their effectiveness in addressing certain areas of the commercial law. With respect to international trade, the chief implementing institutions include customs, immigration and other border authorities. Problems uncovered in all institutions often concern bureaucratic inefficiency, lack of resources and training, and, of paramount concern, real or perceived corruption.

**Supporting Institutions.** These indicators look closely at those organizations, individuals, or activities without which the legal framework or policy agenda cannot be fully developed, implemented, or enforced. Examples include notaries, lawyers, banks, business support organizations (such as chambers of commerce) and private services, professional associations, universities, and the media. The indicators examine relative awareness of law and practice on the part of the institution, and the specific ways certain institutions increase public and professional awareness, work to improve the business environment, and otherwise work to serve their constituencies. In certain instances, weaknesses in one or more supporting institutions will be identified as a critical area for reform – for example, if a bar association has yet to be formed, or the media does not cover an issue of critical public interest, priority areas for reform will likely

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<sup>4</sup> The original indicators referred to this fourth category as “market for reform,” but the category was changed to reflect the broader societal interest in the subject matter area.

emerge. Often this area uncovers certain “champions of reform” – motivated organizations or individuals who are eager to serve as agents of change.

**Social Dynamics.** Finally, the indicators examine less tangible, but often enormously important social issues that are relevant to a certain topic. These indicators attempt to uncover roadblocks to reform, including identification of vested interests that may have an interest in subverting change. They also examine the relationships between various sectors – public, private, and civil society – that inevitably must work together to bring about change. These indicators seek to identify significant opportunities in bolstering the business environment – including champions of reform or regional initiatives – as well as matters of access to opportunity and formal institutions. Often a full understanding of legal and institutional issues cannot be achieved without a nuanced consideration of a country’s social dynamics.

This four-part approach provides a comprehensive basis on which diagnostic teams, beginning in 1998, could identify weaknesses in a given environment and make recommendations for closing those gaps. Between 1998 and March 2007, the indicators served as the primary tool of assessing the conditions and opportunities for reform in 24 countries.<sup>5</sup> After sending teams of three to 10 experts to examine some of all of the subject matter areas, Booz Allen presented the scored results of the indicators along side of a report from the country diagnostic where they were engaged.

## **2. The BizCLIR indicators revision initiative: 2007**

The use of the indicator-based diagnostic tool before 2007 produced a variety of results, including increased country awareness about the significance of certain issues; specific donor programs targeted at addressing key weaknesses identified by the diagnostic; strengthened donor coordination; and regional comparison and coordination of reform. At the same time, a number of lessons from the development arena generally impacted the way that local economies were viewing their own processes of reform. Chiefly, the World Bank’s Doing Business initiative, launched in 2002, proved to be an enormously influential way of comparing the relative business-friendliness of the world’s economies.<sup>6</sup> Doing Business presented strong substantive links to the issues studied CLIR-Trade, thus establishing a basis on which to update and revise the CLIR-Trade indicators.

Doing Business presents a set of quantitative indicators pertaining to business regulations and the protection of property rights that speak directly to the concerns of actors who actually do business. Specifically, Doing Business examines the following 10 issues that economic actors typically face: (1) starting a business; (2) dealing with licenses; (3) employing workers; (4) registering property; (5) getting credit; (6) protecting investors; (7) paying taxes; (8) trading across borders; (9) enforcing contracts; and (10) closing a business. For each of these topics, Doing Business uses a few key indicia of whether and how a system is “working,” measured by such

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<sup>5</sup> From 1999 through March 2007, the locations studied include Kazakhstan, Poland, Romania, Ukraine, Albania, Macedonia, Croatia, Armenia, Serbia, Azerbaijan, Indonesia, Kosovo, Mozambique, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, Vietnam, Cambodia, Laos, Ethiopia, Afghanistan and the Philippines. In June 2007, the CLIR-Trade indicators were used again in Indonesia and for the last time.

<sup>6</sup> See generally, *World Bank, Doing Business 2008 (2007)*, and accompanying literature at [www.DoingBusiness.org](http://www.DoingBusiness.org).

means as the number of procedures involved with getting something done, the number of days it takes, its cost in relation to per capita income, and the like.

The strengths of Doing Business include, most prominently, its relevance to the day-to-day concerns of economic actors and its ability to be understood by policy makers and other influential parties in the 178 economies it analyzes. Concurrently, the strength USAID's indicators is found in the depth of their inquiries: through hundreds of "data points" examined in each CLIR-Trade set, the indicators target weaknesses in the law, institutional environment, or societal attitudes toward reform in an unusually comprehensive manner. For example, to illustrate the point of whether merchants can effectively "trade across borders" in an economy, Doing Business quantifies the number of documents needed to export and import goods, the time it takes to do so, and the relative costs. By comparison, the CLIR-Trade indicators pertaining to "Flow of Goods and Services" examines the laws, regulations, border agencies, business and professional organizations, and many other legal, institutional, social and political factors that ultimately contribute to these "bottom line" figures. If the results of Doing Business can be compared to a snapshot, the results of USAID's CLIR-Trade indicators might be described as a painting, a sculpture, or even a multi-media presentation. Doing Business has also been referred to as "the tip of the iceberg," with the CLIR-Trade initiative providing the basis on which to examine the "whole iceberg."

In late 2006, following USAID's establishment of the BizCLIR project (also implemented by Booz Allen Hamilton), revision of the CLIR-Trade indicators was launched in earnest. The process began with a survey of over 20 individuals who had worked with the CLIR-Trade indicators in the past that identified the strengths and weaknesses of that tool. The major strength of the CLIR-Trade indicators was found to be its four-part method of analysis – legal framework, implementing institutions, supporting institutions, and social dynamics – while the primary weakness was their scoring mechanism, which required hundreds of issues to receive individual scores, regardless of their relevance or whether the assessor had sufficient information.

In early 2007, following the structure set forth in the next section of this memorandum, a group of subject-matter experts began revising the old indicators and creating new ones, under the supervision of a BizCLIR project manager and supporting project coordinator. Keeping the four-part analytical scheme, a new method of scoring was devised. For each of the four sections, around five to 20 key indicators were created (for an average of 25 to 70 total key indicators). Collectively, these indicators were developed for the purpose of examining how a country fares with respect to maintaining the central aspects of an effective environment for business. These indicators were to be scored according to the assessor's overall judgment, based on thorough research and investigation.

To help an assessor determine a score, around five to 20 supporting indicators accompany each key indicator. These supporting points do not themselves receive scores, but instead are intended to guide the assessor in arriving at a consistent, factually based judgment on which the key indicator score is based. In implementing a country diagnostic, it is unlikely that an assessor will be able to find answers to *all* the supporting indicators, and in many instances a supporting indicator may not be relevant to a given situation. Assessors are instructed to be prepared, however, to explain how a score was determined, chiefly by referencing his or her findings based on the supporting questions.

The new indicators also changed the scale of scoring from a 10-point scale to a five-point scale. The score awarded each key indicator aligns with the following conclusions:

- 1 = strong negative
- 2 = moderate negative
- 3 = neutral (or having some negative and some positive qualities)
- 4 = moderate positive
- 5 = strong positive

The purpose of this change in the approach to scoring was to discourage over-emphasis on a country's numerical showing in a diagnostic and to encourage better understanding of trends and relative strengths and weaknesses of a given area. In all cases, indicator scores are to be considered in conjunction with the written analysis provided in a diagnostic report.

In April 2007, the new indicators were presented to USAID. This led to substantive feedback concerning most sets of indicators, including increased emphasis on incorporating questions pertaining to agriculture and rural constituencies throughout the indicators. In June 2007, five of the new sets of indicators were tested in Pakistan.<sup>7</sup> Results from this exercise led to additional revisions of the new indicators.

In August 2007, the entire new set of indicators (as aligned with the Doing Business topics – see below) was tested in Tanzania. This exercise validated the content of most sets of the new indicators, with two major changes: (a) Dealing with Licenses was determined to be too broad, and thus was thereafter substantively narrowed; and (b) Agriculture, an discrete set of indicators drafted as part of the BizCLIR revision process, was determined to warrant its own universe of indicators, a new project launched in the last quarter of 2007.

### **3. The revised indicators**

The new, BizCLIR indicators are constructed to allow for both broad inquiries into an overall economic environment, as well as for flexibility in application that allows for highly specific reviews. There are, in fact, two core sets of indicators: One set, drawn on the methodology used in the first generation of the initiative (CLIR-Trade), allows for 16 areas of inquiry specifically targeting individual topics, most oriented toward single areas of law. The second set, which since mid-2007 have been accessed more broadly (but not exclusively), covers the major subject-matter areas addressed in the World Bank's Doing Business project. The new indicators are now stored in a single database using the Microsoft Access program.

Both existing sets of indicators draw substantially from the content of the old ones, but they also reflect the evolving wealth of experience and lessons learned through country experiences and economic assistance programs throughout the world. During the 2007 revision process, certain topics were consolidated and brand new topics were introduced.

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<sup>7</sup> The five sets tested in Pakistan were Dealing with Licenses, Employing Workers, Getting Credit, Trading Across Borders, and Registering Property.

<b>CLIR indicators: 1998-2007</b>	<b>CLIR-Trade indicators: 2007-forward</b>	<b>Doing Business-aligned indicators</b>
Company	Companies, Cooperatives, and Corporate Governance	Starting a Business
Contracts	Contracts	Dealing with Licenses
Secured Transactions	Secured Transactions	Employing Workers
Real Property	Real Property	Registering Property
Bankruptcy	Bankruptcy	Getting Credit
Commercial Dispute Resolution	Commercial Dispute Resolution	Protecting Investors
Court Administration	Fiscal and Taxes	Paying Taxes
Competition	Competition	Trading Across Borders
Intellectual Property Rights	Intellectual Property Rights	Enforcing Contracts
Foreign Direct Investment	Foreign Direct Investment	Closing a Business
Financial Crimes	Financial Crimes	Infrastructure
International Trade	International Trade of Goods and Services	
Flow of Goods and Services	Agriculture	
Flow of Money	Banking and Finance	
Flow of People	Labor	
Infrastructure	Infrastructure	

In practice, not all country diagnostics cover all topics. In fact, based on a country’s specific needs and priorities, most diagnostics will consist of a subset of the universe of subject-matter areas that is available. For example, the December 2007 diagnostic in Jamaica examined four areas: three from the Doing-Business list – Getting Credit, Dealing with Licenses, and Paying Taxes – and one from the CLIR-Trade list – Real Property. (The Jamaica diagnostic also involved a fifth issue – Legislative Process – that is not specifically covered by the new database of indicators.)

In their current form, some sets of indicators contain more questions than others. Getting Credit and Trading Across Borders are lengthy inquiries that generally call for the focus of a single assessment professional, while other topics, such as Closing a Business and Enforcing Contracts, can generally be covered by a single assessor. *All* subject matter areas entail a significant amount of advance research and preparation. This is followed by an extensive series of in-country interviews and a critical period of consultation among colleagues. The indicators are designed to assist the assessor in developing the most thorough “snapshot” that is possible to construct over the course of a relatively brief visit to the country. That is, the questions are geared toward seeking various perspectives and viewpoints, as well as toward explaining how a certain topic works in all pertinent communities – from the business centers in the urban capital, to remote locations where agriculture is the main source of livelihood. For each topic, an assessor is obliged to produce: (a) a chapter for the final report that provides findings and recommendations pertaining to the topic he or she has examined; and (b) a set of scores for the key indicators included under that topic. Chapters and scores are compiled for a final report, which typically includes an introduction that synthesizes cross-cutting themes that represent central areas of interest for the country undergoing the diagnostic process.

#### **4. The use of the indicators in the diagnostic process**

As noted, the BizCLIR indicators serve a quantitative purpose in that each key indicator receives a score that represents the assessor's opinion of the state of affairs in a given category. These scores provide a baseline understanding of how a country fares in that topic. Equally important, the indicators serve as a substantive guide to the diagnostic process, from the pre-travel planning stage to time spent by a diagnostic team in country to the drafting of the report.

First, the indicators represent the first source for understanding the information that must be collected for a thorough diagnostic to take place. Each key indicator and supporting indicator is reviewed carefully from the outset for the purpose of formulating a list of critical documents to be reviewed and key meetings that must take place while in-country. Many indicators are subjective, while many others require "hard-data"; it is the assessor's responsibility to gather as much qualitative and quantitative information as possible to construct a thorough report. For each key indicator, an assessor solicits a variety of viewpoints. Assessors do not merely ask a single business leader in an urban center how a certain topic functions; the assessor seeks understanding of how a topic functions for small and medium-sized businesses, for rural communities, for traditionally disenfranchised groups, and for other pertinent constituencies.

Second, the indicators serve as a guide to conducting an interview with an individual or group of people who have knowledge of the targeted topic. Assessors do not bring indicators and supporting criteria into a meeting; they do, however, anticipate how each interview can contribute to understanding one or more key indicators. No single meeting provides answers to all key indicators. Strong advance planning and sound knowledge of the issues to be reviewed facilitates the most effective use of limited meeting time.

Third, the indicators are used as a means for structuring assessor coordination and collaboration. The quantity of information being examined in any diagnostic is vast. No single assessor can cover every point alone. Therefore, regular discussions among assessors are critical to developing as thorough a diagnostic as possible. One assessor who cannot attend a meeting that is relevant to his or her area of inquiry provides the person who is attending with any important questions. In addition, all assessors listen for and share information that is relevant to the inquiries of their colleagues. In some cases, assessors may draw on the judgment of their colleagues to answer entire key indicators.

Moreover, certain key indicators appear twice or even three times in the full diagnostic. For example, indicators relating to mortgages are found both in the Getting Credit and Registering Property sets. Accordingly, assessors confer about how a certain key indicator is to be scored. Ideally, the same question will be asked by more than one assessor, so that a variety of viewpoints are collected. The assessors then confer about how a key indicator is to be discussed in the report and thereafter scored.

Fourth, the indicators provide structure for the written report. Each chapter of the report, including discussions of legal framework, implementing institutions, supporting institutions, and social dynamics – incorporates the main points covered by the key indicators. Of course, certain key indicators are, in a given environment, more "key" than others – different reports will emphasize different issues, roadblocks and opportunities.

**Conclusion.** The purpose of the 2007 indicator revision process was to incorporate lessons learned from the development arena during this decade, as well as to strengthen the overall effectiveness of the USAID business environment diagnostic process. Already, the new BizCLIR diagnostic tool has resulted in considerable interest and opportunity. Offering a comprehensive understanding of a business environment, the diagnostic tool, as based on the indicators it uses, will be a useful and flexible tool throughout this decade and well into the next.