

Review of the World Bank's B-READY Project: A Focus on the International Trade Topic

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Executive Summary

Business Ready (B-READY), the successor to the World Bank Group's (WBG) *Doing Business Report*, is a flagship project designed to assess the business environment and investor friendliness of economies worldwide. It aims to facilitate private investment, generate employment, and improve productivity to help economies accelerate development in inclusive and sustainable ways. As a pilot project, B-READY is currently in a three-year rollout phase, spanning from 2024 to 2026, during which the project intends to expand its geographic coverage and further refine its process and methodology.

We acknowledge and appreciate the WBG's initiative to strengthen the private sector by making it more dynamic and resilient in addressing development challenges through the formulation of a comprehensive set of indicators and methodologies to assess the business readiness of economies. However, after thoroughly reviewing the *International Trade* topic of the B-READY Methodology Handbook, we have identified several critical areas that require further deliberation by the World Bank and have provided detailed arguments to substantiate our analysis.

Our analysis builds on existing critiques of the B-READY project raised by Civil Society Organizations, Think Tanks and Academic Institutions, Government Agencies of different countries and International Development/ Financial Institutions, which we have referred to and subsequently expanded upon in this paper. Some of the key issues highlighted in the paper consist of the inherent problem of institutionalized bias favouring certain schools of economic thought or governance philosophies that lead to rigidities in ideation and inability to take into account other equally or more valid alternatives. Such institutionalized bias can also come in the way of genuine appreciation of practical challenges in adoption of certain policy pathways that have been recommended by such institutions as the ideal solution. It can be a major challenge for large international organisations and can prevent adequate incorporation of developing country perspectives. In some cases, suggested policy preferences might undermine sovereign functions of the state, and pose potential challenges to security or other national priorities of countries, rendering such solutions impractical for the real world. It can lead to inappropriate application of market- access related issues to challenges of ease of doing business. It gives rise to issues related to definitional uncertainties stemming from unresolved policy debates in existing multilateral or plurilateral forums where World Bank member states do not yet have a consensus. There can be instances of lack of clarity in identification of the parameters used for evaluation.

This report delves into International Trade topic of the B-READY Methodology Handbook to flag such issues and initiate further debate and deliberation on them. The World Bank released the first of the three reports in October 2024, incorporating a significant number of amendments across topics and committing to integrating additional feedback in subsequent iterations. India is among the 180 economies expected to be assessed in the third phase of the project.



This paper, therefore, is an attempt to provide constructive feedback to guide the further refinement and evolution of the B-READY methodology. We hope this contribution supports the World Bank's efforts to create a more balanced, inclusive, and effective framework for assessing business readiness globally.

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1 Introduction

Business Ready (B-READY), a conceptual successor to the Doing Business Report (DBR), is the World Bank Group's (WBG) new flagship project that benchmarks the business environment and investment climate across most economies globally. The B-READY project aims to measure the quality and efficiency of the overall regulatory environment and public services that firms encounter throughout their life cycle. It incorporates both de jure information and de facto experiences, directly from firms based on their experiences with the business environment.²

Like DBR, B-READY also addresses several specific areas that impact industrial and commercial operations including Business Entry, Business Location, Utility Services, Labor, Financial Services, Taxation, Dispute Resolution, Market Competition, and Business Insolvency and International Trade. Figure 1 lists the 10 topic areas of the B-READY Project.

Figure 1: B-READY Topic



B-READY takes a much more comprehensive approach to the idea of ‘doing business’, not limiting itself to purely operational matters, but delving into design and in many cases the rationale behind specific regulations or rules, availability and access to physical, digital and regulatory infrastructure and design of regulations. It also attempts to gauge quality of enforcement of regulations. This is in sharp contrast to DBR that was more limited in scope. For example, the Trading Across Border pillar of DBR covered only time (in hours) and cost (in USD) to export or import associated with regulations at the border and documentation required for export or import. In contrast, B-READY has over 1000 questions across 10 broad topics.

In that sense, B-READY is a more refined and comprehensive successor to DBR. It is an ambitious attempt to identify, capture and measure a whole gamut of factors that impact commercial and industrial operations and provide a standardized methodology that credibly executes a cross-country comparison of these factors. World Bank team must be commended for their sterling work on identifying this comprehensive list of relevant factors and developing an appropriate

² “B-READY Methodology Handbook,” The World Bank, accessed December 25, 2024, <https://thedocs.worldbank.org/en/doc/357a611e3406288528cb1e05b3c7dfda-0540012023/original/B-READY-Methodology-Handbook.pdf>.



questionnaire and a methodology based on in-depth literature review across a number of domains in order to implement B-READY.

Being fully aware that B-READY is in a pilot phase, and the World Bank is looking to incorporate feedback to further improve design, methodology and implementation framework of B-READY, this working paper is an attempt at providing constructive feedback on certain challenges, issues, and gaps. While B-READY is looking at 10 domains, the focus of our working paper is just on one of the topics, i.e., the International Trade topic. This working paper will first provide a brief critic of the overall macro-view taken by B-READY which the authors of this working paper feel stems from a certain institutional bias and then delve into a detailed overview of the areas where further deliberation is required by the World Bank.

2 Institutional Bias: The Challenge of addressing the problem of dominant point of view within institutions

All institutions working on public policy issues tend to have a certain perspective on what constitutes optimal policy options and policy pathways towards attaining any policy goal. International organizations like the World Bank are no exceptions to this. However, given the mandate of the World Bank as a member driven organization that is more representative of a diversity of perspectives, an excess of bias towards particular schools of economic thought or consideration of specific policy objectives and pathways can represent a serious challenge.

The discussion on such institutional bias that follows is to provide the context for the specific issues and problems that the authors highlight in later sections. This is important because most of the commentary in this paper on specific items in B-READY which we consider to be either problematic or inappropriate is associated with assumptions on what constitutes a policy-related best practice and/or represents economic efficiency. Such assumptions in turn represent a certain point of view on trade and governance issues.

While we acknowledge that the World Bank has drawn much of its observations on the specific nature of factors and issues to consider, and the interpretation of their impact on ‘business friendliness’ or ease from existing literature, it needs to be pointed out that economic literature is itself subject to multiple viewpoints and perspectives, which in turn depend on a number of assumptions. In other words, there is lack of consensus on many of these issues even within the relevant body of economic (or broader academic) literature.

The broad challenge remains that achieving specific policy-goals can have multiple pathways. Since unlike DBR, B-READY not only measures outcomes but also whether specific policy/regulatory conditions exist (or not), the design and application of such regulations/policies, and the means of their enforcement, it tends to specify particular pathways as being superior to others.

But in many instances, what might be the optimal policy or regulatory choice might be unclear, and the same policy or regulatory design can lead to very different outcomes. The literature emerging from Public Choice Theory has provided many such instances of different outcomes emerging from the same policy choice or design under changed circumstances or different contexts.

The New Institutional School of Economics (NIE) has similarly provided instances where a specific type of intervention might be sub-optimal largely due to significant differences in institutional design. We purposely use the word institutional design and not institutional quality because NIE acknowledges that differences in institutional design based on differences in experience, legal traditions, political systems and policy priorities can lead to differences in



outcomes, independent of qualitative differences between institutions in two countries (sometimes even two different sub-national institutions).

Institutional bias or to put this more mildly, ideological preference for certain viewpoints or policy solutions can be a function of multiple factors. We would like to argue that the World Bank HQ that drives global initiatives like B-READY are particularly susceptible to this. Being headquartered in Washington DC, it has historically been more influenced by public policy choices, priorities and ideological positions of the US government. The World Bank HQ also tends to hire a very large proportion of its staff from US Universities. Further, it has a tendency to hire from a select set of about 15-20 US Universities, most of whom are considered elite, or have the advantage of location in being in or near the Washington DC area.

Two additional points need to be made here in this context. First, while there have been attempts in the last two decades to broaden the hiring for HQ, staff at relatively senior levels represent an earlier era when such conscious attempts at diversity were absent. Thus, the middle to higher rungs of the World Bank HQ leadership come from a narrower range of institutions. Second, the discussion is not about diversity in terms of nationality or gender, but the academic background (i.e., the Graduate school where the staff was formally trained in economics or other disciplines) and therefore the institutional diversity of the staff.

The reason for our focus on such institutional diversity is that it often matters much more in terms of the policy related worldview than other factors. Since the 15-20 graduate school programs that have historically provided the bulk of what the World Bank hires tend to have certain ideological preferences, and ideological preferences matter in Social Sciences including Economics. This point has been highlighted by (Wade 2002)³ who argues that since a significant portion of the staff, particularly economists, hold post-graduate degrees from a North American University strongly suggests that U.S. ideologies dominate the organizations' operational framework.

We would like to stress that we are not questioning the quality of the World Bank hires, the quality of their alma maters, or the legitimacy of certain schools of economic thought or perspectives. We are simply suggesting that preponderance of similar views in an organization might make it less appreciative of or aware of alternatives that exist, or less prone to engage in debate on these issues.

Our contention on institutional bias at the World Bank, especially at the HQ is neither new, nor novel. This has been the topic of academic discussion and debate for some time. Credibility of International Organizations (IOs) such as the World Bank is critically dependent on their objective impartiality. As underlined by several academicians, (Barnett and Finnemore 2004⁴; Lall 2017⁵;

³ Wade, Robert Hunter. "US hegemony and the World Bank: the fight over people and ideas." *Review of international political economy* 9, no. 2 (2002): 215-243.

⁴ Barnett, Michael, and Martha Finnemore. *Rules for the world: International organizations in global politics*. Cornell University Press, 2019.

⁵ Lall, Ranjit. "Beyond institutional design: Explaining the performance of international organizations." *International Organization* 71, no. 2 (2017): 245-280.

Zurn 2018⁶) IOs must demonstrate impartiality to maintain their authority, performance, and legitimacy. However, as (Wade 2002) points out, IOs such as the International Monetary Fund (IMF) and the World Bank, have been subject to extensive criticism for exhibiting institutional bias that primarily serves the interests of powerful member states, especially the United States.

While the World Bank's Articles of Agreement explicitly state that: “the President, officers and staff of the Bank, in the discharge of their offices, owe their duty entirely to the Bank and to no other authority. Each member of the Bank shall respect the international character of this duty and shall refrain from all attempts to influence any of them in the discharge of their duties” (World Bank 1989, Art. 5, sect. 5c)⁷, it is also a well-established fact that powerful states often attempt to undermine this impartiality to shape institutional structures and policies in their favour (Stone 2002⁸; Urpelainen 2012⁹).

Thus, World Bank, like any other technocracy is subject to influence of interest groups, including the most powerful member states of these organizations. As has been pointed out in the literature on collective action by vested interests (starting with Olson, 1965), smaller, more focused interest groups are more efficient in pushing through their agenda. It stands to reason that US, Canada, and EU member states are that smaller, focused group of countries. They are smaller in number relative to over hundred developing country members, have well defined common interests, and have been historically better organized through institutions like the G7 and OECD that help develop a common agenda.

Once again, we are not commenting on the legitimacy of such influencing, or the quality of outcomes. We are simply underlining that a large technocracy like the World Bank, especially its HQ that drives a lot of the global programs like B-READY, are subject to such influence that might potentially lead to a form of intellectual bias in areas where alternative perspectives, or policy pathways exist, leading to choices that favour particular views or choices over the other. Furthermore, the allocation of formal voting rights advantages the more powerful members, providing them with opportunities to steer policies toward their own objectives (Heinzel et al. 2021)¹⁰.

⁶ Zurn, Michael. *A theory of global governance: authority, legitimacy, and contestation*. Oxford University Press, 2018.

⁷ “Articles of agreement,” World Bank, 1989, <https://thedocs.worldbank.org/en/doc/722361541184234501-0330022018/original/IBRDArticlesOfAgreementEnglish.pdf>.

⁸ Stone, Randall W. *Lending credibility: The International Monetary Fund and the post-communist transition*. Princeton University Press, 2012.

⁹ Urpelainen, Johannes. "Unilateral influence on international bureaucrats: an international delegation problem." *Journal of Conflict Resolution* 56, no. 4 (2012): 704-735.

¹⁰ Heinzel, Mirko, Jonas Richter, Per-Olof Busch, Hauke Feil, Jana Herold, and Andrea Liese. "Birds of a feather? The determinants of impartiality perceptions of the IMF and the World Bank." *Review of International Political Economy* 28, no. 5 (2021): 1249-1273.

(Babb 2013)¹¹ highlights that the World Bank has been subject to US centric bias leading to the World Bank internalizing the dominant policy narratives in the US political system and academia prevalent since 1980s, when the Washington consensus paradigm became institutionalized. The goal of the Washington consensus was to diffuse market liberalizing reform in developing countries. The World Bank and IMF used collaborative conditional lending as the policy instrument to drive this objective, i.e., making loans to governments in exchange for policy reforms that reflected the dominant narrative in the US (and to an extent of economically powerful European states).

This ‘one size fits all’ nature of policy-design led to much grief in later years (Stiglitz 2002¹², 2008¹³) and others have particularly criticized the World Bank for its “boilerplate” approach to the problems of the developing countries that ignored country- wise peculiarities in its haste to apply same recipes for all. This proclivity for creating generalized programs by IOs that may not adequately address the particular challenges faced by member states has been well documented (March et al. 1993, 177)¹⁴.

In order to implement these generalized programs across countries, IOs rely on “sympathetic interlocutors” within national governments (Broome and Seabrooke 2015)¹⁵. They utilize their cognitive authority to establish diagnostic coordination among national officials. This coordination helps align national officials’ perspectives with those of IO staff, thereby narrowing their policy space and driving them towards globally endorsed “best practices”. By influencing officials to adopt such practices, IOs enhance their capacity for policy implementation and strengthen their influence within national institutions.

A less commented channel for the formation of ‘sympathetic interlocutors’ is the fact that brightest and best bureaucrats and technocrats in national governments and those nationals of that country who go on to work for the World Bank, IMF and other IOs often come from the same Colleges or University Departments. Most developing countries tend to have a relatively few centres of excellence that tend to produce a disproportionate number of their intellectual elite. The authors are not claiming that national government interlocutors do not have independent minds and are in any way compromised due to their social and personal connections with IO counterparts, only that it provides an additional channel of influencing and socializing of particular perspectives and policy pathways.

¹¹ Babb, Sarah. "The Washington Consensus as transnational policy paradigm: Its origins, trajectory and likely successor." *Review of International Political Economy* 20, no. 2 (2013): 268-297.

¹² Stiglitz, Joseph, and Robert M. Pike. "Globalization and its Discontents." (2004).

¹³ Stiglitz, Joseph E. "Is there a post-Washington Consensus consensus?" *The Washington Consensus reconsidered: Towards a new global governance* 46 (2008).

¹⁴ March, James G., and Herbert A. Simon. *Organizations*. John Wiley & Sons, 1993.

¹⁵ Broome, André, and Leonard Seabrooke. "Shaping policy curves: Cognitive authority in transnational capacity building." *Public Administration* 93, no. 4 (2015): 956-972.

Furthermore, (Wade 2002) emphasises that the U.S. exerts its hegemony over the World Bank by ensuring that top officials promote its free-market ideologies in decision-making and operational framework, or at least silence those who oppose these views. This was observed when rather than advancing the Bank's finance agenda¹⁶ promoted by the U.S., individuals who supported civil society agendas¹⁷ faced repercussions from the U.S. Treasury -Chief Economist Joseph Stiglitz was fired and the director of the World Development Report 2000, Ravi Kanbur had to resign.

We are not arguing on the merits vs demerits of free market ideologies. Our concern is more to do with the fact that there exists a very vast body of literature that challenge some of the fundamental assumption of the free market and posit that the real world is anything but perfectly competitive free market. This more nuanced understanding of the real world is especially important when discussing issues related to 'de-regulation'. De-regulation might not be an appropriate solution in many cases given fundamental structural issues that might exist in an economy. Since B-READY is a standardized framework that covers several different economies, it has to be especially careful not to apply assumptions that greater de-regulation might be always appropriate for a certain set of countries given their level of economic, institutional, regulatory development and sectoral peculiarities. [Annex-I](#) provides detailed discussion on why de-regulation might not always be the most appropriate policy recommendation, and the need for caution basis specific context applicable for an economy, or for a particular sector in an economy.

This finally bring us to the fundamental role of international benchmarking and their ability to influence policymaking. Such benchmarking and the performance of respective members states in these benchmarking initiatives administered by IOs have very significant influence on policymaking. The results of these benchmarking initiatives are widely quoted across the IO network, for e.g., a global logistics benchmarking by one IO (for e.g., World Bank) will reflect in national economic performance scorecard or sectoral investment performance studies published by other IOs (for e.g., ADB and UNCTAD).

These reports will also reflect in highly influential private sector organizations or publications that discuss country risk or investment attractiveness, such as reports by organizations like World Economic Forum or Economist Intelligence Unit (EIU), credit rating agencies such as Moody's, and investment banking firms such as Goldman Sachs, JP Morgan Chase or UBS. These reports therefore have outside influence, not just on policy reform design but also on a wide range of decision making by economic actors within the global economy.

¹⁶ Finance agenda says that poverty is reduced fastest by rapid elimination of inflation, external deficits and fiscal shortfalls, privatization of state-owned enterprises, internal financial liberalization, trade liberalization, etc.

¹⁷ Civil Society agenda stresses on the empowerment of poor through their 'participation' in the projects that affect them, availability of economic security for all, reduction of income inequality, etc. as a means to reduce poverty.

(Broome & Quirk 2015)¹⁸ have argued how such benchmarking disproportionately shapes international policy agendas and definitions of global problems. The expansion of benchmarking in international governance, undertaken by IOs such as the World Bank, the IMF, the Organisation for Economic Cooperation and Development, and the United Nations Development Programme; or by regional organisations, such as the Asian Development Bank (ADB), has been accompanied by growing surveillance of relative country performance by such IOs (Broome & Seabrooke 2007, Clegg 2010, Löwenheim 2008)¹⁹.

A key feature of such benchmarking is that it often translates complex phenomena into numerical information. Given the diversity among countries in terms of institutions, political systems, and general economic conditions, this itself is fraught with serious risk of spurious estimation due to poor judgements of those responsible for such an exercise. It is therefore natural that such benchmarking practices often provoke politically charged debates around methodology, whereby the credibility of certain measures is either challenged or defended based on whether the results align with the political and economic agendas of involved actors.

But another important factor that needs to be considered here. The more complex the phenomenon that needs to be benchmarked, and wider the set of criteria or areas of policy that is included in such a benchmarking exercise, the risk of making oversimplifying assumptions that reflect a certain institutional bias becomes higher. This brings us back to the difference between DBR and B-READY.

DBR has been widely quoted by national governments in their national policy reform programs, underlining their influence in driving governance and regulatory reforms. Its importance to governments was further underlined by controversy around attempts by certain governments to influence DBR process to their advantage, which in turn undermined the credibility of DBR itself.

But DBR was a relatively simpler benchmarking exercise that tried to limit itself to indicators that would be less prone to any 'ideological' positions or privileging certain perspectives about economic policy making. This was especially true of the 'Trading across Borders' pillar of the DBR. The assumption that a higher incidence of cost and time taken for fulfilling documentation and regulatory procedures related to export and import of goods adds transaction costs, and therefore it is desirable to reduce them to the extent possible is largely non-controversial and objective²⁰.

B-READY's 'International Trade' topic on the other hand takes on a much larger and wider range of issues. Since any cross-country benchmarking that provides cross-country comparisons

¹⁸ Broome, André, and Joel Quirk. "Governing the world at a distance: the practice of global benchmarking." *Review of international studies* 41, no. 5 (2015): 819-841.

¹⁹ Broome, André, and Leonard Seabrooke. "Seeing like the IMF: Institutional change in small open economies." *Review of international political economy* 14, no. 4 (2007): 576-601.

²⁰ The DBR methodology was critiqued more for nature of how surveys to collect feedback for such benchmarking were implemented, sample size and bias in terms of the respondents chosen, not so much the criteria itself.

implicitly (that is in spirit) have to invoke the ‘ceteris paribus’ assumption, this in itself makes the process challenging. To exacerbate this existing challenge with additional complexities that arise from ideological positions on trade policy, pathways to positive environmental, social and gender outcomes, specific digital solutions for operational efficiencies or specific policy or enforcement design for more transparent and efficient governance outcomes will make B-READY very vulnerable to criticism from its very inception.

Criticism should not be seen as a rejection of the need for an exercise like B-READY and the overall design of B-READY as it stands today. Constructive criticism and effective response to it will help in improving B-READY as a tool and help improve its credibility. But if the fundamental design of B-READY is challenged from the very outset, this will undermine the process even before it gets an opportunity to mature into a credible benchmarking exercise that is seen to add value by interlocutors irrespective of their ideological positions on economic issues.

It is pertinent to note that certain questions, identified and submitted by the authors to the WBG²¹ through Department of Commerce (DoC) and Department of Promotion of Industry and Internal Trade (DPIIT), Government of India, which required further consideration have now either been deleted or modified in the new version of the B-READY Methodology Handbook.²² While it is commendable that the World Bank has acknowledged the limitations in their methodology and incorporated the changes in the new version, the authors, however, believe that there are still several areas that requires further deliberation of the World Bank. Therefore, the issues identified in the subsequent sections of this paper point to matters that need to be addressed from the very beginning of the B-READY initiative. Otherwise, there is a high possibility of getting poor and obviously spurious results from this benchmarking exercise that will undermine B-READY, and in the process erode the credibility of an exercise that has the potential to emerge as a powerful tool to assess quality of governance worldwide.

We, therefore, appreciate the fact that constructive criticism and feedback to the World Bank is effective. This reinforces our optimism that this paper will contribute meaningfully to the ongoing refinement and development of the B-READY methodology. We hope this contribution supports the World Bank’s efforts to create a more balanced, inclusive, and effective framework for assessing business readiness globally.

²¹ Through the DoC, the Centre for WTO Studies, the organisation to which the authors belong, had submitted a set of contentious questions and parameters from the International Trade topic of the B-READY Methodology Handbook to the DPIIT, the nodal department looking after the B-READY Project in India on 11th April, 2024, 24th April, 2024 and 6th June, 2024 which was then submitted to the World Bank for further consideration.

²² [Annex-II](#) contain the deleted/modified questions from the older version of the International Trade topic of the B-READY Methodology Handbook, identified by the authors.

3 Key Concerns in the B-READY Framework

3.1 Need to account for diversity of Legal regimes

3.1.1 *Civil and common law countries have different norms*

Legal systems of the world are not uniform. Even though there is a multitude of legal systems, the most common ones are the common law and the civil law legal systems.²³ The choice of the legal system is generally exogenous to a particular country and is primarily determined by its historical context.²⁴ India generally follows a common law system – where the legal process is more adversarial than adjudicatory and past judgments have a huge role in determining the legal rights and obligations. It is an open debate if one system is more conducive for economic development than another.²⁵ In light of the above, the WBG should specially account for the difference in regimes during the design and evaluation of the responses to the B-READY questionnaire in a neutral way so that it does not favour one form over another. The Presidency of the Republic, Togo has also expressed concerns regarding the emphasis on one legal system in the Doing Business framework, which should be avoided in the development of B-READY.²⁶

3.1.2 *Federal and unitary forms of governments have different norms*

One aspect of variation in governance relates to the geographical scope of laws and regulations. Smaller nations with homogenous populations may have uniform laws and regulations established at the national or federal level.²⁷ In contrast, other nations may employ a decentralized or federal system of governance, where laws and regulations are developed at the local level to suit the specific needs and characteristics of a particular region or location. Although matters pertaining to International Trade are generally handled at the national or federal level, local regulations also hold significant importance. The Office of the Minister, Ministry of Finance of the UAE has highlighted that, unlike the Doing Business Report, which primarily focused on capturing data and findings from the main business city, the BEE report will be conducted at a national level, covering

²³ Apart from common law and civil law legal systems other legal systems could include customary legal system, religious legal system, and a combination of these.

²⁴ Countries that adhere to a common law system are commonly those that have previously been under British colonial or protectorate rule, such as the United States. Conversely, countries that follow a civil law system are typically those that have previously been under the rule of former French, Dutch, German, Spanish or Portuguese colonies or protectorates, including a significant portion of Central and South America. Additionally, it should be noted that most countries located in Central and Eastern Europe, as well as East Asia, also operate under a civil law framework. Also see Barriola, Illan and Deffains, Bruno and Musy, Olivier (2022) [Law and Inequality: A Comparative Approach to the Distributive Implications of Legal Systems](#).

²⁵ Refer: Graff, Michael (2005): [Law and finance: Common-law and civil-law countries compared](#), KOF Working Papers, No. 99, ETH Zurich, KOF Swiss Economic Institute, Zurich for a literature review on this.

²⁶ The Presidency of the Republic, Togo comments that the emphasis “[is] placed upon Common law practices, and [there is] the lack of understanding of Civil law practices”. See [the Consolidated Comments to the BEE project](#) (pg. 260) dated April 12, 2022 (updated with addendum)

²⁷ Even though there might be very specific local or municipal laws or regulations, for example zoning laws etc.

the full diversity of an economy and not just the main business cities.²⁸ For instance, in the trade of services involving licensing of foreign workers for specific professions there may be specific requirements at the local or sub-regional level for membership of local professional bodies or associations (such as bar association or medical board). Other examples include obtaining licences and permits for operations related to warehouses or transport operations where requirements can differ widely between two sub-regional jurisdictions in the same country.

Simply examining national policies, laws, or regulations in this context may not yield an accurate or factual perspective. The essential pain-points that impact delivery of services by foreign entities might be behind the border. One can broadly argue that there is ‘national treatment’ in such challenges, i.e., even domestic service providers or investors have to face the same challenges. But the essential point of an exercise like B-READY (or earlier EoDB) was that it is focused on the impediments to efficient conduct of trade and business, and most of such impediments are behind the border and meet the requirement of national treatment (i.e., equally impact both domestic and foreign businesses). It is therefore imperative for the B-READY questionnaire to consider and incorporate regional discrepancies, especially for large, geographically and socio-economically diverse federal entities.

3.1.3 Special case for European Union

When conducting surveys on trade within the European Union (EU), it is important to note that this movement of goods should be treated as domestic rather than international trade. This is because the EU operates as a customs union, meaning there are no tariffs or restrictions on trade between its member countries. This allows for smoother and faster transportation of goods within Europe, making it essential for WBG to differentiate between intra-EU trade and international trade in their surveys.

Since a bulk of EU member state trade is with other EU member states, i.e., intra-EU trade, this would give the false impression of greater efficiency and ease of doing business. The relevant flows to consider would be trade (and services delivery across modes, including through investment and movement of professionals) from outside of EU borders. The Office of the Minister, Ministry of Finance of UAE and the Office of the WBG Executive Director representing Japan have also expressed concern that the WBG should consider adjustments to ensure that trade bloc economies (like European Union) are not unduly favoured by the methodology.²⁹

²⁸ This issue was also raised by the Office of the Minister, Ministry of Finance of UAE in *the Consolidated Comments to the BEE project* (pg. 450)

²⁹ This issue was also raised by the Office of the Minister, Ministry of Finance of UAE in *the Consolidated Comments to the BEE project* (pg. 448) and the Office of the WBG Executive Director representing Japan in *the Consolidated Comments to the BEE project* (pg. 375)

3.2 Need for different regulatory design and objectives

Optimal design for regulations is subjective to conditions: Universally applicable optimal regulatory design is a rarity in the real world

Economic literature and case studies from management provides a rich discussion on what constitutes efficient regulation. There is general agreement that there are no obvious answers to which form or design of regulation would be optimal universally. The specifics of the circumstances matter. Broadly speaking such specifics would depend on the following:

1. The nature of risk or negative externality that the regulator is trying to mitigate or address
2. Whether the risk or negative externality identified is genuine and relevant, thereby requiring such regulatory intervention
3. Whether the policy instrument(s) that are applied are optimal under the given socio-economic, political, and technological conditions
4. The scope and quantum of transaction costs for business that arise from such regulations being in place
5. Whether the incidence of such transaction costs fall disproportionately on certain types of businesses, for e.g., foreign players or MSMEs

It is obvious that these five broad conditions would vary significantly depending on what is being regulated, where and how. It therefore becomes imperative that one is extremely cautious about drawing conclusions about what should be the prescribed design of regulation or a best practice. It is with that caution in mind that we review the following issues within B-READY.

3.2.1 Regulator may be targeting multiple objectives in the pursuit of legitimate goals

Regulatory measures often tend to be designed to attain multiple objectives. Such multiplicity of objectives could be by design or incidental. For example, measures easing the movement of foreign healthcare personnel can help address critical human resource constraints in the healthcare system in a country. But the measure might also include compulsory in-resident training for foreign nurses and paramedics for extended period within hospitals that are part of the government supported healthcare system in the host country as a condition for obtaining permit for regular employment.

This additional measure might be designed to ensure that there is adequate screening of foreign nurses and paramedics (who have obtained their certifications and training in their home countries) within the formal government run healthcare system prior to their employment in the wider healthcare eco-system. Additionally, this extended in-resident training would provide a captive supply of foreign nurses and paramedics helping bring down costs of healthcare delivery of the government administered healthcare system.

Here, the first objective of the regulator in the host country are fully aligned with that of foreign nurses and paramedics, i.e., easing of regulations to allow for foreign healthcare workers to work in the host country addresses human resource shortages in the host country while opening up employment opportunities for foreign nurses and paramedics.

The second and third objectives are not fully aligned between host country regulator interests and that of foreign healthcare workers. The extended in-resident training adds transaction costs for foreign workers as they have to settle for lesser pay and perhaps long work hours. However, the additional screening and certification arising from this requirement might work to the benefit of nurses and paramedics from developing or less-developed countries. Since their home country programs would have lesser credibility vis-à-vis their competitors from wealthier countries, having the same requirement for both levels the playing field. For example, nurses trained in Zambia might have lesser credibility compared to nurses trained in South Africa, however unfairly. But since both are required to undergo the process of in-resident training and certification by host country regulator, they will be on a more equal footing in the host country market post their training.

Even in the case for the host country regulator there might be issues arising from the design of regulation. While the requirement can help provide a steady supply of healthcare workers to the government healthcare program due to this initial requirement of compulsory in-resident service, and the screening adds greater confidence in terms of the skill quality of healthcare workers being imported by the host country, the requirement itself can deter many potential foreign workers from pursuing employment in the host country. This in turn can reduce the number of nurses and paramedics interested in seeking employment.

While the above example illustrates how regulations impact different stakeholders differently and depends on context and condition, it also highlights that concept of ‘efficacy’ is also relative. Screening and training of foreign workers would add to the overall quality and productivity of the healthcare system in the host country. It would also reduce negative externality of poor quality of healthcare which can have significant costs due to poor patient outcomes. But this requirement also adds transaction costs of supply of services by foreign healthcare workers.

This helps us to reiterate our main point of contention that all regulatory interventions add transaction costs. But many regulations also serve a legitimate purpose, including to ensure optimal productivity, quality and efficiency of business operations or trade in that particular sector. Therefore, design and application of regulation matters. This aspect of regulators striving to reconcile multiple objectives through the implementation of various regulations has been pointed out earlier by other reviews of B-READY, for example by the Office of the WBG Executive Director representing Austria, Belarus, Belgium, Czech Republic, Hungary, Kosovo,

Luxembourg, Slovak Republic, Slovenia, and Turkey.³⁰ Our review of some of the specific elements in the B-READY questionnaire stems from this perspective. Thus, we have accordingly categorised some of the contentious questions in B-READY under the multiple objectives that regulators might be aiming to achieve through the implementation of a specific regulation. Hence, the assumption that the presence of a particular regulation is a ‘good practice’ without considering the socio-economic, political, and technological conditions and the objectives it is trying to accomplish should be reconsidered. This factor has been discussed in point 3, earlier in section 3.2.

1. Standards

<p>Box 01. <i>Restriction on use local maritime and port services may arise from security or other legitimate concerns</i></p>
<p>16. According to the legal framework, is there an obligation to use local maritime and port services, such as local port agent, tug, and tow services (maritime freight)? (Y/N; N–good practice)</p> <p style="text-align: right;">Source: B-READY Methodology Handbook³¹, pg. 411</p>
<p>Comment:</p> <p>Many ports and naval installations have security issues that the authorities need to be mindful of. Many ports have critical naval and other installations in their vicinity. There can be presence of undersea infrastructure unrelated to core military purposes but vulnerable to attacks or sabotage leading to major security challenges. These require authorities to retain the right to restrict operational access to key port operations to trusted parties, which might often be local state-controlled entities.</p> <p>In many cases, awareness of the local marine domain is an important factor for effective management of environmental factors. There might be sensitivities about local socio-political issues such as potential conflicts with local communities. Having a locally vetted entity or insistence on local human resources and operational control can be logical solutions for some of the situations.</p> <p>Making the assumption that all ports in the world are the same, and have the same operational and strategic conditions, and penalize countries that do not meet these sweeping assumptions need to be reconsidered.</p>

³⁰ A similar argument is presented by the Office of the WBG Executive Director representing Austria, Belarus, Belgium, Czech Republic, Hungary, Kosovo, Luxembourg, Slovak Republic, Slovenia, and Turkey in *the Consolidated Comments to the BEE project* (pg. 435)

³¹ See [B-READY Methodology Handbook, October 2024](#)

It also needs to be kept in mind that large-scale infrastructure projects require local community endorsement. In many cases they are giving up their rights to access the public commons (seafront or access to coastal fishing), their lands from which they would have got economic returns etc. There is an obvious socio-political understanding that the development of large infrastructure such as a port would lead to substantive benefits for local communities. Such benefits are seen as a part of the political-economic trade-off with the local communities.

Thus, port authorities and the state often have a moral, and in democracies a compelling political compulsion to ensure job-creation and ensure that such jobs are seen as an improvement in terms of both economic but also the social development of local communities. To not understand this context would be illogical for the World Bank group which is increasingly insistent on sustainable development pre-conditions for loans made towards large infrastructure projects.

Box 02. Additional license requirements for digitally offered goods or services may arise from safety and standards perspective

5. Does the regulatory framework require companies to obtain an additional (that is, beyond general business license) government license for digitally offered goods or services? (Y/N; N–good practice)

Source: B-READY Methodology Handbook, pg. 418

Comment:

Several services (if they are regulated services) would require additional licenses above and beyond the general business licence – irrespective of whether it is provided digitally or otherwise. For example, online medical consultation.

In addition, several digital services might impact human health and safety or consumer welfare. Digital financial advice or online gaming are examples where financial well-being of citizens can be impacted. Digital services might also be a garb for fleecing customers of their money. Given the multiple challenges, including the fact that individuals and entities in the country ‘exporting’ the digital service are not under the jurisdiction of and thus accountable to the regulators responsible for protecting citizens in the country ‘importing’ such services, creates for a challenging eco-system.

What needs to be well understood is that digital delivery of services today involves the provision of a domain specific service, for example medical consultation, legal consultation, industrial design, remote maintenance of industrial facilities, architectural blueprints etc. Each of these specialized domains are regulated either through licensing or qualification tests. In many cases they have rules that make service provider accountable for their quality of service and any adverse impact due to their lack of diligence. For example, a poor or erroneous diagnosis based on online reading of blood test reports and online consultation by a doctor, poor product development or unsafe building due to errors made by engineers or architects etc.

Till the time these services are performed and consumed in the same country (i.e. under the same jurisdiction), all of these requirements will apply.

But considering that the service provider and recipient in the case of cross-border digitally delivered services will not be in the same jurisdiction, adds to the complexity as to how any national regulator will hold a digitally delivered service provider across the border accountable for any acts of omission, fraud, or lack of expected amount of diligence in service delivery leading to serious economic, social, or human health and safety challenges has emerged as a major item of discussion in trade policy circles. In light of this, the assumption that not requiring additional licenses as a means of greater due diligence is ‘good practice’ needs to be reviewed.

2. Competition

Box 03. Regulation for price floor or pricing guidelines

8. According to the legal framework, are there any price floors and/or pricing guidelines, set by the government or other entities, in the following service subsectors? (Y/N; N–good practice)

8a. Maritime freight

8b. Road freight

8c. Air freight

8d. Cargo handling

8e. Storage and warehousing

8f. Customs brokerage

Source: B-READY Methodology Handbook, pg. 410

Comment:

A suggested price floor or pricing guidelines may be implemented to address potential concerns regarding competition law, such as preventing predatory pricing or tacit collusion, respectively.

A pricing policy might be implemented to as part of larger economic arrangement in a concession agreement for provision of these services at a particular port or airport. Additionally, these guidelines may aim to uphold social protections, including a minimum wage.

In other words, there are legitimate reasons for floor price mechanism, especially for services that are typically never operating under the assumption of a fully free-market. For example, cargo-handling in a particular port or airport terminal are restricted to a few service operators by even private terminal operators and therefore does not represent a perfectly free market with free entry and exit and multiple competitive players. The right to operate such services are subject to competitive bidding, and pricing conditions are integral to the bidding process. Thus, pricing guidelines are often integral to the normal business practice followed in many such services.

3. Geographically segmented regulations

<p>Box 04. <i>Restriction on land and real estate use may serve legitimate goals</i></p>
<p>19. According to the legal framework, are restrictions on acquisition and use of land and real estate applicable to the following service subsectors? (Y/N; N – good practice)</p> <p>19a. Maritime freight 19b. Road freight 19c. Air freight 19d. Cargo handling 19e. Storage and warehousing 19f. Customs brokerage 19g. Commercial banking 19h. Insurance</p> <p style="text-align: right;">Source: B-READY Methodology Handbook, pg. 412</p>
<p>Comment:</p> <p>Restrictions on land use are essential policy tools for (a) effective town planning and zoning, (b) to ensure proper environmental and safety issues with respect to habitat, for example, certain industrial or logistical activities cannot be carried out in residential zones, near schools or hospitals etc., (c) to manage fragile eco-systems, for example restrictions that impinge on coastal zone management (critical for environmentally sustainable approach to development of ports). There might be other issues related to unrestricted conversion of agricultural or residential land to commercial uses. This is especially true for developing countries where small-land holders can be coerced into unfair deals if such conversion and acquisition of land was completely without restriction or oversight. In other words, assumption that NO restrictions or oversight (through mechanisms that require permission for conversion of land-use, environmental and town planning reasons) is counterintuitive, and completely ignores the needs for sustainability and equity.</p>

<p>Box 05. <i>Restriction on visa may arise from security or other legitimate concerns</i></p>
<p>4. According to the legal framework, are restrictions on visa processes (specifically, no visa exemption, no visa on arrival, or no crew member visa) for crew members and service providers applicable in the following service subsectors? (Y/N; N – good practice)</p> <p>4a. Maritime freight 4b. Road freight 4c. Air freight</p> <p style="text-align: right;">Source: B-READY Methodology Handbook, pg. 409</p>
<p>Comment:</p> <p>Visa processes for crew members and services provider, especially for sectors like road-freight where sensitive borders are involved, are subject to security considerations. To imagine that visas for entry for citizens of all countries would be the same is unrealistic. There would be wide</p>

variation in visa processes by country of origin of the crew member. Thus, any question on this topic needs to consider that reality.

3.2.2 Existence of multiple regulatory pathways: Critical to pursue least costly feasible alternative available

As mentioned earlier, a critical test of whether a specific policy instrument is the most effective or efficient is whether the least costly effective policy instrument available to the regulator was chosen or not. This principle has been accepted and enshrined in the international law governing global trade, i.e., WTO agreements. Article 2.2 of the WTO TBT Agreement clearly states that “technical regulations shall not be more trade-restrictive than necessary to fulfil a legitimate objective, taking account of the risks non-fulfilment would create”.

We have chosen the TBT Agreement precisely because it is a key agreement that addresses regulatory barriers to trade, i.e., the principles explicitly governing regulatory barriers to trade. The language of Article 2.2 above brings forth some key ideas that need to be elaborated upon. The statement from Article 2.2. can be broken into two key components. The first is ‘not be more trade restrictive than necessary to fulfil a legitimate objective’. The first component therefore acknowledges that regulations impose transaction costs that otherwise would not have been there, i.e., it would be trade restrictive. It also underlines that such regulations can be (and often are) necessary to fulfil legitimate objectives.

The second stresses the importance of ‘taking into account the risks non-fulfilment would create’, i.e., the failure of the regulation to mitigate or address any negative externality or risk to human, ecological or economic well-being. In other words, it takes cognizance of specific context or situation that the regulator has to operate under. These are both factors that were discussed earlier in section 3.2.

But even more importantly, it is the principle of ‘no more...than necessary’ that underlines that such regulation has to meet the test putting the least amount of transaction cost on businesses and other stakeholders. The language makes it clear that if there are other less trade restrictive options to meet the legitimate objectives, then the one that has been adopted fails to meet the criteria of WTO TBT Agreement. This is of paramount importance for a developing nation since the optimal allocation of resources for regulation will go a long way. Our discussion that follows focuses on some examples in B-READY where the application of this principle to regulatory options that have been considered best practice needs to be reviewed.

Box 06. Cross-border carbon pricing instrument

7. Has a cross-border carbon pricing instrument (for example, international/regional carbon emission trading scheme, border carbon adjustment mechanisms, etc.) been legally adopted? (Y/N; Y – good practice)

Source: B-READY Methodology Handbook, pg. 402

Comment

The literature is replete with issues pertaining to carbon emission trading schemes.³² There are serious concerns including issues related to double-counting of Greenhouse gases emission reductions, human rights abuses, and greenwashing (in which companies falsely market their green credentials, for example, misrepresentations of climate-neutral products or services).

Using Border Carbon Adjustments (BCAs) as an indicator of good regulatory practices enabling sustainable trade is premature since only the EU has planned for its implementation for some of the sectors (while UK is considering a similar policy). Good regulatory practices that enable environmentally sustainable trade extend beyond carbon border adjustments and tariffs. They can encompass green industrial policies and the promotion of environmental standards in global value chains. The offices of the WBG Executive Director representing US, Japan, Germany, P.R. China, et al.,³³ have also highlighted a similar argument.

Another challenge for implementing a BCA are its technicalities and feasibility, as the size of the policy and number of carbon sources increase, so do the data and administrative requirements. Flexibility is needed for varying mitigation policies at home and abroad, requiring additional differentiations and data. Even if the availability of emissions data is not an issue, the consideration of its reliability is crucial for decision makers.

There are challenges with the data collection process, such as whether it is self-reported or officially monitored points to another aspect of the limitations of BCA. This data question is likely more acute for developing countries, which may have fewer resources and systems in place to accurately monitor or calculate these figures. Given these technical challenges, the effectiveness of BCAs as a policy measure to address concerns of leakage and competitiveness in global climate policy is uncertain.

The wider political economic context of BCAs also needs to be considered. BCAs may have negative consequences on diplomatic relationships, international tensions, and trade. They could potentially discourage climate ambition and lead to retaliatory tariffs or trade wars.

Further, due to the difference in the price of carbon credit across countries, carbon emitters in some countries pay more for carbon credits as compared to others. This acts as a non-tariff barrier and takes away from the objective of balancing competition. For example- in developing

³² See Baldwin, R. (2008), [Regulation lite: The rise of emissions trading. Regulation & Governance](#), 2: 193-215, Skjærseth, J.B. (2010), [EU emissions trading: Legitimacy and stringency](#). *Env. Pol. Gov.*, 20: 295-308.

³³ These issues are highlighted by various commenters in *the Consolidated Comments to the BEE project*, including Andre Sapir, Université libre de Bruxelles (ULB), Belgium (pg. 186), and Offices of the WBG Executive Director representing US (pg. 364), Japan (pg. 374), Germany (pg. 398), Argentina, Bolivia, Chile, Paraguay, Perú and Uruguay (pg. 424), Bangladesh, Bhutan, India, and Sri Lanka (pg. 459), and P.R. China (pg. 500)

countries, carbon markets allow emitters to offset their unavoidable carbon emissions by purchasing carbon credits at lower prices than in developed countries.

Developed countries would then collect an additional cost at the point of entry to account for the price difference in carbon credits (the proposed EU CBAM has provisions that empower EU regulators to do so). The price difference has nothing to do with the quantum of carbon mitigated (i.e., amount of credits paid for in terms of quantum of carbon emitted), but is largely due to the understandably lower cost of mitigation in the developing country, and thus can be considered to be unfair. To elucidate, the developing country firm might have mitigated the same amount of (or even greater) of carbon, but would have to still pay a higher tax compared to its developed country counterpart simply because the price of carbon is lower in its economy.

Not only will the developing country firm be punished in terms of higher taxes to access markets despite having as (or even more) sustainable footprint compared to its developed country counterpart, the revenues from this tax goes to the developed country and not paid forward to developing country where it could have used it for improving sustainable outcomes. This leads to a 'reverse Robin Hood' effect, where wealthy countries become wealthier at the expense of poor countries. Please see [Annex-III](#) for a more detailed explanation.

There could be multiple alternative means to address the issue of greenhouse gases. Though highly unpopular, *cease and desist* (i.e. command and control) regulations for polluting industries/ technologies are effective as it addresses the problem head on. Instead of proposing either the carbon emission trading schemes or BCA – which are themselves surrounded by issues – WBG may leave the actual form of the regulation to the respective economies and focus on evaluating or analysing the effect of such regulation in addressing climate change.

Instead of opting for punitive measures, like EUs CBAM, countries could also adopt other measures- such as the US EPA's attempt at promoting incentive or market-based policies³⁴ to reduce releases of harmful pollutants and adapt green technology. Such measures could perhaps be less expensive and less trade distortive in nature.

One could question whether these measures are indeed the most optimal choice or the best instruments for addressing environmental problems. There could perhaps be other instruments that could work equally well in achieving our objective. However, referring to our argument made on the WTO TBT Agreement at the beginning of this section, all the WTO member countries are obligated under global principles to adopt the least trade distortive measures to reduce carbon emissions. Therefore, the inclination would be towards choosing less trade distortive regulations over imposing a border tax.

³⁴ <https://www.epa.gov/environmental-economics/economic-incentives>

Also see the section on “Developed Country Bias”

Box 07. Administrative vs judicial appeal

1.1.1. International Trade in Goods and Services

2. Do direct exporters and importers or their authorized representatives have the right to **administratively appeal** regulatory decisions on the following policy areas affecting international trade in goods? (Y/N; Y – good practice)

3. Do direct exporters and importers or their authorized representatives have the right to **judicially appeal** regulatory decisions on the following policy areas affecting international trade in goods (Y/N; Y – good practice)

Source: B-READY Methodology Handbook, pg. 402

Comment:

Though the WTO Trade Facilitation Agreement (TFA) provides for both administrative and judicial review, the language of the agreement is such that, based on the country’s legal system, both or either of the two-appeal route can be utilised. According to UNCTAD:³⁵

This measure provides for a two-track appeal and review process. Allowing for national legal frameworks, this measure obliges Members to allow affected persons to have recourse to:

- An administrative appeal or review; **and/or**
- A judicial appeal or review of the decision.

... The double conjunction ‘and/or’ was introduced to allow the petitioner appeal to both administrative and judicial tracks or have direct access to just one channel

Henceforth, it is evident that the aim of the WTO TFA is to ensure the presence of at least one of the two appeal mechanisms. For a developing country, the maintenance of both tracks may prove to be financially burdensome or superfluous. Maintaining two distinct avenues for appeals does not consider the legal requirements and may result in disproportion for developing nations (or for other nations who favour one of the two systems).

³⁵ UNCTAD.2020. [Getting down to business: Making the most of the WTO trade facilitation agreement.](#)

3.2.3 Ease of doing business vs. Issues purely related to trade policy and market access

As noted earlier in this paper, there are instances where trade policy and ease of doing business intertwine. For example, high tariffs or presence of quotas might distort the market for a particular product leading to shortage, high prices or even effective monopoly by a domestic supplier. But that might not always be the case. High tariffs or quotas might reflect attempt to protect sensitive sectors from unfair competition, especially from large Non-Market Economies (NMEs) or large suppliers with aggressive industrial policies who are distorting the global market. In other words, whether or not these instruments are actually leading to negative outcomes in terms of ‘business readiness’ and ease of doing business or investing in an economy will depend a lot on context and global dynamics.

We have already argued against adoption of absolute theoretical positions on issues like free trade in detail and shall not repeat those points here. But suffice it to reiterate that merits of unrestricted free trade are based on assumptions that are not available globally today. All large, dominant economies are indulging in both protectionism as well as aggressive industrial policies that distort markets. To claim that absolute free trade would lead to welfare maximizing outcomes would be a very flawed understanding of economics and tantamount to ideological fundamentalism.

There is another school of thought that argues a more competitive market is always good. This is especially argued in case of services, where the presence of foreign competition leads to more efficient market outcomes. However, large global MNCs can often use their market power to first eliminate competition and then indulge in price gouging, especially during times of crisis. Concerns about the container liner shipping industry, dominated by a few large players, and the exorbitant increases in prices for container shipping during the pandemic has resulted in serious concern among businesses worldwide, including in India and the US. The US has enacted specific legislation to bring about greater transparency and accountability in this crucial industry³⁶.

There is an additional logical fallacy here. In the case of services, unlike in the case of goods, market access commitment for specific sector or sub-sector in a trade is often notional. To explain, the autonomous regime (i.e., the actual policy in place) can already be extremely open to foreign players. All that the agreement does is to bind the parties to the commitment obligation so as to prevent them from adopting any future policy to deny the committed level of market access. In many cases the commitment made in a trade agreement might actually be less ambitious compared to the actual autonomous level of market access available.

There might be issues of trade policy that are subject to debate, and the jury is open on the optimal policy pathway. Linking such issues to ease of doing business or business readiness is akin to

³⁶ Ocean Shipping Reform Act of 2022, for details see [https://www.congress.gov/bill/117th-congress/senate-bill/3580#:~:text=Public%20Law%20No%3A%20117%2D146,\(06%2F16%2F2022\)&text=This%20act%20revises%20requirements%20governing,competitive%2C%20efficient%2C%20and%20economical](https://www.congress.gov/bill/117th-congress/senate-bill/3580#:~:text=Public%20Law%20No%3A%20117%2D146,(06%2F16%2F2022)&text=This%20act%20revises%20requirements%20governing,competitive%2C%20efficient%2C%20and%20economical).

taking a position. Further, if such positions are taken in sectors that are still evolving in terms of business models and operations, and remain ill-defined, to suggest that a few empirical studies with simplistic assumptions (often using ‘black-box’ tools like GTAP) have been able to establish co-relation between a certain trade policy outcomes and efficient economic outcomes is intellectually dishonest and tantamount to lobbying for specific economic interests.

Further, there are certain types of agreement that are not necessarily market access oriented but reflect acceptance of principles or wide set of regulatory practices that lead to greater regulatory transparency or trade facilitation. Such agreements definitely qualify as instruments to drive reforms that lead to greater ease of doing business. However, some of these agreements might not be the only way forward to achieve these ends. Many such agreements might not have taken-off in the sense many countries have either not joined or not ratified them for specific legal or political reasons. Thus, membership of such agreements might reflect a poor choice to gauge commitment of a country for reforms in that area.

In this section, we try to point to some examples where B-READY might consider taking a second look at their assumptions in order to avoid confusing market access issues or the efficacy of commitments in certain types of agreement to drive reform.

Box 08. Presupposition that market access for foreign suppliers is essential to ease of doing business in all instances

6. Have commitments in the following service subsectors been implemented in any of the preferential trade agreements (PTAs)? (Y/N; Y – good practice)
- 6a. Freight transport services (maritime; road; air)
- 6b. Logistics services (cargo handling; storage and warehousing; customs brokers)

Source: B-READY Methodology Handbook, pg. 409

Comment:

The B-READY Framework erroneously links market access in services (i.e., ability of foreign firms to provide services) to a good business environment. This is a tenuous link, and in many cases unrelated. There seems to be an attempt to promote a particular perspective on trade policy and bring that to bear on business environment. This needs to be reviewed because trade policy is often context specific to sector and economy in question.

Another very important point here is that there seems to be a confusion between commitments in trade agreement vis-à-vis the autonomous regime of the country. For example, country A might already allow foreign firms to participate and operate in their economy with full national treatment in all of the listed sectors. However, country A has chosen not to commit to schedule market access or national treatment for these sectors in its PTAs for reasons of geopolitics, negotiating strategy or simply to maintain reciprocity with a PTA partner whose own commitments are not ambitious.

For example, country A might have a PTA with country B, and during their PTA negotiations country B seemed reluctant to make binding commitments on market access or national treatment on important sectors. Country A would also choose to not make binding commitments as a matter of negotiating strategy which has nothing to do with its actual intent to keep those sectors of the economy open to foreign competition. Commitments on logistics services in preferential trade agreements confuses trade commitments with autonomous regime (i.e., the actual level of foreign participation allowed in general).

Further it assumes that that presence of large foreign services firms will always lead to lower transaction costs and more efficient services. It presumes outcome from a trade policy action, which is dependent on multiple factors, rather than consider the outcome itself, i.e., the relative cost of availing such services, adjusted for purchasing power parity could have been a much more objective criterion.

This suggestion would be better appreciated if one considers that while the general assumption behind the intuition in this query is that more competition in a sector or economy typically leads to more efficient outcomes for consumers and citizens, this does not always hold true. The global economy is replete with examples where initial entry of large global service suppliers have led to situations where competition and choice got reduced as these large global firms pushed out smaller firms from the market in the first instance, and then eventually started to resort to more monopolistic behaviour once that local competition was largely eliminated. Therefore, gauging the actual level of competitiveness (HHI of that sector) and sector outcomes (cost of services as compared to a global benchmark or as a percentage of trade related business operations) would be more effective criteria.

Box 09. Ignores justifiable reasons for quantitative restrictions (Quotas)

17. According to the legal framework, are quantitative restrictions (quotas) applicable in the following service subsectors? (Y/N; N – good practice)

- 17a. Maritime freight
- 17b. Road freight
- 17c. Air freight
- 17d. Cargo handling
- 17e. Storage and warehousing
- 17f. Customs brokerage
- 17g. Commercial banking
- 17h. Insurance

Source: B-READY Methodology Handbook, pg. 411

Comment:

There is a tendency to mix up Ease of Doing Business Issues (EODB) with market access issues here. For example, certain services might have market access restrictions (in the form of quotas

on number of operations/branches etc.) because some operators have Universal Service Obligation (USO), which requires such operators to receive a preferential treatment. This is true for example in the case of postal services (that also have an international trade component in the form of Express Mail Services whose parcel options are used for e-commerce) and more relevant from the list in the query; commercial banking.

There might be quantitative restrictions related to road freight due to environmental or security reasons. A particular cross-border trade corridor might be going through sensitive ecological areas, whereby there is need to manage the number of operations and operators in that corridor for reasons of environmental management and pollution control. Security considerations including ensuring manageable numbers of trucks plying the corridor to ensure effective monitoring, and having a limited number of trusted operators conducting such operations might also lead to quotas.

The relevant question therefore would be if exporters and importers have access to choose in their commercial banking operations, including having the use of foreign service providers, not whether there are any restrictions on such services. The way the question is formulated is from market access perspective, not the specific aspect of how the market actually works for the user, in this case economic agents within the country involved in trade having the appropriate choice to use a service provider of their preference

Box 10. WBG may remain neutral on issues on moratorium on taxes and duties on electronic transmission

7. According to the regulatory framework, is there a specific tax regime that imposes an additional burden to cross-border digitally ordered goods and services vis-à-vis domestic digitally ordered goods and services (breaching the tax neutrality principle)? (Y/N; N=good practice)

Source: B-READY Methodology Handbook, pg. 418

Comment:

The moratorium on taxes and duties on electronic transmission that (*subject to further clarification in scope and definition*) covers digitally order goods and services is temporary, and the debate on whether such a moratorium is welfare maximizing is open to debate. In order for the WBG to remain neutral on issues that are still up for debate in the WTO between member nations of WTO, the B-READY Questionnaire need not be too prescriptive for a permanent moratorium on customs duties (a customs duty by definition is tax that discriminates between foreign and domestic suppliers, and is imposed on cross-border supply) by citing this as a good practice.

Further, it needs to be noted that digitally ordered goods also cover tangible goods ordered online in an e-market place and paid for digitally. However, such goods will physically cross borders,

and be subject to basic customs duty (which is paid above and beyond the taxes imposed on domestic goods). These goods might be subject to WCO principles of low-value dutiable or low-value non-dutiable categories or fall in the general category (if they are beyond the low value category as defined in that country). Such goods are legitimately subject to customs duties like all other goods that cross borders. Is the WBG arguing that carpets sold by small traders in East Africa to a country in East Asia through existing retail networks (non-digital) and paid for by traditional banking methods be made subject to customs duties (as normal WCO rules apply), but if that same carpet is sourced by an aggregator (perhaps a subsidiary of a digital giant) and is sold and paid for online, it should enter that East Asian economy without paying customs duty? In other words, non-digital trade should be discriminated against? The WBG may consider remaining neutral with respect to these debates regarding duty free access to goods (normal, regular transactions, only distinction being that they were ordered and paid for online), especially for the scope of the B-READY Questionnaire.

Also, it can be argued that, many such goods are sold by large aggregator merchants or firms affiliated with large e-market place oligopolies like Amazon. That seems to be totally out of sync with the objectives of ease of doing business goals, and pushing for EoDB for large oligarchies in the guise of helping MSMEs. The distinction whether the seller merchant was MSME or affiliated firm of a mega-marketplace is impossible today, and therefore any assumption that online transactions help MSMEs needs to be reviewed, using data that is largely held by the mega-e-marketplaces themselves.

3.3 Developed country bias: Ignoring global south concerns

3.3.1 Integrated industrial and trade policy

As already discussed in detail, B READY takes the broad position that free trade without restrictions is the optimal policy pathway that is overall welfare maximizing for the economies concerned. But the merits of free trade without exception is still being debated. Many authors have argued that there are several examples of successful use of both trade and industrial policies to drive sectoral level competitiveness and economies of scale in an economy. The outside impact of that success in a particular sector can drive significant welfare development impact economy wide in the long-run. Examples of India's pharmaceutical sector and Korean chemicals industry are just two examples. B READY framework should take into account existing empirical evidence of successful use of trade and industrial policies to drive growth and move industries up the value-chain. This debate has assumed new importance in recent years as most large economies have started to revert to aggressive use of industrial policies and tariff barriers. In essence this is reversing more than four decades of increasing liberalization of markets. B READY framework cannot exist independent of this context. This issue has also been pointed out by the Office of the

WBG Executive Director representing Germany.³⁷ Further, they also highlighted that in times when a large share of trade is taking place through global value chains, this may also include policies to encourage spillovers from FDI and linkages between foreign invested firms and the local economy.

B-READY essentially takes an ideological stand on this issue conforming to the neo-classical school assumptions, thereby ignoring a wider range of economic thought that includes transaction cost theory, new trade theories, and new institutional economics that do not accept simplistic assumptions of the neo-classical school and take into account economies of scale, information costs, cost of technology transfers and product development, and the fact that factors of production are not often easily fungible between sectors.

Developing countries with significantly lower shares of global manufacturing, especially in sectors that define the growth industries of the future are currently in a situation where more advanced economies have put in place aggressive industrial policies. This is somewhat unprecedented. Historically, industrial policies were adopted by late industrializers to ‘catch-up’ with the dominant industrial powers or move up the value-chain. Examples include France and Germany in the early 1800s in their attempt to catch up with England. United States in the mid-1800s, followed by Japan. In the early twentieth century countries such as Russia, India and China followed suit.

In the face of such unprecedented industrial policies, developing countries would need to respond to these challenges in order create meaningful employment and ensure that they have a stake in sectors that define the economy of the future, for example industries related to the green energy transition and digital revolution. This might necessitate interventions designed to move up the value-chain or expand economies of scale of domestic entities using industrial policy, investment or localization measures.

The current B-READY position is also a very ‘developed country’³⁸ perspective, since it comprehensively covers the more traditional trade barriers, while having cursory approach to account for the more sophisticated barriers raised by so called environmental concerns by developed countries, that many would argue are corollary protectionism in support of ‘green’ industrialization policies. There are also concern that labour related issues would also increasingly link to trade and market access by wealthier economies, resulting in market access barriers for developing countries. In reality, the relative marginal cost imposed by such barriers across vast swathes of industries and sectors would be much more significant in the longer term. We discuss

³⁷ A similar argument is presented by the Office of the WBG Executive Director representing Germany in *the Consolidated Comments to the BEE project* (pg. 398)

³⁸ A similar argument is raised by Department of Trade and Industry & Competition, South Africa in *the Consolidated Comments to the BEE project* (pg. 258) which states: “It is well known that certain developed countries apply subsidies and technical measures to protect their domestic markets, making it difficult for companies from developing countries to export to them especially in the area of agricultural products.”

some of the aspects of B-READY framework where such issues arise and need to be reviewed accordingly.

Box 11. Policy decisions necessary for creating additional incentives
<p>18. According to the legal framework, are restrictions subject to an economic needs test applicable in the following service subsectors? (Y/N; N – good practice)</p> <p>18a. Maritime freight</p> <p>18b. Road freight</p> <p>18c. Air freight</p> <p>18d. Cargo handling</p> <p>18e. Storage and warehousing</p> <p>18f. Customs brokerage</p> <p>18g. Commercial banking</p> <p>18h. Insurance</p> <p style="text-align: right;">Source: B-READY Methodology Handbook, pg. 411</p>
<p>Comment:</p> <p>Certain types of large logistical facilities will need to be restricted to limited number of commercial entities operating in a geography to incentivise potential investors to undertake large investments. This is especially true for regions where business volumes are low and investors interest is poor. For example, large corporations will not invest in world-class ports or airports, and even multi-modal logistics parks (MMLPs) if there is no assurance of an exclusive economic catchment area. Such developers seek assurances from local or national governments that similar facilities will not be developed for a certain period of time in vicinity so as to assure them of business and economies of scale in the short to medium term, which might be essential to meet the minimum business risk of such a large investment.</p> <p>Similar logic applies to air-cargo terminals, port terminals or large warehousing zones, all of which would get covered under the broad services sectoral categories mentioned above. While acknowledging that in general Economic Needs Tests (ENT) are market restrictive and should be considered as market distorting, broad application of this principle without nuance will be antithetical to an objective analysis.</p>

3.3.2 Climate change related issues

The introduction of a quality criterion based on the "Environmentally Sustainable Trade" concept may not be appropriate. Indeed, the objective of promoting trade in "low-carbon products" is contrary to the very principle of the free movement of goods and does not take into account the difference in countries' levels of development. This argument has been pointed out by the Office

of the WBG Executive Director representing Algeria, Argentina, Bolivia, Chile, Paraguay, Perú and Uruguay.³⁹

Excessive focus on Emission Trading System has caused additional issues for Least Developed Countries (LDCs), which historically have had lower emissions. According to UNCTAD⁴⁰ and Department of Trade and Industry & Competition, South Africa,⁴¹

The report raises concern that LDCs, which are marginalized in global trade, now face additional headwinds because of the environmental policies of their trade partners.

Any trade partners' policies targeting the carbon emissions generated in the production of exported goods could have a strong dampening impact on LDC exports, even indirectly if LDCs are exempted.

...

The report says such policies could have serious consequences if they were to displace polluting industries out of developed countries and into LDCs as a way for the former countries to meet their commitments to reduce CO2 emissions – this is known as carbon leakage.

UNCTAD urges the international community to consider the interests of LDCs and avoid policy measures that limit these countries' policy space and increase the likelihood of pollution havens emerging among them.

While we have already discussed the implications of differential pricing of carbon credits in Box No. 06, we would like to further expand on the likely developmental outcomes from the use of such instruments. Arguably, one of the most significant implications of implementing Border Carbon Adjustments (BCAs) is the differential impact it would have on countries. Advanced economies that implement BCAs would likely benefit from increased revenues from additional border taxes that would help fund subsidies and other programs to expedite their green transition, and do so in a more efficient manner, while at the same time providing reprieve from competition to their firms who are adopting to new sustainable technologies and processes.

The real challenge would be for smaller developing countries and LDCs with limited resources. They will lose out to both larger developing countries which would have some large firms with

³⁹ This argument is presented by the Office of the WBG Executive Director representing Algeria in *the Consolidated Comments to the BEE project* (pg. 407). A similar argument is presented by the Office of the WBG Executive Director representing Argentina, Bolivia, Chile, Paraguay, Perú and Uruguay in *the Consolidated Comments to the BEE project* (pg. 424) which states “[a]lthough we understand the importance of environmental issues for the country's development, we do not consider that this should be a variable to measure whether there are good foreign trade regulations.”

⁴⁰ UNCTAD. 2022. [UNCTAD sets out actions to support least developed countries in the global low-carbon transition](#) (Accessed on September 4, 2024)

⁴¹ Similar arguments are also raised by Department of Trade and Industry & Competition, South Africa in *the Consolidated Comments to the BEE project* (pg. 258)

the wherewithal for technology adoption to lower their carbon footprint and thus pay lower border taxes while accessing advanced country markets, as well as to advanced country firms who are now protected by higher border taxes. Informal sector players and SMEs across the developing countries would also be major losers due to the same reasons. In other words, such measures will exacerbate the developmental divide and impact the most vulnerable in the worst way.

In light of this, BCAs shouldn't be considered a "good regulatory practice" as carbon neutrality measures must account for each country's unique circumstances. However, developing countries that lack the same capacity to implement emissions reduction policies may suffer from a disadvantage. Moreover, such nations may face restricted trade opportunities and consequently hindered economic growth. These potential consequences could prove to be detrimental to the overall negotiations where countries are expected to collaborate in reducing global emissions.

3.3.3 Choice of variable - stock vs flow variables

A stock is measured at one specific time and represents a quantity existing at that point in time, whereas a flow variable is measured over an interval of time. Due to historical and other reasons, the developed countries would fall within the higher levels for most of the stock macroeconomic and trade related variables (it is actually a tautology since the definition of a developed economy is based on macroeconomic variables). For example, consider the question from the B-READY Methodology Handbook:⁴²

What is the highest effectively applied tariff rate on any of [the top 5 most traded goods among the Asia-Pacific Economic Cooperation (APEC) list of environmental goods]? (% / Local currency units per unit of measure)

The guidance for scoring indicates a negatively sloped linear scoring function (i.e. higher level of tariff is given lesser score).⁴³ An economy will generally fare better in this front when it already has a lower level of tariff compared to an economy which undertook significant reform to reduce the tariff but was unable to reduce it lower than the first economy in absolute terms.

The above scenario is generally the case for developed and developing economies. Due to historical advantages, developed economies will fare better in these scores than a developing economy which had taken drastic reforms but without any effect on the score. In view of the above stated reasons, the WBG has now deleted the scoring guidelines from the revised version of the Methodology Handbook.

The above argument holds equally true for qualitative questions. Instead of framing questions asking about the current regulations (i.e. stock variable), some more questions could be added to check for number of regulatory reforms that was undertaken in the last 5 years (i.e. flow variable).

⁴² Refer: B-READY Methodology Handbook, pg. 402

⁴³ A linear function capped at 10% = 1 will be applied: $1 - 0.1x$. ($10\%+ = 0$ points / $0\% = 1$ (continuous) - along the function $1 - 0.1x$); Source: B-READY Methodology Handbook, May 2023 (older version)

This issue with stock variables for the inherent bias it has in favour of the status quo is unfair to the developing economies. A highly developed nation would have to engage in minimal, if any, reforms in order to achieve a high ranking, while a developing country may have to undertake a lot of reform activities to move up in ranking. This may lead to frustration and a race to the bottom whereby these economies will evaluate that they need a critical minimum effort to improve their ranking significantly and as such would be disincentivized from undertaking incremental changes. A similar argument has been presented by the Asia Pacific Forum on Women, Law and Development (APWLD).⁴⁴

The WBG should also be careful of formulae and scales in the Questionnaire that only considers absolute numbers (instead of relative numbers like per capita etc). It should also ensure that currencies are compared based on purchasing power parity (or other measure) instead of absolute measures.

Box 12. Scoring formula designed to favour high income countries
<p>4. What is de minimis value threshold in local currency (local currency units, LCU)?</p> <p style="text-align: right;">Source: B-READY Methodology Handbook, pg. 402</p>
<p>Comment:</p> <p>De minimis value refers to the threshold below which no customs duties and taxes are collected.⁴⁵ De minimis provision is increasingly being questioned as an effective trade facilitation measure, with many countries lowering their de minimis thresholds. Recently, the U.S. has reconsidered its de minimis policy due to concerns over e-commerce imports exploiting this route. The primary reason for this re-evaluation is that the growth of e-commerce has substantially increased the potential for misuse of de minimis exemptions.</p> <p>Additionally, de minimis fundamentally contradicts the principles of fairness and national treatment. To elaborate, a full-fledged de minimis exemption applies to both basic customs duties and VAT/GST equalization levies charged at the border. This means that de minimis shipments are exempt from paying the domestic tax component that domestic sellers and producers must pay. As a result, this creates an unfair advantage for foreign suppliers in a market vis-à-vis domestic players. Till the time the quantum of e-commerce was limited, such implicit unfairness did not lead to serious economic distortions. However, with exponential growth of cross-border e-commerce, such distortions have emerged as a major concern.</p>

⁴⁴ A similar argument is presented by Asia Pacific Forum on Women, Law and Development (APWLD) in *the Consolidated Comments to the BEE project* (pg. 72)

⁴⁵ List of de minimis value for 89 countries as reported by Global Express Association (GEA): https://global-express.org/index.php?id=271&act=101&profile_id=-1&countries%5B%5D=-2&search_terms=&question-filter=&qid_34=1&qid_34_optid=1&qid_35=1&qid_36=1&qid_92=1

The most recent example is the recommendation made by the US China Economic and Security Commission’s 2024 Annual Report to the Congress (2024) to do away with the de-minimis. US has traditionally been the biggest promoter of generous de-minimis thresholds and maintained a very high threshold of de-minimis of USD 800 per person per day. The recent re-think by even the US on this issue further underlines the need review the utility of de-minimis and its desirability.

3.4 Sovereign function of the State: Rights recognized as legitimate under International Rights

3.4.1 Sovereign function of a State

Certain actions by the economies can clearly fall within the definition of sovereign function – activities that are purely state function and depends on their own geo-political interests and context. According to WTO:⁴⁶

*...there are strong grounds to believe that many important goals of societies, including democracy and human rights as well as the successful operation of markets, are still best protected by national governmental structures. International institutions often lack effective machinery to implement common goals as well as appropriate mechanisms to ensure "**democratic legitimacy**". Unlike national governments, they cannot always furnish appropriate participatory opportunities for varied constituencies. (pg.: 29)*

Box 13. Conventions
<p>1. Has the economy implemented in practice the following international conventions governing the use of international standards? (Y/N; Y – good practice)</p> <p>...</p> <p>1c. International Convention on the Carriage of Goods by Sea (Hamburg Rules-1978)</p> <p style="text-align: right;">Source: B-READY Methodology Handbook, pg. 401</p>
<p>Comment:</p> <p>India is not a member of the Hamburg convention, which has only 35 members. Notably, developed economies are also not members, resulting in a lack of network effects. Many operators view the Rotterdam Rules, despite their limited membership, as a more viable alternative. Besides, the older Hague-Visby rules were preferred by developed countries and most large shipping and freight firms.</p>

⁴⁶ Future of the World Trade Organization (WTO) Ch:3 [Addressing Institutional Challenges in the New Millennium](#). Report by the Consultative Board to the Director-General

This clearly indicates that countries use their sovereign rights to determine which international treaty, convention, protocol, agreement or instrument is useful or appropriate for their citizens and economic participants. Since democratic governments are accountable to their citizens and economic stakeholders, it stands to reason that they shall not shy away from joining international arrangements that are to their benefit. Further, if certain arrangements have relatively few members, countries are voting with their feet about their utility.

Given this context, the question arises whether the WBG assess economies based on their sovereign decision to be part of a particular treaty or convention? This issue was also highlighted by the Office of the WBG Executive Director representing Bangladesh, Bhutan, India, and Sri Lanka.⁴⁷ In addition, some countries⁴⁸ may have legal or constitutional limitations that prevent them from implementing certain conventions. Without adequate justification for the absolute necessity of specific regulations/conventions, WBG should refrain from excessive prescriptiveness and allow individual economies to establish their own regulatory necessities.

Box 14. Consumer protection in cross-border trade

- 13. Does the existing regulatory framework provide the following protections to cross-border consumers? (Y/N; Y – good practice)
- 13a. Limits on advertising (that is, spam, unsolicited communications, and others)
- 13b. Option to cancel online purchases during a specific period of time without any justification or penalty
- 13c. Option to receive refunds/replacements/returns for damaged goods

Source: B-READY Methodology Handbook, pg. 418

Comment:

While the principles of good practice as envisaged in the above questions are well recognized, effective consumer protection would require that the country in question protects the consumers of other countries. In other words, the above questions apply for consumers from other countries dealing with entities in the country responding to the questionnaire. The essential challenge is therefore that of appropriate jurisdiction and accountability, and the institutional ability of countries to invest in the same.

⁴⁷ The issue was also alluded to by the Office of the WBG Executive Director representing Bangladesh, Bhutan, India, and Sri Lanka in *the Consolidated Comments to the BEE project* (pg. 459)

⁴⁸ For example, United States of America has not ratified the Basel Convention. According to [US Department of State: Overview - Basel Convention on Hazardous Wastes - Office of Environmental Quality](#)
... The United States signed the Basel Convention in 1990. The U.S. Senate provided its advice and consent to ratification in 1992. The United States, however, has not ratified the Convention because it does not have sufficient domestic statutory authority to implement all of its provisions.

A consumer can only be protected if all countries (or at least the major economies) agree to protect each other's consumers by holding accountable firms in their own country for violations of consumer protection rights of consumers in other countries.

A consumer in a developing country is most vulnerable if the laws and institutions in the more advanced country (where most global digital giants providing such online retail, entertainment or other services would be mostly likely located) do not include provisions to protect their rights. For example, say a consumer from Burundi (a small developing economy) is defrauded by an online retailer located in Kanada (a developed economy), the regulators or laws of Burundi would have minimal ability to find any satisfactory resolution without the help from regulators (and enabling laws) present in Kanada to provide support for the same.

The questionnaire should take into account this dimension and change the formulation of the question to reflect the same.

3.4.2 Measures justified under International Rules

Qualifying trade remedial measures as “not good” is a highly subjective matter, subject to different interpretations depending on stakeholders. For example, a trading firm will be likely to oppose any trade restrictions, while they might be strongly supported by a local producer of agricultural goods having to compete with cheap imported products. The agriculturist producers concern might not be a trivial one. In developing societies where their significant populations are still dependent on agriculture, sudden surges in the inflow of cheap imports can impair lives and livelihoods and lead whole communities into socio-economic despair.

There might also be instances of dumping. ACT NOW⁴⁹, a Civil Society Organization in Papua New Guinea has highlighted that African countries such as Rwanda or Kenya that have tried to develop their textile industry have come under intense pressure not to restrict imports of second-hand clothes though they see it as the only way to expand their own industry. Not allowing poorer countries use trade remedial tools that they need to develop goes against the stated goals of the WBG to promote a fair and balanced eco-system for trade that supports wholesome private sector development through genuinely competitive markets.

More importantly, the global architecture of trade governance, i.e., the WTO agreements recognize trade remedies to be a legitimate tool to be used by countries. Under Article VI of GATT 1994, and the Anti-Dumping Agreement, WTO Members can impose anti-dumping measures, if, after investigation in accordance with the Agreement, a determination is made (a) that dumping is

⁴⁹ This argument is presented by ACT NOW, a Civil Society Organization in Papua New Guinea in *the Consolidated Comments to the BEE project* (pg. 26)

occurring, (b) that the domestic industry producing the like product in the importing country is suffering material injury, and (c) that there is a causal link between the two.

The Agreement on Subsidies and Countervailing Measures (ASCM) under the WTO provide for multilateral disciplines regulating the provision of subsidies, and the use of countervailing measures to offset injury caused by subsidized imports. Under the provisions available under the WTO Safeguards, countries may take a “safeguard” action (i.e., restrict imports of a product temporarily) to protect a specific domestic industry from an increase in imports of any product which is causing, or which is threatening to cause, serious injury to the industry.

Countries resorting to legitimate trade remedial measures allowed under globally accepted rules governing trade cannot be seen as a negative. We suggest the following items in B-READY be reviewed in that light.

Similarly, Rules of Origin are essential to governance of trade, especially enforcement of FTAs. They are the means by which goods from the FTA partner country are distinguished from non-FTA third countries, allowing for extension of preferential treatment (with respect to customs and other border measures). Considering Rules of Origin as a concept, burdensome, shows a poor understanding of not just trade policy, but the operational aspects of trade. A case can be made that the rules and procedures of Rules of Origin being applied add to transaction costs and improvements can be made in terms of trade facilitation related interventions to address those.⁵⁰

Box 15. Trade Remedial Measures legal under WTO norms
<p>20. In the last three years, when importing any product under [FILL WITH AGRICULTURAL AND MANUFACTURED PRODUCT CHAPTER (HS 2-DIGIT)] from any trading partner, which contingent trade-protective measures were enforced in practice in the last three years? (Y/N; N – good practice)</p> <p>20a. Anti-dumping duties</p> <p>20b. Countervailing duties</p> <p>20c. Safeguards measures</p> <p style="text-align: right;">Source: B-READY Methodology Handbook, pg. 405</p>
<p>Comment:</p> <p>The Trade Remedial Measures are legal under WTO norms. To suggest that no such measure being imposed in the last 3 years is a good practice is unfounded. According to DGFT⁵¹, <i>The various Acts and Rules in India for Anti-Dumping, Anti Subsidy and Safeguard are in consonance with the WTO Agreements on Anti-Dumping, Anti-Subsidy / countervailing measures and Safeguard measures.</i></p> <p>As argued above, these instruments are essential for ensuring fair trade, which is an important aspect of trade policy goal. This is mentioned explicitly by the WTO, “The WTO is sometimes</p>

⁵⁰ World Bank has acknowledged this limitation and addressed it in the new version (see [Annex-I](#))

⁵¹ Source: DGFT, *Trade Remedial Measures, Frequently Asked Questions*

described as a “free trade” institution, but that is not entirely accurate. The system does allow tariffs and, in limited circumstances, other forms of protection. More accurately, it is a system of rules dedicated to open, fair and undistorted competition. The rules on non-discrimination — MFN and national treatment — are designed to secure fair conditions of trade. So too are those on dumping (exporting at below cost to gain market share) and subsidies. The issues are complex, and the rules try to establish what is fair or unfair, and how governments can respond, in particular by charging additional import duties calculated to compensate for damage caused by unfair trade”⁵²

Thus, B-READY framework needs to review considering the non-application of these measures as a best practice.

Box 16. Imposition of non-technical measures such as Contingent trade protective measures are essential and cannot be considered to be a ‘bad’ practice

20-24. Imposition of Non-Technical Non-Tariff Measures (Y/N; N–good practice)

Source: B-READY Methodology Handbook, pg. 405 & 406

Comment:

Contingent trade protective measures: These measures are allowed as per the World Trade Organization (WTO) agreements to protect the domestic industry from unfair trade methods practiced by foreign companies. Further, an economy is within its rights to impose Anti-dumping duties (ADD) or Countervailing duties (CVD), subject to WTO rules. Not imposing them would entail poor governance. This is also beneficial to foreign firms located in one’s market, as they would suffer injury due to unfair trade practice. Condoning unfair trade cannot be good regulatory practice as the objective is free and fair trade. The WBG should instead question respondents whether such ADD or CVD are successfully challenged under WTO.

Export Restrictions: These questions should have been framed keeping in mind the provisions regarding export restrictions allowed to prevent or relieve critical shortages products essential during emergency times under WTO rules. There are several provisions in the GATT 1994 and other WTO covered agreements that allow for the introduction or maintenance of quantitative export restrictions as an exception. Products can include fertilizers (shortage of which during specific sowing and growing seasons can be disastrous from food security) and essential chemicals such as APIs that go on manufacture of medicines.

⁵² Extracted from the WTO official website (url: https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact2_e.htm) viewed on November 24th, 2024.

3.5 Fundamental Design Flaws

3.5.1 Scoring to ensure balance and standardization

Subject of the surveys should be balanced and standardized to ensure accurate and consistent data is gathered and analysed. For example, larger vessels take longer time of cargo handling – so to have any meaningful comparison of port efficiency would need to consider the distribution of type of vessels being handled. If a port is typically handling large dry bulk vessels or large container motherships, their time required for handling would be very different from those handling mostly liquid bulk or smaller container vessels. A better indicator might be the discharge rate, i.e., number of containers moved or tons of cargo handled per hour.

Similarly, products that require quarantine or temperature control need more cost and time than other goods – so if survey ends up comparing efficiency without taking into account the mix of type of cargo being handled it could skew numbers for both time and cost. It is reassuring to find that the section on trade Infrastructure accounts for rescaling of scores based on whether an economy is an island or coastal and landlocked.⁵³ We suggest a further round of comprehensive analysis of the precise indicator (and the unit of measurement) being applied, with the associated additional notes that includes the domain expert comments and feedback from industry (those who have practical and operational experience related to the aspects in question) validating the choice of indicator and unit of measurement be made available publicly to provide greater confidence to all stakeholders about the fairness and objectivity of the B-READY exercise.

Another related but distinct principle is the balance across different aspects of business readiness being considered, even within the same broad subject, in this case international trade. We need to consider that while compliance with regulatory requirements for business entities may potentially incur costs for businesses, the provision of public services can often address or at least help minimize some of those costs. One can argue therefore that there is in-principal balance in the intrinsic philosophy of B-READY.

However, it is evident that such a balance is not provided in the scoring guidelines or the number of indicators. This argument has also been emphasized by European University Institute (EUI).⁵⁴ To elaborate, Pillar I, which pertains to the Quality of Regulations for International Trade, consists of 94 indicators on which an economy or country would be assessed, while Pillar II, which concerns the Quality of Public Services for the Facilitation of International Trade, only entails 50 indicators on which the country would be scored. The scoring is heavily skewed towards the regulatory costs' aspect. While one is not suggesting a perfect balance, there needs to be a much

⁵³ The scoring guidelines indicates Island economies may score a total of 12 points in this subcategory (6 points on firm flexibility and 6 points on social benefits). Coastal and landlocked economies may score a total of 10 points (5 points on firm flexibility and 5 points on social benefits). The scores of coastal and landlocked economies will be rescaled to the same 11.54 rescaled points. Refer pg. 112 of B-READY Methodology Handbook. Similar issues are identified by the Office of the WBG Executive Director representing Japan in the *Consolidated Comments to the BEE project* (pg. 375)

⁵⁴ This issue was raised by European University Institute (EUI) in the *Consolidated Comments to the BEE project* (pg. 205)

sustainable development is by finding the means to minimize the energy and resource footprint of a consumerist, resource intensive, ‘use-and-throw’ lifestyle to the extent possible or does the solution lie in adopting alternative life-choices that reduce the primary energy and resource footprint and emphasizes intensive re-use and re-cycle. These debates are not settled, and it definitely does not reflect substantially in the way the items in the APEC list of environmental goods⁵⁵.

3.5.2 Data adequacy and survey design

The availability of World Bank Enterprise Survey data is a vital factor to consider when analysing the economic landscape of different countries. However, it is important to note that this data is not readily available for all countries. Additionally, the lack of consistent data collection intervals, as the Enterprise Survey is done sporadically, poses a challenge when attempting to compare countries over time. Furthermore, certain indicators may rely on data collected through firm level surveys, but it remains unclear if such data is available for all countries or to what extent.

European University Institute (EUI)⁵⁶ points out that this potential variation in data collection methods may affect the accuracy and reliability of the data, and therefore must be taken into consideration. Another concern is the use of private sector surveys to rank economies, which has, in the past, led to significant misrepresentation, with outdated respondents who accessed government services decades ago. This approach fails to reflect current procedures and may allow some countries to manipulate rankings. Measures should be implemented to prevent such issues in the future.⁵⁷

There also needs to be further discussion as to which specific aspects of B-READY can be assessed through a survey, or at least to what extent can survey responses be the primary driver of final conclusions that are drawn. Surveys are typically extremely efficient means to assess binaries, for e.g., the presence or absence of certain things. Thus, a survey using a relatively informed sample (such as firms who trade) will be effective in assessing whether or not certain regulations exist, or certain infrastructure or facility is available or not.

But the B-READY in its current design goes far beyond such binaries to delve much deeper. The concern is not the mere existence or lack of regulation, but rather, the intricacies of its design and the associated costs of compliance. Additionally, there are matters of transparency and governance

⁵⁵ As an example of the need for further debate, India’s Prime Minister, Mr. Narendra Modi has been highlighting the need for greater understanding of different approaches towards sustainable futures and has put forward the concept of LiFE or Lifestyle for Environment as a nuanced alternative. Details are available at (<https://missionlife-moefcc.nic.in/>)

⁵⁶ These issues were raised by European University Institute (EUI) in *the Consolidated Comments to the BEE project* (pg. 204)

⁵⁷ Some commenters have indicated a preference for corroboration of opinion or data from private sector surveys with documentary research, and greater government participation in the provision of information or in the confirmation of these. See comments by Office of the WBG Executive Director representing Brazil, Colombia, Dominican Republic, Ecuador, Haiti, Panama, Philippines, Suriname and Trinidad & Tobago in *the Consolidated Comments to the BEE project* (pg. 474)

to consider. This leads to two independent but related challenges. First, several of the respondents might be poorly or inadequately informed about these matters. This would have been especially true given the concerns about the World Bank enterprise survey that have been flagged earlier.

Second, standardized approaches without allowing for local context will tend to miss important issues and nuances that would have been essential to fair and objective assessments of the fundamental issues that B-READY is so admirably trying to get at. These complexities of design of regulation and their application require in-depth analysis of specific contexts, which cannot be adequately addressed by an international initiative driven by comparison and standardization efforts.

We recognize that this challenge is a fundamental aspect of any initiative such as B-READY. Therefore, it is crucial for B-READY to avoid broadening its scope into too many areas and issues that are not core to the fundamental issues of doing business. Equally importantly, it would do well to not make many of these issues subject to an enterprise level survey where the expertise or experience of addressing the questions related to such issues objectively might be lacking across a large number of respondents.

Such lack of knowledge is understandable since most business respondents tend to focus on some of the key regulatory, procedural and infrastructure issues impacting their business and operations. A standardized survey may lead to the inclusion of issues that are heavily influenced by individual circumstances and cannot be accurately represented through binary responses, simplifying constructs.

It is understood that the B-READY is looking to implement a hybrid approach with a series of assumptions and expert consultation to avoid some of these challenges mentioned above. It is submitted that subjectivity and opinion-based consultations should be avoided to the extent possible. The Office of the WBG Executive Director representing Austria, Belarus, Belgium, et al., have also emphasized on the same point.⁵⁸ This would affect the integrity of data and undermine the credibility of B-READY being an informed, evidence-based policy advocacy platform.

3.5.3 Parameters used for evaluation

The B-READY Methodology Handbook (pg. 363 & 364) refers to specific parameters for Agricultural/ manufactured Product Chapters that are supposed to be used for contextual information for experts to identify the appropriate regulations to be assessed in different pillars. B-Ready postulates that non-tariff measures (NTMs) significantly affect trade by imposing additional business costs, thereby negatively impacting the overall ease of doing business. To evaluate how a particular economy is affected by NTMs, B-Ready proposes using the WITS

⁵⁸ The issue was also alluded to by the Office of the WBG Executive Director representing Austria, Belarus, Belgium, Czech Republic, Hungary, Kosovo, Luxembourg, Slovak Republic, Slovenia, and Turkey in *the Consolidated Comments to the BEE project* (pg. 435)

database⁵⁹, which provides an NTM frequency—a count of NTMs imposed by all WTO member states on specific HS-6 product lines. While the HS-6 classification offers a detailed breakdown of products, the World Bank suggests analysing data at the HS-2 level, a much more aggregated product classification⁶⁰. We find several issues with this approach, which have been outlined below. Similar issues have been raised by the Office of the Minister, Ministry of Finance of UAE.⁶¹

1. At the HS 6-digit level, the same product can be subject to various NTMs imposed by different government agencies, leading to multi-counts. This creates an inflated perception of regulatory burden for that product.
2. Handling NTM notifications from WTO members presents several challenges, including receiving multiple notifications for the same product with minimal variation in objectives, missing HS codes (especially for products with horizontal applications), and language barriers when notifications are submitted in non-official WTO languages. Additionally, the objectives of these notifications are often vague or unclear, and incorrect CCCN/HS nomenclature is frequently used⁶².
3. Not all NTMs impose the same compliance burden. Some measures, particularly those requiring advanced technical human resources or infrastructure, are more difficult for developing countries to comply with. Therefore, the number of NTMs applied to a product should not be the sole criterion for identifying chapters prone to NTMs. The complexity and cost of compliance also needs to be considered.
4. The preselected HS chapters for agriculture and manufacturing may not correspond to the most traded products globally. They also might not be those products that are exported by a large number of countries (and therefore adds transaction costs that are relevant to a large number of exporters across a large number of countries). This disconnect could lead to the identification of chapters that are less relevant for global trade analysis, reducing the efficacy of the approach.
5. NTMs can either have a broad, horizontal impact across different chapters or be highly product specific. Solely selecting a particular HS2 chapter for analysis, as indicated by the World Bank, presents two key challenges:
 - i. A single NTM notification may affect multiple products across various HS2 chapters. In such instances, selecting a single chapter would overlook the broader impact of the NTM.

⁵⁹ World Integrated Trade Solution (WITS) is a joint database developed by the World Bank in collaboration with the United Nations Conference on Trade and Development (UNCTAD) and in consultation with organizations such as International Trade Center, United Nations Statistical Division (UNSD) and the World Trade Organization (WTO).

⁶⁰ For example, HS6 would be a very specific product like *Semi-milled or wholly-milled rice, whether or not polished or glazed* (100630) while the HS2 associated with this HS6 would be a very broad sector like *Cereals* (Chapter 10).

⁶¹ Similar issues were raised by the Office of the Minister, Ministry of Finance of UAE in *the Consolidated Comments to the BEE project* (pg. 451)

⁶² Kallummal, Murali. *SPS measures and possible market access implications for agricultural trade in the Doha Round: An analysis of systemic issues*. No. 116. ARTNet Working paper series, 2012.

- ii. Within an HS2 chapter, there may be one HS6 product line with 80 NTM notifications, while another chapter could have five HS6 product lines, each with 10 NTM notifications. The World Bank's method focuses on the chapter with maximum number of NTM notifications. In this case, the chapter with 80 notifications would be selected. However, the NTM on five products with fewer notifications could have a greater overall impact on trade because they affect more products. Ignoring these NTMs could give an incomplete or misleading picture of their true impact on trade.

To better identify key products impacted by NTMs, it is suggested to focus on the weighted average of globally most traded products based on their trade value and the number of exporting countries. This approach ensures that products with significant global trade volume and broad exporter participation are prioritized since these would have widespread implications. Additionally, it is essential to distinguish between products important to developed countries versus those crucial to developing countries, as the most traded products differ between these groups. Further, there should be a concerted effort to segregate products whose supply-chains are mediated by large MNCs who define a buyer led value-chain such as coffee typically in plantation mode, and those products which are produced by small farmers aggregated and exported.

The B-READY Methodology Handbook (pg. 364) also refers to traded products that would be used for contextual information for experts to identify the appropriate regulations to be assessed in different pillars. It is unclear whether the most traded products refer to the most traded products globally or for a particular country. In case the World Bank refers to the most traded goods in a particular economy, different countries would have a different set of most traded goods, which will likely skew results. For example, if one country's most important goods are those that require more expensive handling, or have greater security needs and therefore premiums for logistics services, the overall logistics and trade costs will be more compared to another country where its most important basket of goods have lower handling or lower security premium related to transport and transit.

Furthermore, clarification is also required in terms of which HS nomenclature has to be taken into consideration (2012 or 2017) while finding out the most imported manufactured and agricultural products by total import value between 2015 and 2019 at Harmonized System (HS) subheading level (6-digit) within the predefined HS chapters. It is imperative to note that if HS 2012 nomenclature has to be considered then it would give an outdated representation of an economy in terms of the most imported manufactured and agricultural products by total import value between 2015 and 2019. Rather, for the given time period (2015-2019), HS 2017 nomenclature holds more relevance considering that HS nomenclature subheading level (6-digit) changes every 5 years.

Further, a defined number of "most imported manufactured and agricultural products by total import value between 2015 and 2019 at HS subheading level (6-digit) within the predefined HS chapters" is required. For instance, must the respondent consider top 3 or top 5 most imported

manufactured and agricultural products by total import value between 2015 and 2019 at HS subheading level (6-digit) within the predefined HS chapters.

3.6 Miscellaneous Issues

3.6.1 Gender factors need special and separate attention

The topic of women's involvement in economic activities is of great significance and should be incorporated into broader policies. However, trade instruments may not be the most appropriate avenue to address these issues. The policy to selectively highlight gender issues goes against the general stance for a more liberalised trading system with minimal Non-trade Barriers (NTBs). There is a view that Gender issues can effectively become non-tariff barriers due to additional costs of due diligence, monitoring, certification, and associated costs. That such costs disproportionately impact MSMEs is well known. What is less known is that agencies that provide such certification and compliance verification are mostly from wealthier nations providing their services to developing country businesses. These agencies can often charge very high rates for firm level assessments.

It also needs to be considered that there is still lack of a general consensus as to whether binding commitments in trade agreements related to gender issues are the optimal policy option for achieving positive outcomes. There is also lack of clarity as to what kind of objective data would be used to measure successful women's participation in trade, since trade related data collection has traditionally been and remains gender neutral.

Also, there is a big debate in terms of what constitutes trade leading to economic opportunities for women. For example, if one considers increasing participation of women-led firms in trade, it can ignore two important facts. First, women listed as directors or owners are often internal family solutions to private or family-led firms and might not reflect actual entrepreneurial efforts or female leadership. Second, to what extent does female leadership or ownership benefit a wider swathe of the female population in terms of economic return or their ability to leverage trade to better the economic situation and achieve economic independence.

One could argue that commitment by advanced economies to liberalize markets for those sectors where there tends to be a disproportionate concentration of women workers, for example textile and garments. Since advanced economies are the major sources of demand for these products, such liberalization might accrue greater and more sustained benefits to female populations in developing countries and lead to increased female labour force participation in trade related value-chains.

Thus, such expanded market access is a much more effective tool for improved economic outcomes and increased female labour force participation rather than more generic approach

towards gender equality basis ownership of firms (or directorships in them) which might be more flawed proxies.

<p>Box 18. PTA commitments on gender remain controversial: Gender issues should have a comprehensive treatment</p>
<p>10. Have any enforceable provisions listing minimum commitments on the following gender issues been implemented in any of the PTAs? (Y/N; Y – good practice)</p> <p>10a. Gender equality</p> <p>10b. Women's participation in economic and development activities</p> <p style="text-align: right;">Source: B-READY Methodology Handbook, pg. 403</p>
<p><i>Comment:</i></p> <p>Trade negotiating experience of developing countries has been that issues such as gender are often used as a bargaining chip in by developed countries in PTAs where one of the partners happens to be a developed country. Developed countries are willing to accept a more diluted ‘best endeavour’ non-binding commitment on such issues in return for objective economic and business-related concessions in other areas by the developing country. To take a hypothetical example, Kanada (a developed country) maybe be willing to accept non-binding provisions related to gender issues in its PTA negotiations with Burundi, in return for binding commitments that open up Burundi’s Financial Services market to Banking and Insurances MNCs based in Kanada.</p> <p>It is crucial for these policies to be dealt with separately and comprehensively, rather than using them as bargaining tools within PTA negotiations. Failing to do so would disregard the importance of women's economic participation and the issues surrounding it. Instead, a more focused approach should be taken to combat and overcome these barriers in order to promote gender equality and enhance the empowerment of women in the economic sphere.</p> <p>There is also the issue of how one measures women’s increased economic participation in global trade and associated economic independence and social development. As mentioned before, simply looking at women led firms might not be the best assessment methodology. The most important actions towards women empowerment through trade might actually be opening up market access to those sectors where women tend to be employed in large numbers. Empirical research has shown that increased exports in sectors where women are intensely employed as led to significant socio-economic development for women.</p>

3.6.2 Market-determined subject matter

According to the authors, B-Ready assesses how policy issues, infrastructure—both regulatory and physical—and the adoption of advanced procedural designs influence overall business costs and efficiency within an economy. It is not intended to evaluate specific transactional outcomes determined by market forces, which inherently vary for individual players based on a number of

conditions. Incorporating such market-specific factors could lead to misinterpretations, depending on the nature of the specific economy, the specific market conditions that apply in that economy and several other factors.

Box 19. Trade finance cost
<p>5. Total cost to comply with export requirements: In fiscal year [Insert last complete fiscal year], as a percentage of the value of the products exported directly, what was the average cost of complying with all export requirements, including Customs fees, other required payments, and payments made to Customs brokers or freight forwarders, transportation freight, trade finance and insurance services? Note: please use the incoterm FCA (Free carrier)</p> <p style="text-align: right;">Source: B-READY Methodology Handbook, pg. 429</p> <p>Comment:</p> <p>The inclusion of trade finance in the overall cost of export requirements is problematic because it is unrelated to governance efficiencies, which is the core of Ease of Doing Business. The cost to comply with import/export requirements are set to measure the efficiency of an economy’s regulatory framework and public services. However, the trade finance is a market-oriented behaviour between import/export enterprises and banks or third-party financial institutions. As such, it is not related to the governments’ administrative behaviour and not an appropriate measure to evaluate the efficiency of public services.</p> <p>It also needs to be noted that this cost could vary greatly. Financial institutions would tend to lend at lower rates to bigger firms. Thus, economies with larger share of small or medium enterprises (SMEs) would end up performing poorly on this metric not because their governance systems are poor, or even their finance and credit markets are weaker, but because of the structure of their economy with more SMEs. Cost of credit can also be influenced by government subsidies and schemes, and therefore this indicator would be subject to distortion from such government interventions. A related point has also been brought out by the Office of the WBG Executive Director representing P.R. China.⁶³</p>

3.6.3 Poor alignment with practical application of policy

Several aspects of policymaking involve complex interactions among multiple factors, all of which are influenced by practical constraints. These constraints include the levels of trust between countries and challenges in implementing recommended best practices. In many instances, ongoing debates around specific policy issues further complicate matters, as there is often no consensus on the scope or even the definition of these issues.

⁶³ A similar argument is presented by the Office of the WBG Executive Director representing P.R. China in *the Consolidated Comments to the BEE project* (pg. 500)

Box 20. *E-contract and e-signatures have wide range of quality standards across countries*

1. Does the regulatory framework provide foreign issued electronic contracts with legal validity and enforceability? (Y/N; Y – good practice)
2. Does the regulatory framework provide foreign electronic signatures with legal validity and enforceability? (Y/N; Y – good practice)

Source: B-READY Methodology Handbook, pg. 417

Comment:

This is a generic question that requires further detailing. In most cases, the answer to this question would depend on the origin of the foreign issued electronic contract, and the specific regulatory area concerned. Countries might tend to recognize certain legal systems and authorities in other countries and accept electronic contracts drawn up under the aegis of these systems as valid and enforceable, and not do so for others. Similarly, electronic signatures might be acceptable (valid and enforceable) for certain purposes and not for others.

As bilateral digital agreements and digital and electronic commerce chapters under FTAs proliferate, all of these would become subject to whether two particular trading partners have an understanding that allows mutual acceptance. Given the wide variety of and quality of regulatory maturity on such issues between countries, it is unlikely that that most countries would accept e-documents, or e-signatures of all other countries without exception.

Box 21. *There is no common understanding of the scope and definition of digital trade*

3. Does the regulatory framework establish the principle of technology neutrality in the context of digital trade? (Y/N; Y – good practice)

Source: B-READY Methodology Handbook, pg. 417

Comment:

E-commerce as a topic has been included within the framework of the WTO since the ministers adopted the declaration on global electronic commerce at the Second Ministerial Conference (MC2), urging the General Council to establish a comprehensive Work Programme on Electronic Commerce (WPEC) in 1998.⁶⁴ The WPEC had the broad mandate to work and define the scope and definition of e-commerce, in addition to exploring other key issues related to e-commerce and digital trade as they arose.

While the moratorium on customs duties was first instituted in 1998, there has been a massive technology-fuelled change in the scope and coverage of the overall digital economy. E-commerce in 1998 was largely confined to digitally ordered goods, and some services. Two and a half decades later, the presence of digitally ordered and delivered goods and services in the economy has become ubiquitous, but the WPEC has still not been able to build consensus on the scope, coverage and definition of e-commerce. The 13th WTO Ministerial Conference

⁶⁴Source: https://www.wto.org/english/thewto_e/minist_e/min98_e/ecom_e.htm (last accessed on September 4, 2024)

(MC13) decision was for members to hold further discussions and examine additional empirical evidence on the scope, definition, and the impact that a moratorium on customs duties on electronic transmissions might have on development. While different PTAs have come up with their own specific definitions of what constitutes e-commerce and digital trade, there is still no commonly held consensus on this topic. Any question on digital trade included in the B-READY framework has to be mindful of this.

On the specific issue of technology neutrality, the concept itself is contested at the WTO and there is no agreement between WTO members on whether commitments under GATS are technologically neutral, and would apply to the supply of a service through new technological means that did not exist at the time the GATS came into force. Further, there is no clarity on the classification of services provided through new technological means under the GATS schedule. For example, under the principle of technology neutrality, online education services could be placed under the category of education services. But they could also be placed under the category of computer services. Until such fundamental issues related to technology neutrality are resolved globally, no country can meaningfully implement provisions recognizing technology neutrality domestically.

3.6.4 Need for special treatment

3.6.4.1 Multi-National Corporations (MNC)

One crucial element that is missing pertains to the regulatory framework regarding multinational corporations and intra-firm trade. It has been estimated that intra-firm transactions constitute approximately thirty percent of global trade⁶⁵. In light of this, multinational corporations and intra-firm trade warrant distinct consideration due to the vast scope of regulatory guidelines that govern them; far broader than those applicable to typical inter-firm trade. Some of the complexities involved encompass matters such as immigration procedures for key executives, foreign investment restrictions, transfer pricing and cross-border taxes. It is suggested that WBG should adopt a comprehensive set of indicators to assess the regulatory landscape as it pertains to trade conducted through MNCs, especially since these complications may also have a connection to other pertinent domestic regulations. A similar argument has been presented by the IMF.⁶⁶

3.6.4.2 Micro, Small and Medium Enterprises (MSME)

The current emphasis on International Trade as opposed to domestic trade skews the analysis towards larger private sector firms and fails to accurately represent the operational realities of MSMEs, which may not engage in international trade to the same extent. The Office of the WBG

⁶⁵ World Bank. "Special Focus 2: Arm's-Length Trade: A Source of Post-Crisis Trade Weakness." 2017.

⁶⁶ This argument is presented by IMF in *the Consolidated Comments to the BEE project* (pg. 575)

Executive Director representing Antigua and Barbuda, the Bahamas, Barbados, Canada, et.al. ,⁶⁷ has emphasized that in order to better understand the trading frictions experienced by MSMEs, it would be beneficial to capture their unique challenges.

We recognize that the need for robust legal and regulatory frameworks to create an enabling environment for sustainable and inclusive businesses in the domestic economy has been addressed in other topics of B-READY, such as Business Entry, Business Location, Dispute Resolution and Market Competition. However, if we specifically consider domestic trade and transport facilitation related aspects of any business, which are primarily covered under the Trade topic, these have not been integrated into the International Trade topic of the B-READY project. In the current B-READY questionnaire, the World Bank focuses solely on the regulatory framework and public service provision of cross-border trade.

In large geographies with diverse regional markets like India, the complexities of domestic trade can be at par or even more at times than cross-border trade. For example, consider a trader in Gorakhpur (a city in Uttar Pradesh, India) conducting business with a counterpart in Kathmandu. This scenario, categorized as international trade, involves a distance of less than 400 km and often both the parties speak the same language and share a cultural understanding. Now consider the same trader from Gorakhpur engaging in business with someone in Chennai. Here, the distance increases fivefold and language and cultural differences become additional barrier.

This comparison highlights that conducting business domestically in large and diverse countries like India can sometimes be more complex than international trade. Unfortunately, the current B-READY Methodology Handbook does not account for such intra-country trade complexities. Moreover, many MSMEs in India rely heavily on domestic markets to build their capabilities and drive future growth. Including questions related to domestic trade facilitation in the B-READY Methodology Handbook would therefore be essential to provide a holistic assessment of the trade environment, particularly in countries with intricate and diverse domestic markets.

Acknowledging the argument that large MNCs dominate the global market and therefore face different implications for transaction costs and border management, such as trade facilitation challenges and securing quality logistics support, it is important to account for any potential bias in the questionnaire towards these entities. It is recommended that a separate questionnaire be developed to gather information on the challenges faced by MSMEs in developing countries when attempting to export to advanced country markets.

⁶⁷ This argument is presented by the Office of the WBG Executive Director representing Antigua and Barbuda, the Bahamas, Barbados, Belize, Canada, Dominica, Grenada, Guyana, Ireland, Jamaica, St. Kitts and Nevis, St. Lucia, and St. Vincent and the Grenadines in *the Consolidated Comments to the BEE project* (pg. 414)

4 Conclusion

B-READY provides a comprehensive assessment framework towards analysing the regulatory eco-system within which firms operate in an economy, including the impact of such regulation on the operational aspects of business including access to and quality of infrastructure and services. By integrating aspects related to the application of regulation and quality of its implementation, including integration of technology and digital solutions, B-READY is a fit-for-purpose framework to explore the extent of transaction costs imposed on businesses by the national eco-systems they operate within. World Bank team and the experts who have developed this framework must be complimented for their hard work.

But every framework, however robust suffers from certain weaknesses. This is especially true of exercises like B-READY that delve into the issues of regulation, governance, transaction costs and economic efficiency. These areas cover aspects that are subject to debate and difference of opinion that are often informed by strong ideological or theoretical preferences. Privileging certain preferences over others basis results of certain empirical studies, while ignoring contrarian evidence can lead to the overall framework being perceived as biased.

Indeed, there is a perceptible shift among policymakers globally in the years that have followed the global financial crisis (2007-2008). Most policymakers agree that the business-as-usual scenarios based on the experience of the period between 1980s- early 2000s cannot be the basis of policymaking and policy design going forward. Several fundamental assumptions about international trade, the governance of international economic relations, and the nature of what constitutes free and fair trade are under challenge from new realities with the global economy being amid three radical transitions. These three transitions i.e., the digital transition that includes adoption of automation and AI, the so-called green transition leading to adoption of sustainable energy and production systems, and the demographic transition with rapidly declining populations in wealthier economies and a youth bulge in some developing countries and LDCs, will also lead to greater divergence between interests and needs of developed versus developing countries as well as prioritization of geopolitical and geoeconomic interests.

The above context is important as it provides an important motivation behind this paper. Any framework that is developed to gauge policy design and associated issues of economic efficiency cannot be divorced from the realities of the global economic system. The reference point for such a framework cannot be the past realities of the global economy. Indeed, just as assumptions about effective policy design and economic efficiency as defined for a pre-World War II world defined by colonial economic relations could not serve as a template for the international order that emerged after 1945 (and in large part was led by the Bretton Woods institutions of which World Bank itself was a part), similarly the late twentieth century world is not a fit template for the current global economy.

This paper is therefore an attempt to bring in constructive criticism and feedback on some of the more obvious shortcomings of the B-READY framework as it applies to specific aspects within the International Trade topic. The authors attempt to bring in a developing country perspective to this process of constructive critic and feedback. But this developing country perspective is not based on ideological predilections or assumptions. Instead, the authors have focused on specific operational, legal or practicality of policy design that render specific aspects of the B-READY framework to be problematic. The authors have also drawn attention to issues of framing of certain B-READY elements that emerge from broad assumptions about what constitutes best practice or economic efficiency. In all of these cases, these assumptions are subject to robust debate within academia and policymaking circles with much of the empirical evidence marshalled by both sides of such debates also being subjective and based on certain economic modelling or data related assumptions.

Many of the concerns that the authors have flagged have also been highlighted by other stakeholders, and the authors have made their best attempt to refer to these existing critics. The focus of this paper is not to question either the B-READY framework or the enormous value it brings in providing a common template to assess issues of economic governance and economic efficiency. The goal is to provide feedback that can make the B-READY framework much better. Additionally, the authors believe that addressing the issues that have been flagged will add to the credibility of the B-READY framework which can otherwise be easily undermined by allegations of bias or preference for certain theoretical assumptions or policy preferences of a specific group of countries (or even vested interests of large businesses).

But the most important goal of the authors is to initiate debate around these issues. This paper is a reminder that the development of global frameworks needs to become much more participative and encompassing of pluralism. Not just in cosmetic terms, i.e., having broad based stakeholder consultations with a wide range of interested parties across the world after the framework has been largely developed, but in the development phase itself. Such a substantive plurality of ideas would then be reflected in the literature and evidence cited behind the framing of every issue, and effective flagging of contrarian views wherever possible. It would also be reflected in the more nuanced handling in the framing of policy issues and what constitutes best practice or outcome. Dialogue with a wide range of practitioners, for example in the case of the International Trade topic not just with large businesses and global logistics MNCs and supply-chain managers, but also their smaller counterparts in developing countries.

Therefore, the most important recommendation that emerges from this paper is that development of the future more improved versions of B-READY must be an exercise that while led by the World Bank, must include a targeted body of specific stakeholders that is truly representative of the world which B-READY wants to assess. Thus, there must be a proactive mapping of policy-think tanks and academia that represent alternative and contrarian views on different topics.

Similarly, views of policymakers who have contrarian views on specific issues need to be effectively mapped and taken into account. Last but not the least, the views of a broad sample of large, small and medium size enterprise, including the very modest sized businesses in the developing world have to be canvassed to understand which of these issues actually matter to them, and some means of prioritization and weightage basis that understanding have to be considered. The same would hold true for the diversity of logistics service providers and supply-chain managers when it comes to the International Trade topic of B-READY. Finally, these debates and contrarian views need to be made available in public domain in the interest of full transparency. Such measures will not only help make B-READY emerge as a truly effective bottom-up framework trusted widely by different sets of governments and stakeholders, but they will also address many of the criticisms of the earlier Ease of Doing Business Studies.

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Annex-I

De-regulation may not always lead to efficient economic outcomes

Laissez-faire (free or unregulated⁶⁸ economic activity) as an efficient economic model finds its roots in classical economics which argues that a market-based solution – under certain conditions⁶⁹ – provides the most efficient means to allocate resources between economic agents.

Firstly, real markets are never perfect. When the underlying preconditions for operation of efficient market is not fulfilled (for example the market does not clear because of, say, COVID-19) it is a case of market failure. In such a situation the *theory of second best*⁷⁰ stipulates that the previous optimal situation is no longer desirable. It further argues that there is still a case for government intervention which can attempt to correct the market (maybe not to the extent of the *theoretical* perfect competition levels) and reduce the detrimental effects of the market imperfection or distortion.

Baldwin, et al.⁷¹ identifies the following as market failure rationale for regulation:

1. **Monopoly and natural monopoly.** This is typically a case in utilities or sectors which requires significant initial capital investment and each additional consumer requiring very little additional cost (decreasing cost/ scale economies). The aim of the regulation is to counter the tendency to raise prices or lower output.
2. **Windfall profits.** In a competitive market, firms do not make super normal profit. If, for example, a firm discovers usually cheap source of supply, the regulation will transfer benefit of windfall from firms to consumers or taxpayers.
3. **Externalities.** This occurs when the price of a product does not truly reflect the true cost to the society. For example, when a polluting factory spills the waste in the river without treating it thereby saving cost and offering the product at a cheaper price. The purpose of regulation is to compel the producers (or consumers) to bear the full costs rather than pass it on to third party or the society.
4. **Information inadequacies.** In a competitive market it is assumed that the economic agents operate under full information. However, it is not always the case as information gathering or absorption may be costly (for example, it may require high level of expertise). Regulations, in the form of disclosure obligations, may correct this issue.

⁶⁸ Regulation here is defined as “a state-imposed limitation on the discretion that may be exercised by individuals or organizations, which is supported by the threat of sanction.” Alan Stone, *Regulation and Its Alternatives* (Washington, DC: Congressional Quarterly Press, 1982), p. 10

⁶⁹ There are multiple such conditions, including consumers and firms do not have market power (i.e. they are price takers), there is perfect information, agents behave rationally, and there is no externality (i.e. prices reflect its true cost). See Mas-Colell, Andreu; Whinston, Michael D.; Green, Jerry R. *Microeconomic theory*. New York, NY: Oxford Univ. Press, 1995

⁷⁰ Lipsey, R. G., and Kelvin Lancaster. “The General Theory of Second Best.” *The Review of Economic Studies*, vol. 24, no. 1, Jan. 1956, p. 11.

⁷¹ Baldwin, Robert, et al. *Understanding Regulation: Theory, Strategy, and Practice*. OUP Oxford, 2011

5. **Continuity and availability of service.** In some situations, provision of services may not be available or too costly to be provided to the last person. This is true for essential services like telecom connection. Regulation may provide of minimum service delivery obligations to ensure equity for all.
6. **Anti-competitive behaviour and predatory pricing.** Firms with market power may indulge in anticompetitive activities (ranging from cartelization to predatory pricing to abuse of dominance). Antitrust or competition law authorities can function as regulatory watch to ensure free and fair markets.
7. **Public good and moral hazard.** The provision of some services (like clean air or national defence) is such that once provided no one can be excluded from enjoying the service. This creates a “free rider” problem, where only a section of the society pays for the service while the same is enjoyed by all. Another problem is that in such cases there is a tendency for overuse – for example, health care. If the state provides free health care, there may be a tendency for people to overcrowd health institutions for even basic ailments. The role of the regulation is to share the costs compulsorily with everyone.
8. **Unequal bargaining power.** One example of this can be seen in the workplace where the employer wields disproportionately higher bargaining power than the employees. The purpose of regulation is to protect the vulnerable interests (for example, mandate maximum working hours or stipulating minimum wage).
9. **Scarcity and rationing.** Regulation based on equity may be justified for allocation of commodities in certain cases than just purchasing power. For example, during COVID-19, allocation of vaccine could be based on alternative means (like first-come-first-serve or random lottery allocation) than by market mechanism.
10. **Standardization and coordination.** In many situations it may be in the interest of everyone for the government (or another legitimate authority or body) to create standards for operations within a market. This will solve coordination issue, and all economic agents can operate with more certainty. For example, the standard and common electric plug type in a particular country.

Secondly, efficiency has many dimensions, and markets are suited to address only two such forms – allocative and productive efficiencies.⁷² There are other concepts of efficiency like dynamic efficiency (like inter-generational optimization) that are generally not addressed by competitive market.⁷³ Keynesian economics⁷⁴ was a response to failure of classical model (which asserted that free markets would automatically provide full employment) to explain Great Depression of the

⁷² Allocative efficiency (or Pareto efficiency) is when it is impossible to make one party better off without making another party worse off. Productive efficiency is when the units are produced at the lowest possible average total cost.

⁷³ There are many other concepts of efficiency like information efficiency. See Stiglitz, Joseph E. *Pareto Optimality and Competition*. *The Journal of Finance*, vol. 36, no. 2, May 1981, p. 235.

⁷⁴ *What Is Keynesian Economics? - Back to Basics - Finance and Development*, September 2014. 27 Aug. 2014, www.imf.org/external/pubs/ft/fandd/2014/09/basics.htm.

1930s. Keynes asserted that free markets have no self-balancing mechanisms that lead to full employment and justified government intervention through public policies that aim to achieve full employment and price stability.⁷⁵

Finally, recent research on behavioural economics is based on the understanding that the *Homo Oeconomicus*, the self-centred calculating utility-maximizer of the neo-classical economics, is a myth. Individuals in reality are "constrained by limitations of information, cognitive capacity and self-control and as tending to rely on a series of heuristics and shorthand methods of using information".⁷⁶ These "biases" would often lead individuals to make sub-optimal decisions. While there are a large number of behavioural biases, the main ones involve a lack of processing power,⁷⁷ the importance of framing,⁷⁸ the existence of time inconsistency,⁷⁹ and aversion to losses.⁸⁰ Behavioural economics provide the government with a powerful tool that it can utilise to identify cognitive biases that an individual faces; and thereafter devise policy instruments to correct these biases - a concept called "de-biasing". These policy interventions can be in the form of 'soft' nudges towards optimal choices.^{81,82}

There are, of course, strong theories and hypotheses regarding the merits of deregulation. According to Viscusi, et al.⁸³ there are three stages in the evolution of theory of regulation:

1. Regulation occurs in industries plagued with market failures (public interest theory)
2. The agency that is meant to regulate an industry is "captured" by that industry. The implication is that regulation promotes industry profit rather than social welfare (capture theory)

The economic theory of regulation – which is mostly based on empirical study of public interest theory and capture theory through the lens of political agents and interest groups. A casual survey

⁷⁵ Though the Keynesian model was later criticised for a number of reasons, it found new interests during the global financial crisis of 2007–08.

⁷⁶ Baldwin, R. *From Regulation to Behaviour Change: Giving Nudge the Third Degree*. *The Modern Law Review*, 77(6), pp.831-857, 2014

⁷⁷ The processing power biases include: choice overload (consumers make choice on sets of information); representational biases (consumers use visible value as a good indicator of hidden value); and rules of thumbs (consumers imitate what other consumers do rather than make their own decisions).

⁷⁸ The framing biases include: relative utility (a consumer's utility is affected by reference points such as past actions); default biases (consumers adopt the default option); and placement biases (consumers' choices depend on where goods are placed on a list - for example, a tendency to choose the first).

⁷⁹ The time inconsistency biases include: projection bias (consumers expect that they will feel the same tomorrow as they do today); over optimism (consumers over estimate how much they will use a good, or underestimate how much it will cost them); and hyperbolic discount biases (consumers value today disproportionately greater than tomorrow).

⁸⁰ The loss aversion biases include endowment biases (consumers value something more once they have owned it more than before they own it).

⁸¹ Thaler, Richard H., and Cass R. Sunstein. *Nudge: Improving Decisions about Health, Wealth and Happiness*. 2009.

⁸² Here we depart from the definition provided earlier (footnote 1). Regulation is the sustained and focused attempt to alter the behaviour of others according to defined standards or purposes with the intention of producing a broadly identified outcome or outcomes, which may involve mechanisms of standard-setting, information-gathering and behaviour-modification. Black, J. *Critical Reflections on Regulation*. *Australian Journal of Legal Philosophy*, 27, pp.1-35, 2002

⁸³ Viscusi, W. Kip, et al. *Economics of Regulation and Antitrust, fifth edition*. MIT Press, 2018



of the recent deregulatory movement suggests that the evidence is mixed. In real life, there is simultaneous regulation and (partial or full) deregulation of many industries like railroads, telecommunications, airlines, natural gas and oil.

Thus, the current consensus is to undertake a case-by-case study as there cannot be any ex-ante value judgment with respect to deregulation being economically more efficient.

Annex-II

A.1. Deleted Questions⁸⁴

<p>Box 22. <i>Restrictions on movement of foreign professionals</i></p>
<p>6. According to the legal framework in the economy, are there any additional restrictions on cross border movement of foreign professionals providing services and expertise (such as installation, maintenance, repairs and consulting services) related to the import of [the top 5 most traded/imported goods among the Asia-Pacific Economic Cooperation (APEC) list of environmental goods]? (Y/N; Y – good practice)</p>
<p>Comment: Regulators may be following multiple objectives and certain restrictions may be present for ensuring quality and professionalism. What constitute as “additional restriction” is quite vague.</p>
<p>Box 23. <i>Presupposition regarding good business environment conditions in preferential trade agreements</i></p>
<p>9. Have commitments in the following service subsectors been ratified in any of the preferential trade agreements (PTAs)? (Y/N; Y – good practice)</p> <p>9a. Freight transport services (maritime; road)</p> <p>9b. Logistics services (cargo handling; storage and warehousing; Customs brokers; freight forwarders)</p> <p>9c. Financial services (commercial banking; insurance)</p>
<p>Comment: The B-READY Framework erroneously links market access in services (i.e., ability of foreign firms to provide services) to a good business environment. This is a tenuous link, and in many cases unrelated. There seems to be an attempt to promote a particular perspective on trade policy and bring that to bear on business environment. This needs to be reviewed because trade policy is often context specific to sector and economy in question.</p> <p>Commitments on financial services (banking and insurance) in preferential trade agreements confuses trade commitments with autonomous regime/and assumes that that presence of foreign banks and insurance firms will always lead to lower transaction costs. It presumes outcome from a trade policy action, which is dependent on multiple factors, rather than consider the outcome itself, i.e., the relative cost of availing such services, which would have been a much more objective criterion. For e.g., asking what the incidence of banking or insurance charges as percent of total international trade transactions in goods or services is.</p>

⁸⁴ Source: B-READY Methodology Handbook, May 2023 (older version)

Box 24. Regulatory Impact Analysis (RIA)
<p>4. Is Regulatory Impact Analysis a mandatory tool used to approve laws and regulations on international trade? (Y/N; Y – good practice)</p> <p>4a. Trade in goods</p>
<p>Comment:</p> <p>The determination of a valid Regulatory Impact Analysis (RIA) can be uncertain and may potentially be a subject of debate.⁸⁵ For instance, one economy may choose to conduct a Randomised Control Trial (RCT) to assess the efficacy of a particular policy measure, while another economy may decide to engage in a session with key experts or industry representatives to understand the regulatory impact of the policy behind closed doors. Without delving into the superiority of either approach, it is apparent that they are not equivalent. As such, it is recommended that WBG provide guidelines or a definition of what constitutes a valid RIA, or perhaps establish a differentiated scoring system to accommodate the discrepancies among various RIAs.</p>

Box 25. Digitally ordered goods
<p>69. Total time when exporting digitally ordered goods: What was the average amount of time from the moment when the goods were ready to be picked up by the postal or courier service until they were delivered?</p> <p>70. Total cost when exporting digitally ordered goods: As a share of the total value of the exported goods shipped by mail parcel or courier service, what was the average cost to comply with the requirements of border control agencies, logistics, and handling?</p> <p>Note: please exclude any domestic or international taxes. Please use the incoterm DAP (Delivered at place).</p>
<p>Comment:</p> <p>One of the key challenges pertaining to this question is the understanding of the point where the responsibility and liability of goods transfer from seller to buyer (in terms of cost). Q 69 does not implicitly mention the start and the end destination, rather it simply states, “until they were delivered”. Even though Q. 69 is not scored it is important that the question not be open-ended.</p> <p>We note that Q70 clarifies that the question must be answered using the incoterm DAP (Delivered at place). It is still uncertain how can these additional costs be calculated under the purview of the economy being assessed. Since, border control agencies, logistics, and handling at DAP would fall under the purview of a different economy (export destination), it is not clear how the average cost of exporting digitally ordered goods is to be determined.</p>

⁸⁵ It is noted that the glossary (Annex B) of the B-READY Methodology Handbook (pg. 396) also does not provide a definition of RIA

A.2. Modified Questions

- In the following questions, *N* is no longer a 'good practice' in the revised version of the B-READY Methodology Handbook.

Box 26. Statutory certification and training requirements
<p>10. According to the legal framework, are there any statutory certification and training requirements for operators in the following service subsectors? (Y/N; Y – good practice)</p> <p>10a. Maritime freight</p> <p>10b. Road freight</p> <p>10c. Air freight</p> <p>10d. Cargo handling</p> <p>10e. Storage and warehousing</p> <p style="text-align: right;">Source: B-READY Methodology Handbook, pg. 410</p>
<p>Comment:</p> <p>Statutory certification and training requirements may be essential for ensuring quality of service.</p>

Box 27. Regulations on mandatory rest
<p>12. According to the legal framework, are there any statutory requirements on the maximum number of working hours before mandatory rest in the following service subsectors? (Y/N; Y – good practice)</p> <p>12a. Maritime freight</p> <p>12b. Road freight</p> <p>12c. Air freight</p> <p>12d. Cargo handling</p> <p>12e. Storage and warehousing</p> <p style="text-align: right;">Source: B-READY Methodology Handbook, pg. 411</p>
<p>Comment:</p> <p>Mandatory requirements for rest after certain number of working hours are important. It is unclear why would WBG consider such provision to be contrary to good practices.</p>

- The criterion for calculating the threshold of *de minimis* value in local currency has been deleted in the revised version of the questionnaire.

Box 28. Scoring formula designed to favour high income countries
<p>1.1.1.3. De minimis value</p> <p>7. What is de minimis value threshold in local currency (local currency units, LCU)?</p>

	FFP = firm flexibility point	SBP = social benefit point;	Total Point
1.1.1.3 De minimis value			
De minimis value (7a) <i>A linear function capped at 133 SDR =1 will be applied: $xSDR= 0.0075x$. (Global express association 133 SDR+ = 1 point)</i>	1	1	2
Total Point	1	1	2

SDR = Special Drawing Right

Source: B-READY Methodology Handbook, May 2023 (older version)

Comment:

In light of the potential discrepancies in the de minimis value across different economies, it is imperative that adjustments be made to account for purchasing power parity. Failure to do so could result in an unequal distribution of benefits, with developed countries likely to reap the most advantageous outcomes from such a formula.

3. *The component 'Rules of Origin' has been deleted in the revised version.*

Box 29. Imposition of Non-Technical Non-Tariff Measures may be justified
28-29. Imposition of Non-Technical Non-Tariff Measures (Y/N; N-good practice) Source: B-READY Methodology Handbook, May 2023 (older version)
Comment: <i>Rules of Origin:</i> Imposition of Rules of Origin requirements may be essential to operationalise free trade agreements; WBG should reconsider this being negative.

Annex-III

Difference in the price of carbon credit across countries

To further support our argument, let us consider an example. Say, the average price of carbon credit in EU is around 100 Euro per metric ton of CO₂. Assume that the price in a developing country is around 60 Euro per metric ton. This means even if the developing country exporter has fully mitigated for the quantum emission, but has simply paid a lower price as defined in the exporters domestic market, the exporter would still be charged Euro 40 per metric ton of embedded emission for his export. If the genuine focus of the BCA was mitigation, it would have not charged this differential, but in the current design of BCAs, this difference would be charged. This is because the main objective of the BCA is to protect domestic industries from foreign competition. One argument can be that such protection is required to ensure domestic industries do not suffer from adverse effects of competition during their transition to more sustainable modes of production, and this requires the high-cost developed economy to insist on price parity when calculating carbon adjustment. But even after accepting that argument, it remains clear that price parity is essentially unfair to developing countries where the price of offsetting carbon, and therefore its mitigation price would be lower. Given that there are several other pathways to a just transition to sustainable production, BCAs cannot be treated as a net ‘positive’ contribution to sustainable development policies. Further, the revenue collected is used in the developed economy. Had the revenue been passed on to the developing exporting country, it could have used that to import technology and resources that help its own sustainable transition. But that is not what is being conceived. BCAs are therefore patently unfair in many ways and violate the spirit of Sustainable Development Goals (SDGs).

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