Submission to the World Bank Consultation for the Business Enabling Environment (BEE) Project

<u>**Consultation questions**</u>

- **Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?**

In September 2021, the World Bank announced that it would discontinue the publication of the *Doing Business* Report and Ranking (DBR), following a series of <u>internal audits</u> and an investigation that revealed serious ethical improprieties, <u>conflicts of interest</u> inherent in the Bank's Advisory Services, and data manipulation in the development of the *Doing Business*.

Civil society organizations pointed to the fact that these revelations were just the <u>tip of the iceberg</u> of much wider issues, including the weak independence and integrity of the Bank's research and the widespread conflict of interest in its policy advice. They demanded that the DBR's discontinuation be followed by a deep rethinking of the World Bank's governance, processes and ideologies, and stated that the creation of a *Doing Business* 2.0 should be avoided.

Yet, on the grounds of the information provided in the pre-concept note, the BEE project proposes a rebranding exercise of the *Doing Business* Report, albeit with some methodological innovations that do not address its structural problems. In particular, the Project remains based on the same flawed understanding of the role of the private sector in development and now includes a problematic cooptation of public services language. Worryingly, none of the changes included in the BEE Project seems to address the root problems in the World Bank's engagement in private sector advice that emerged from the investigations published in September 2021.

As with the *Doing Business*, the BEE replicates a model of business and private sector development that promotes an increase in corporate power and concentration,[1] the accumulation of obscene amounts of wealth[2], proliferation of tax dodging and tax havens,[3] and the deepening of an unequal global division of labor through environmentally unsustainable global value chains.[4]

The pre-concept note's narrow conceptualization of 'private sector development' fails to question what the role of the private sector should be in addressing the climate and the inequality challenges and in supporting the Covid-19 recovery, nor does it investigate what type of businesses and business models are needed to achieve these objectives. The concept note excludes the strategic importance of private sector development in supporting economic transformation, a key pillar of the 'development' paradigm and thus of crucial relevance to the World Bank's mandate. While questions of economic sustainability and growth are certainly important, the concept note does not link these to a broader human rights framework. It therefore fails to consider states' international human rights obligations and their role in regulating and strategically guiding private sector development to deliver public goods much beyond economic growth.

With its new focus on Public Services - framed by the BEE concept note as key for functioning markets - the World Bank once again risks promoting an unhealthy competition between countries. This can

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[1] IMF (2021) Rising Corporate Market Power : Emerging Policy Issues. https://www.imf.org/en/Publications/Staff-Discussion-Notes/Issues/2021/03/10/Rising-Corporate-Market-Power-Emerging-Policy-Issues-48619
[2] World Inequality Report (2018) https://wid.world/document/world-inequality-report-2018-english/
[3]https://www.taxjustice.net/wp-content/uploads/2020/11/The_State_of_Tax_Justice_2020_ENGLISH.pdf
[4] Eight supply chains account for more than 50% of global emissions. World Economic Forum (2021) http://www3.weforum.org/docs/WEF_Net_Zero_Challenge_The_Supply_Chain_Opportunity_2021.pdf

lead to skewed public priorities and to an increased focus on developing certain types of public services, which may be beneficial for private companies but are not necessarily the most urgent for the people. For instance, increasing 'efficiency' to obtain environmental permits as promoted by the BEE might be a priority for foreign and domestic private businesses, but increasing public investments in and the efficiency of public hospitals or schools for instance could be a more important priority for large segments of the population. A BEE ranking would likely fall into the trap of pitting private and public interests against each other.

The World Bank should review its understanding of the historical relationship between the public and the private sector and how together they create and distribute economic value in the economy, prior to embarking on any new project aimed at supporting low and middle-income countries in their private sector development.

Finally, the BEE concept note contains vague language on how the data will be displayed and whether this will involve use of aggregate scores and ranking. This is worrying, given that the country ranking was one of the most harmful aspects of the *Doing Business* project. Far from favoring a deeper understanding of country contexts and promoting international collaboration, the *Doing Business* ranking incentivized harmful competition and a race to the bottom in deregulation, interfering with politics and policies at national and international level and undermining economic and political sovereignty (as in the case of Chile). This has been made evident by the repeated political scandals emerged over the years, culminating in the investigation by the law firm WilmerHale in 2021, which revealed that the DBR had been manipulated to change the rankings of five countries and to accommodate vested interests, under undue pressure from World Bank top leadership.

- **Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?**

The BEE conceptual framework has several gaps and shortcomings. These reflect the limitations noted above and the fact that the tool itself is not fit for purpose to contribute to the World Bank's twin goals of ending poverty and sharing prosperity.

In the first instance, the document is unclear on its approach to foreign direct investment (FDIs). Evidence suggests that competition to attract FDIs can have several detrimental economic and social impacts and that policy scoring exercises such as the DBR and the BEE only incentivize this type of competition and result in a race to the bottom in deregulation as well as tax evasion and avoidance. The BEE concept note fails to address this contradiction from both a conceptual and a methodological point of view. For example, this type of exercise does not account for important context specific cases such as special economic zones, which tend to erode state control over its own territory and have very limited positive spillover effects to the local economy. Similarly, the Project ignores the asymmetries in power and regulation that exist between multinational corporations and country governments. For example, it is silent on the issue of international dispute settlement mechanisms, which often undermine state sovereignty and create debt burdens which limits public capacity to meet international human rights obligations, Paris Agreement commitments and support a just Covid-19 recovery.

Even more critically, the *BEE* ignores or downplays key policy areas such as workers' rights; gender equality; tax evasion, avoidance and illicit financial flows; environmental and climate change related safeguards; and the respect of human economic and social rights. In other words, it ignores countries' legal obligations to deliver on human rights conventions and commitments to the SDGs and the Paris Agreement, along with the required alignment with economic laws and customs, both *de jure* and *de facto*.

Like the Doing Business, the BEE Project is yet another problematic distraction to the type of knowledge building global institutions interested in equitable private sector development could be focusing on. This could for instance include qualitative research on legal and regulatory frameworks to provide an enabling environment for sustainable and inclusive businesses such as producers, employers or consumers cooperatives, B-Corps or other types of social enterprises[5], including helping them to access financial and technical support and addressing the specific challenges they face. While the concept note rightly highlights the importance of transparency of beneficial ownership information, its approach to issues of ownership is extremely superficial, as it does not engage with the impact of ownership arrangements more generally. This is a striking omission given the importance that different ownership structures have on the incentives and behavior of firms. The BEE project also fails to consider the state's role in incentivising stakeholder business models, that is businesses that create long-term value not only for shareholders but also for customers, suppliers, employees, local communities, and others. It also fails to address the urgent need for legal, regulatory, policy and institutional reforms to mainstream sustainability and corporate accountability across all businesses. Overall, the BEE Project will not do anything to challenge the dominant shareholder-first model which has led to a 'crisis of greed' in corporate behavior[6].

The World Bank should shift from attempting to benefit the business environment for its own sake to tackling, for instance, the issue of financialization, which is one of the major drivers of global inequalities and which also hampers the business environment by trapping capital in speculation rather than expanding access to credit for firms and benefiting the real economy. The World Bank should instead focus on promoting sustainable and inclusive business models that favor innovation, are redistributive and regenerative by design and whose purpose goes beyond profit[7]. Such an approach to business and private sector development is essential for achieving the SDGs and the Paris Agreement commitments. It should be the task of the World Bank to understand the kind of policies and government regulation needed to promote and nurture this type of business, and not to promote a top-down one-size-fits-all approach to be taken up across the world, irrespective of the diversity of country contexts.

- **Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?**

Despite a more nuanced approach to regulations, the BEE Project retains a very narrow understanding of the role of the state in private sector development. In particular, it fails to recognize the role that the state can and should play in strategically managing and regulating private sector development in order to support a green and inclusive industrial policy for domestic economic diversification, decent work creation and technological innovation facilitation. For example, it fails to consider the multiple instruments that exist to achieve a better integration of the public and the private sector, such as the use of public banks to provide strategic support to domestic businesses and create public value.

It continues to conceptualize regulations and state provision of public services such as physical infrastructure and health and education as merely functional to the expansion of the private sector,

[5] https://wfto.com/sites/default/files/Business_Models_Report.pdf

[6] https://www.ifc.org/wps/wcm/connect/news_ext_content/ifc_external_corporate_site/news+and+events/news/insights/making-the-case-for-net-positive-companies

[7] https://wellbeingeconomy.org/people-and-planet-before-profit-a-framework-to-compare-the-big-ideas

rather than a generator of public value in themselves. On the other side, there is the risk that the BEE will integrate in its framework as ‘public services’ the use of public resources for the facilitation of private profit. In particular, this risks being the case with concepts such as the de-risking’ state, when risks are socialized and profits privatized through a process in which the public sector provides guarantees and assumes substantial risks in order to make investments more appealing - and profitable - for private investors. The creation of Special Economic Zones and use of public private partnerships are but two examples of mechanisms through which the state cedes control to private sector actors in a context of important power imbalances.

- **Does the BEE project get the balance right between de jure and de facto indicators?**

- **Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

- **Do you have any other general feedback?**

Bretton Woods Project, Christian Aid, Eurodad, Society for International Development, Third World Network and Urgewald express grave concern on the relaunching of the World Bank’s *Doing Business* Report as the Business Enabling Environment Project. The Doing Business Report was ended in 2021 for blatant data manipulation and after years of promoting well-documented damaging policies with severe repercussions to the environment and workers around the world. Doing Business-inspired policy reforms have undermined the Bank’s goals of shared prosperity and poverty elimination, as well as the Sustainable Development Goals.

It is therefore unacceptable for the World Bank to be pursuing a rebranding of the *Doing Business* as the Business Enabling Environment report without changing its main flawed assumption: that what is good for the international private sector is automatically good for national economic and social development and people.

As currently designed, the BEE will do nothing to address the challenges that developing countries are facing and going to face in the future, such as the energy transition and the creation of green and decent jobs, nor support the World Bank’s ability to achieve its twin goals of ending poverty and sharing prosperity in the case of the Covid-19 and other crisis.

The World Bank should abandon the BEE project. Instead, we suggest the three following steps:

1) Before embarking into any new project, it should review and assess the impact on poverty, inequality and human rights of the implementation of 17 years of DBR-inspired policy reforms, especially in countries that have seen fast and large improvements in their scores. Such a review should be based on reparative justice, being led by a diverse committee of domestic and international participants and include the voices of affected communities, from entrepreneurs to the urban poor. This exercise should be accompanied by an investigation of what were the key national and global policy components in the countries where private sector development has been successful on the basis of equitable economic growth, decent work creation and social development and how past DBR policies worked toward or against these cases.

2) The World Bank should undertake a deep exercise of rethinking its understanding of the role of the private sector in development in light of the Covid-19 recovery, and the inequality and climate crises. Such an exercise should aim at setting out a new private sector strategy for the

Bank, and ask questions such as:

- What type of a private sector is needed to achieve the SDGs, enable the improvement of states' ability to meet their human rights obligations and the World Bank's twin goals of eradicating poverty and sharing prosperity?
- What is the role of the state in this process?
- What types of businesses are needed? How can the World Bank promote a private sector made of sustainable and inclusive business models that favor innovation, are redistributive and regenerative by design and whose purpose goes beyond profit?
- What does a supporting ecosystem for sustainable and inclusive businesses in low and middle income countries look like? What type of regulations, policies, public services and relationship with the state are required?
- When is international trade and inclusion in global value chains beneficial to these processes and when is it harmful and should be limited and regulated?

3) The World Bank should address its deep structural problems and implement the following measures proposed by 130 CSOs in a statement in September 2021:
   - **End the gentleman's agreement in the leadership selection process, reform the quota system** to give more power to countries from the global south, as well as to economic ideas and policy tools from the global south in an effort to decolonize the World Bank Group's knowledge systems and decision-making. **The use of policy conditionality** and other forms of undue influence on the policy space of developing countries must also come to a termination.
   - **Overcome the ideological bias in favor of neoliberal policies starting with abandoning a 'private-first' agenda** and adopting a definition of 'enabling business environment' that aims at economic diversification and resilience and properly values people and the planet. Operations must also be fully aligned with the Sustainable Development Goals and international standards on human rights, labor and the environment.
   - **Review the integrity and independence of the World Bank's research and technical assistance**, and implement reforms that increase its internal and external scrutiny, avoid conflict of interest, ensure exposure to critical analysis, and enable greater transparency and citizen oversight.
   - **Adopt a 'do no harm approach'** to its policy advice and lending operations, through **systematic Human Rights Impact Assessments**. The Bank must also engage in a more proactive way with the human rights framework.