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**« INVESTING ACROSS BORDERS »
INDICATEURS DE RÉGLEMENTATION EN MATIÈRE D'INVESTISSEMENTS DIRECTS
À L'ÉTRANGER**

(disponible en anglais uniquement)

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**INVESTING ACROSS BORDERS
INDICATORS OF FOREIGN DIRECT INVESTMENT REGULATION**

*Document d'information No 10 de novembre 2012
à l'attention de la Commission spéciale de novembre 2012
sur le fonctionnement pratique de la Convention Apostille*

*Information Document No 10 of November 2012
for the attention of the Special Commission of November 2012
on the practical operation of the Apostille Convention*

Permanent Bureau | *Bureau Permanent*
6, Scheveningseweg 2517 KT The Hague | *La Haye* The Netherlands | *Pays-Bas*
telephone | *téléphone* +31 (70) 363 3303 fax | *télécopieur* +31 (70) 360 4867
e-mail | *courriel* secretariat@hcch.net website | *site internet* <http://www.hcch.net>

Investing Across Borders

Indicators of foreign direct investment regulation

The Hague Apostille Convention of 1961
Special Commission meeting
The Hague, Netherlands
November 06, 2012

Introduction

Overview	Objectives
<p>Investing Across Borders (IAB) is a World Bank Group initiative presenting indicators on countries' laws, regulations, and practices affecting how foreign companies:</p> <ul style="list-style-type: none">■ Invest across sectors■ Start foreign investments■ Arbitrate commercial disputes■ Convert and repatriate currency■ Employ skilled expatriates	<ul style="list-style-type: none">■ Respond to information requests for benchmarks on FDI regulations by governments, private sector, development partners and academics.■ Facilitate policy dialogue by identifying good practices and sharing of reform experiences■ Stimulate reforms■ Inform reform advisory work, research and analysis

IAB in numbers

- First IAB report published in 2010, covering **87** countries and **4** topics.
- Over **2,350** contributors in 2010 and more expected in 2012.
- Around **20,000** separate datapoints available on our website for 2010 data, and more expected in 2012 with expanded indicators and country coverage.
- The website has been viewed by over **20,000** users and the report and datasets downloaded over **6,000** times.
- IAB was presented at multiple international events and conferences, reaching over **3,500** experts.
- After the launch in 2010, more than **400** media articles reported on IAB in the majority of the countries covered by the report.

Country coverage of IAB 2012 : 105 countries across 7 regions

IAB 2010 - 87 countries across 7 regions

new 2012 economies

Latin America and the Caribbean (LAC – 14 economies): Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Ecuador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Peru, Venezuela R.B.

LAC: Dominican Republic

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

SSA: Burundi, Chad, Democratic Rep. of Congo.

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

EAP: Brunei Darussalam, Hong Kong and Taiwan, China.

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

ECA: Cyprus

Middle East and North Africa (MNA – 5 economies): Egypt Arab Rep., Morocco, Saudi Arabia, Tunisia, Yemen Rep.

MNA: Algeria, Iraq, Jordan, Syria

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

SAR: Nepal

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

High-income OECD: Australia, Germany, Italy, Netherlands, New Zealand

Topics of IAB 2012

Investing across sectors	Starting a foreign investment	Hiring skilled expatriates	Converting and transferring currency	Arbitrating and mediating disputes
<p>Foreign equity ownership restrictions in:</p> <p>Primary sectors:</p> <ul style="list-style-type: none"> -Mining, oil and gas -Agriculture and forestry <p>Manufacturing:</p> <ul style="list-style-type: none"> -Electronics manufacturing -Food processing -Manufacturing of basic chemicals <p>Services:</p> <ul style="list-style-type: none"> -Telecommunications: fixed-line and mobile infrastructure and service provision -Banking -Insurance -Accounting / auditing -Transportation: rail, road (truck), air, water (internal waterways), port operation -Electricity: generation (including renewable), transmission and distribution -Water distribution -Waste management and recycling -Courier services -Hotels / Accommodation -Media: newspaper publishing and TV broadcasting -Higher education 	<p>Rules and process of starting a foreign business</p> <p>Land-related legal rights and information access</p> <p>Rules for Special Economic Zones (pilot/research section)</p>	<p>Rules and process of employing skilled expatriates</p> <p>Process of appealing a rejected application for a work permit</p> <p>Rules and process for obtaining a spousal work permit</p> <p>Restrictions on the membership of the Board of Directors</p>	<p>Controls on FDI-related capital flows</p> <p>Restrictions on making payments in foreign exchange</p> <p>Process of obtaining and servicing a foreign loan and repatriating dividends</p> <p>Restrictions on holding foreign currency bank accounts</p>	<p>Strength of arbitration and mediation laws</p> <p>Strength of arbitration and mediation institutions</p> <p>Extent of judicial assistance</p> <p>Ease of arbitration process</p> <p>Ease of enforcement process</p>

Methodology

- IAB presents indicators of laws and regulations (**de jure indicators**) and their implementation (**de facto indicators**):
 - They are not indicators of company or investor perceptions.
 - More than 200 individual data points are presented for each country.
- Limited focus on **5 thematic areas of FDI policy***
- Data is based on a hypothetical **case study assumptions** tailored for each of topic in order to ensure comparability of responses across countries.
- Surveys developed in consultation with **Expert Consultative Groups (ECGs)**, whose 50+ members include specialists from UNCTAD, OECD, UNCITRAL, leading universities, etc. (see next slide)
- IAB data based on a survey of over 3,500 expert respondents in the 105 economies covered.
 - Respondents include primarily investment promotion institutions, lawyers, accounting and consulting firms, chambers of commerce, and law professors.
- IAB does **not rank** countries, but benchmarks them against a regional average score.
- IAB indicators feature a set of substantive and methodological limitations, in addition to some limitations related to the interpretation of the data. For a comprehensive list of the project's limitations, including topic-specific ones, please visit our website: www.investingacrossborders.org

* Some aspects of the business environment that matter to investors (such as security, macroeconomic stability, market size, corruption) are not measured by the indicators.

Starting a foreign investment: Overview

The Starting a foreign investment indicators comprise:

■ Section 1: Starting a foreign business

- Procedures (number) and time (days) required to establish a wholly foreign-owned subsidiary
- Ease of establishment index: Evaluates the characteristics of the regulatory regimes for business start-up

■ Section 2: Accessing industrial land

Measures several aspects of land administration regimes important to foreign companies

■ Pilot section: Special Economic Zones (SEZ):

Measures the existence of a legal framework for SEZs

IAB findings related to the 1961 Hague Apostille Convention

- Out of the 105 countries surveyed by IAB, only 52 are party to the 1961 Hague Apostille Convention
- Only 12 of them have adopted one of the components of the electronic Apostille Pilot Program
- IAB findings show that majority of the countries covered by IAB require some sort of authentication of parent company documents in the country of origin
- Those countries that are not party to the convention impose a burdensome and lengthy process for the recognition of foreign public documentation in their territory
- The process consists of a multi-step authentication before various authorities (from civil registry to Ministry of justice, to ministry of foreign affairs and then to the relevant consulate at the state of production, etc.)

IAB findings related to the 1961 Hague Apostille Convention: Examples and implications

- Example of Saudi Arabia where a foreign company needs to go through a lengthy and burdensome process for authentication
- Further complications in case of no diplomatic representation in the country of origin
- The main concern faced by foreign investors is the uncertainty surrounding the time needed to complete the authentication/regularization process

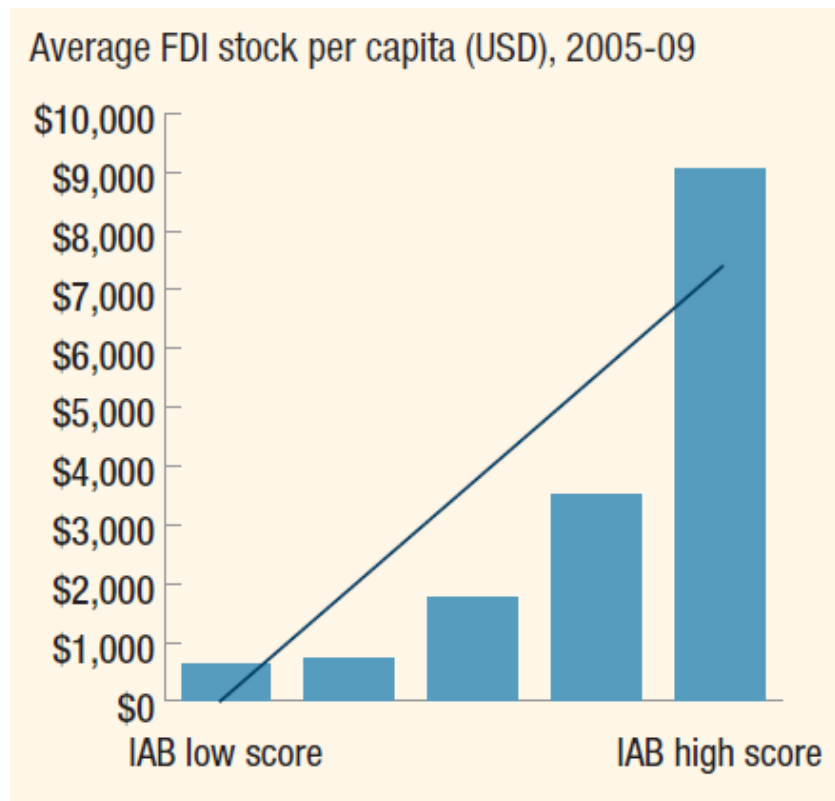
IAB findings related to the 1961 Hague Apostille Convention: Conclusions and recommendations

- IAB indicators are designed to identify **good practices** that offer governments **specific tools for improving** their investment climates

- Foreign investors are looking for:
 - Streamlined and predictable establishment process
 - Fast and uncostly process
 - Simple and transparent regulatory requirements
 - Equal treatment of foreign and domestic investors
 - Convenience and efficiency of access to online services

- In the scope of promoting a healthy investment climate, one of the short-term recommendations provided to governments is to:
 - Reduce the time and procedures needed to establish a foreign-owned company by ratifying the Hague 1961 Apostille Convention
 - Facilitate the process further by implementing the two components of the electronic e-Apostille program (e-register and e-app)

Good FDI regulations and efficient processes help attract and retain FDI



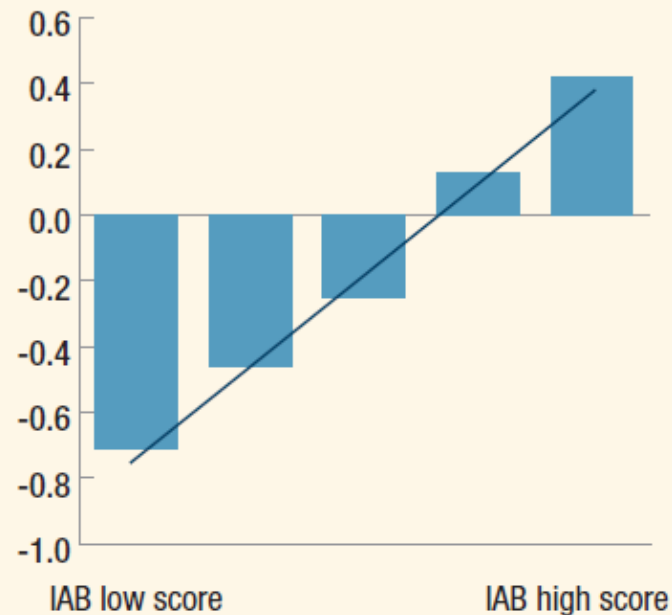
Countries that perform well on the IAB indicators:

- Tend to attract more FDI (such as Ireland, Singapore, the United Kingdom, or the United States.)*
- Tend to have smaller populations and markets.

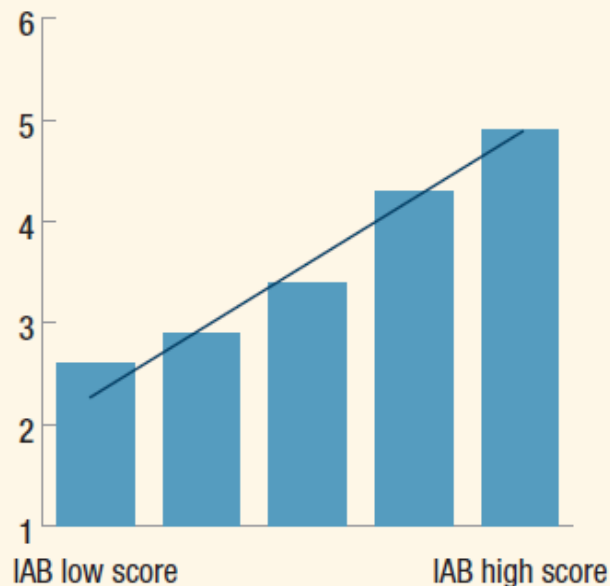
* This correlation does not imply existence or direction of a causal relationship. Many other variables such as market size, political stability, infrastructure quality, or level of economic development are likely to better explain the relationship.

Good FDI regulations and efficient processes create an enabling business environment

Avg World Governance Indicators Normalized Score, 2008
(-2.5 = weak, 2.5 = strong)



Transparency International Corruption Perceptions Index, 2009
(1 = most corrupt, 10 = least corrupt)



- Countries which perform well on the IAB indicators also score well on measures of good governance, institutional quality, political risk, and corruption.



Thank you

Tania Ghossein
tghossein@ifc.org
www.investingacrossborders.org