



Starting a Business

Legal Framework

1. Agriculture and Rural Development priorities are clearly understood and reflected in the national legal framework including commercial, transportation, and energy sectors.
- A. All relevant aspects of Legal framework reflects realities of agricultural production and rural investments.
- B. Legal framework is not skewed towards non-ag industries and urban investment realities.
2. The laws pertaining to agriculture (land, water, food safety, import/export, food processing) are readily available, clearly drafted, and easy to use.
- A. Print copies of law pertaining to agriculture are readily available to members of the legal profession, the business community and the general public, including the rural sector.
- B. All laws and regulations specifically pertaining to trade in agricultural products are readily accessible to stakeholders.
- C. Law is published in all official languages of the country and an effort is made to give access to illiterate citizens.
- D. Law pertaining to all aspects of agriculture related activities is available on a regularly updated Internet site.
- E. Laws pertaining to foreign involvement in agriculture sector do not discriminate against its citizens, e.g., women or social castes, and foreigners.
3. The legal framework clearly defines the jurisdiction and responsibilities of administrative agencies charged with regulating agricultural activities.
- A. The legal framework provides a clear mandate for each body's jurisdiction including regulation of agricultural prices and subsidies, the types of services offered, and the nature of complaints brought before those bodies.
- B. The legal framework removes any ambiguities or perceived overlapping jurisdictions for different types of disputes such as land registry, taxation, etc.
- C. The legal framework defines relevant procedures or mandates development of relevant procedures for government support of agriculture related entities.
- D. The rights of appeal from administrative and regulatory bodies to the regular courts are clearly explained.
- E. The law allows for administrative and regulatory disputes to be resolved through alternative dispute resolution.
4. The legal framework fosters an efficient market for agricultural inputs.
- A. Laws regulating the sale and distribution of seeds allow for competitive sourcing, certification of quality, and minimal import tariffs.
- B. Laws regulating the sale and distribution of pesticides and herbicides allow for competitive sourcing, certification of quality, and minimal import tariffs.
- C. Laws regulating the sale and distribution of fertilizer allow for competitive sourcing, certification of quality and minimal import tariffs.
- D. The legal framework clearly defines the jurisdiction and responsibilities of the various agricultural input regulatory agencies, which removes any ambiguities or perceived overlapping authorities.
- E. Laws regulate the domestic development of bio-fuels and reasonably priced energy for agricultural and rural-sector production.

Score

5. The laws governing the application of animal and plant quarantine measures provide a clear and reasonable set of rules for the agricultural community to follow, while fully meeting the demands of domestic and overseas customers and consumers for safety in the food products they consume.

- A. The country's legal framework addresses the eradication, control and prevention of disease among livestock and crops.
- B. The law permits government inspectors to investigate possible disease outbreaks through sampling or searching of suspected infection area.
- C. The law permits, for the purposes of diagnosing, treating or controlling disease that inspectors treat, move, retain or destroy an animal or plant that is suspected of having infectious disease or infestation.
- D. The law allows for veterinary authorities to declare affected areas as restricted for the purpose of eradicating and/or limiting spread of disease/infestation.
- E. The law stipulates that where quarantine action is necessary, a copy of the order is made public as soon as possible.

6. Laws regulating the sale and distribution of agricultural land generally support the notion that land is available to those who seek it.

- A. Access to land is not limited by considerations of gender.
- B. Access to land is not limited by considerations of national origin.
- C. Access to land is not limited by considerations of tribal or ethnic origin.
- D. Access to land is allowed to foreign investors within clearly outlined and transparent parameters.

7. The legal framework for forming agricultural cooperatives and protecting members' rights is sound and supportive of economic growth.

- A. Laws governing procedures for registration and de-registration of cooperatives are published, non-discretionary, non-discriminatory and easy to understand.
- B. Laws governing cooperatives provide appropriate flexibility for members to establish or amend by-laws and charters as needed.
- C. Cooperative law permits cooperatives to adopt general purposes rather than requiring explicit statements of each economic activity to be pursued.
- D. Minimum capital requirements for establishing a cooperative are reasonable and do not discourage legitimate collective entrepreneurial activity.
- E. The law establishes and permits expansion of super-majority voting requirements for fundamental changes or transactions.
- F. By law, cooperative members have the right to:
- G. a. participate in members' meetings, in person or by proxy;
- H. b. propose resolutions for voting;
- I. c. vote in person or by proxy;
- J. d. nominate and vote for directors, using cumulative voting;
- K. e. participate in profits in the form of dividends or member discounts;
- L. f. assert claims upon liquidation of the cooperative;
- M. g. bring suit on behalf of the cooperative if the cooperative management misuses cooperative funds or acts in a manner inconsistent with the by-laws; and
- N. h. inspect the cooperative's general ledger and other records, as well as the member registry of the cooperative upon reasonable notice.

8. The company law is readily available, clearly drafted, and easy to use.

- A. Copies of the law are freely available to the public and are normally found in practitioners' offices (lawyers, accountants, etc.).
- B. The law (or laws if there are separate laws or regulations on specific aspects such as registration) cover all subjects that a modern company law should include.

Score

- C. It is user-friendly -- clearly drafted, well organized by subject, with a table of contents at the front, and with article headings.
- D. It is published in all official languages of the country and there is a good English translation.
- E. It is current and is regularly updated by practical-minded experts.

9. The law provides for company types which are practical for all kinds of businesses – small, family, closely held (large or small), single-owner, and widely held.

- A. The law provides separately for:
 - B. i. general partnerships,
 - C. ii. closely held companies with limited liability (these might be LLCs (limited liability companies), limited partnerships and/or private joint stock companies), and
 - D. iii. joint stock companies which may be widely held and/or publicly traded.
- E. The law's rules for closely held companies are practical for such businesses – they are simpler and more flexible than for widely held companies and are not cluttered with needless formalities.
- F. For closely held companies there are “default” rules which the members can vary by their consent and agreement – for example, rules for weighting votes, restricting share transfers to third parties, having a formal board of directors, etc.
- G. On the other hand, the rules for widely held companies include the full range of formalities and investor-protective provisions which are found in other countries.
- H. Minimum capital is not required or, if it is, it is low enough not to discourage business formation.
- I. The company law provides for foreign investment and is clear and transparent in this regard.

10. The company law or accompanying regulations clearly define the role and responsibilities of the institution charged with registering companies.

- A. There is a single governmental body (herein the “company registry”) which has clear and comprehensive authority for implementing the company law.
- B. The company registry's authority includes all aspects of company registration, including registration for initial company formation and registration of later company acts such as charter amendment, designation or change of agent for service of process, merger, dissolution, deregistration, name change, designation of trade or assumed name, and, where mandated, capital increase or decrease.
- C. Its authority also includes maintaining publicly available data regarding registered companies, including their names and any assumed names or registered logos; addresses for service of process; copies of charter documents including amendments; form (partnership, LLC, joint stock company, etc.); names of directors or managers; capital (if the law requires capital); lines of business; shareholders or members; dissolutions or deregistrations; and information regarding ownership such as number of shareholders, extent of state ownership, domestic vs. foreign ownership, and data in companies linked in common ownership.
- D. If it has regulatory powers (issuing orders, imposing monetary penalties, attending board meetings, etc.), those powers are limited and are not arbitrarily exercised or abused.

11. The legal framework clearly defines the role and responsibilities of the institution(s) charged with promoting, registering and regulating foreign investment.

- A. Investment law clearly defines the institution(s) responsible for implementation of laws relating to investment, including foreign investment.
- B. Investment law clearly defines the roles, responsibilities and operational procedures of each relevant implementing institution.
- C. The law provides for the maintenance of publicly available data regarding registered investments.
- D. Where investment-related agencies hold regulatory powers (issuing orders, imposing monetary penalties, etc.), those powers are limited and are not arbitrarily exercised or abused.
- E. The structure, mission and form of the investment promotion agency is informed by and benchmarked against international best practices.

12. The registration process for foreign investors is simple, quick, and inexpensive.

Score

- A. The law enumerates all steps which are necessary to create a foreign investment.
- B. The steps for foreign investment are simple and objective and are not subject to "interpretation" or "discretion" except for ministerial review and checking. No newspaper publication is necessary.
- C. Those steps are few in number, they may be taken concurrently, and the law mandates that the entire process takes at most a few days.
- D. The law lists the required contents of a foreign investor's organic documents (such as charter, articles of association, etc.), and those contents are simple and objective.
- E. The process of setting up an investment can be completed without a lawyer, notary, "facilitator", or other paid third party.
- F. Rules for later investor acts (such as change of agent for service of process, merger, dissolution, deregistration, name change, designation of trade or assumed name, etc.) are also simple and few in number.
- G. If the law specifies or authorizes fees upon the launch of an investment, those are not so high as to discourage new investments.
- H. In general, the registration rules encourage – or at least do not discourage – foreign investment.

13. The competition law provides the competition agency with reasonable and effective investigative powers.

- A. The competition agency has the power to compel the submission of documents.
- B. The competition agency has the power to compel oral testimony.
- C. Procedures for compelling compliance with investigative requests for information and oral testimony are speedy and effective.
- D. The competition law provides for investigations to be opened upon a complaint or the competition agency's initiative.
- E. The competition agency has the authority to conduct "dawn raids" with appropriate due process protections.
- F. The competition agency has the authority to offer leniency to conspirator(s) in order to obtain information or evidence.

14. The law pertaining to competition is readily available, clearly drafted, and easy to use.

- A. Print copies of the laws, including not only anti-monopoly legislation but also laws and regulations pertaining to consumer protection and competition within specific sectors, are readily available to all stakeholders.
- B. The competition law is published in all official languages of the country.
- C. The universe of competition law is available on a regularly updated Internet site.
- D. All regulations of the competition agency and any other implementing institutions are readily accessible to the legal community.

Implementing Institutions

1. The ministries responsible for agriculture, rural development, water management, livestock and other issues of direct relevance to the agricultural sector ably support the need for targeted and efficient use of public funds in support of agriculture and rural-sector growth.

- A. There exists a well articulated, national strategy for agriculture, either stand-alone or as part of a national economic growth and/or poverty reduction strategy, which guides agriculture development, programs and planning.
- B. Policy supports active involvement in regional and/or global agriculture institutions and initiatives.
- C. The universe of institutions charged with implementing agricultural policy, including executive and legislative branch institutions, universities, and independent agencies, are clearly delineated and widely understood by both state actors and informed observers.
- D. National institutions charged with implementing agricultural and rural development policy have sufficient professional and administrative capacity to carry out this mandate.

Score

- E. Institutions responsible for implementing agricultural and rural development policy have sufficient authority and support to carry out its mandate, including clear policy statements and sufficient funding through government budgets to maintain both equipment and services.
- F. National institutions responsible for implementing agricultural and rural development policy have clearly delineated parameters and authority with respect to other government bodies whose actions and decisions directly affect government spending.
- G. Supply chain enhancements, such as cold chain construction or modification, are ably supported by relevant government entities.
- H. Data sharing among implementing institutions is routine.

2. National animal industry service effectively provides technical assistance to promote the interests of all market actors.

- A. Veterinary services and medicines are available to producers.
- B. Imported medicines are not subject to delay and, to the extent they are being inspected by the Government oversight body or are a part of a Government Animal Health Initiative, are transported and distributed along a well-developed supply chain.
- C. Government oversight ensures that slaughterhouses are clean and well-regulated and, if applicable, follow religious traditions.
- D. Government oversight bodies ensure that raw meat products are transported and sold in sanitary conditions.
- E. Livestock migration/movements are regulated.
- F. Competitive practices are encouraged to help reduce producer costs.
- G. Refrigerated transport of raw meat products is conducted in sealed containers, only subject to inspection at origin and destination.
- H. Chicken hatcheries and chick sales are regulated.
- I. Producer training, consumer education and assistance for market improvements are part of the services provided by the national animal industry services.
- J. Cold chain services are provided in sufficient quality and quantity for producers of meat, dairy products, and perishable agricultural commodities

3. A National Animal Health Strategy is in place and aligns with OIE best practices.

- A. National Vet participates regularly with colleagues at regional and global level.
- B. Animal Health Strategy includes collaboration with colleagues within animal extension provision services in Ministry of Agriculture, Ministry of Finance, and Public Health officials.
- C. National Animal Health Strategy includes disease prevention, surveillance, treatment, response, laboratory resources, sample collection and handling, and outreach programs.

4. National fertilizer industry services effectively provide technical assistance and promote the interests of agricultural producers and input suppliers.

- A. Fertilizer is regulated in such a way as to promote free-market competition and a reasonably priced, widely accessible input.
- B. Farmer training, consumer education, assistance for market improvements and market development are part of the services provided by the national fertilizer industry services.
- C. National soil fertility policies and services promote environmentally and scientifically sound economic policies for the safe-guarding and promotion of soil fertility.
- D. Any Government provision of fertilizer or fertilizer subsidies are executed in such a way as to not overly impact agrodealers or other critical private sector enterprise.
- E. There is meaningful competition among fertilizer services.

5. National pesticide and herbicide industry services effectively provide technical assistance and promote the interests of agricultural producers and input suppliers.

- A. Pesticides/herbicides are regulated based on science and as to promote free-market competition and a reasonably priced, widely accessible input.
- B. Farmer training, consumer education, assistance for market improvements are part of the services provided by the national pesticide/herbicide industry services.

Score

- C. Farmers are trained in the health risks associated with pesticides/herbicides and have available products/services to respond to medical emergencies.
- D. Pesticides/herbicides services are available from both public and private sources.
- E. There is meaningful competition among pesticides/herbicides services.

6. The operations of the water and irrigation authorities are consistent with international best practices and principles.

- A. Water policies and irrigation services promote sustainable agriculture and rural sector productivity.
- B. The water and irrigation authorities distribute (or make available for a nominal fee) copies of all procedures, relevant laws, government regulations, fee schedules and other information governing irrigation or watering related activities.
- C. Government provides services and training in water infrastructures and management.
- D. Information on the sustainable use of water resources is readily available and effectively disseminated by the government.
- E. The staff training and development program includes current employees, and training offerings correspond to needed skills.
- F. Technical assistance from international community is incorporated in the training program.
- G. Government managed irrigation infrastructure has sufficient budget and a capacity for maintenance, and current irrigation infrastructure is well maintained on an ongoing basis.

7. A national food products safety board exists and is active in protecting public health and enforcing relevant laws and regulations.

- A. Producers of agricultural goods and the food-products industry are active in protecting public health and abide by relevant laws and regulations.
- B. Public policy supports scientific development of safe biotechnology products and adopts scientific, non-discriminatory rules for the evaluation and regulation of these products.
- C. Oversight institutions are active participants in the implementation of product traceability along the value chains within the food system with a view to consumer health and safety. (Recall strategy and operation protocols in place.)

8. The company registry is well organized, well led, and endowed with sufficient resources to fulfill its mandate.

- A. Its head and management staff are non-political and/or they view their role as administrative and ministerial.
- B. It has sufficient staff and sufficient funding (through direct state budget, fees for registration or other services, or both).
- C. It issues official forms (which may or may not be mandatory) for registrations; the forms are available free or at minimal cost from the registry or bookstores; the forms cover all types of registrations; and there is a handbook or other instructions.
- D. It has adequate, formally issued internal regulations and operating procedures.
- E. It has a website which is easy to use and regularly updated, and which contains the company law and relevant registry regulations, instructions and forms for registration, fee schedules, data on individual companies, and other useful information.
- F. Registration can be done remotely on the internet or by computer at the registry office.
- G. The company registry has an internal improvement plan, setting targets for improvement of procedures, and annually reviewing its operations to identify any systemic weaknesses for improvement.

9. The company registry is efficient and effective in operation.

- A. The staff know the relevant law, forms and procedures, including both those for initial company formation and for later actions.
- B. The registration experience is efficient and user-friendly – the staff are helpful; they spot and help with technical mistakes; all users are treated the same; there are no long lines, and the entire process takes at most a few days.

Score

- C. If a registration is rejected the staff give a clear explanation based on the law and regulations, and the rejection can be appealed or any defect cured quickly.
- D. All fees are clearly posted and are at a level which does not discourage business formation; and no extra fees, taxes or personal payments to staff are necessary.

10. The agency charged with registering and supporting agricultural cooperatives is well organized, well led, and endowed with sufficient resources to fulfill its mandate.

- A. Its head and management staff are non-political and/or they view their role as administrative and ministerial.
- B. It has sufficient staff.
- C. It has sufficient funding (through direct state budget, fees for registration or other services, or both).
- D. Its physical facilities are accessible and welcoming, and there are branch or regional offices offering easy access to services for rural populations.
- E. It issues official forms (which may or may not be mandatory) for registration; the forms are available free or at minimal cost from the registry or bookstores; the forms cover all types of registrations; and there is a handbook or other instructions.
- F. It has adequate, formally issued internal regulations and operating procedures.
- G. The staff know the relevant law, forms and procedures, including both those for initial cooperative establishment and for later actions.
- H. The registration experience is efficient and user-friendly – the staff are helpful; they spot and help with technical mistakes; all users are treated the same; there are no long lines, and the entire process takes at most a few days.
- I. If a registration is rejected, the staff give a clear explanation based on the law and regulations, and the rejection can be appealed or any defect cured quickly.
- J. All fees are clearly posted and are at a level which does not discourage formation of cooperatives; and no extra fees, taxes or personal payments to staff are necessary.

11. The competition agency's decision making is independent of undue political interference and free from conflicts of interest.

- A. The head of the competition agency is protected from removal without just cause.
- B. The senior staff of the competition agency is protected from removal without just cause.
- C. The competition agency's leadership and staff are subject to ethical rules barring conflicts of interest.

12. The competition agency's processes, decision making, and enforcement criteria are transparent.

- A. Regulations required by the competition law have been promulgated.
- B. The competition agency has a written operating manual.
- C. The competition agency's priorities are clearly spelled out and are made public.
- D. The competition agency's decisions set forth the bases for taking or not taking an enforcement action.
- E. The competition agency's enforcement decisions demonstrate sound application of the competition law and economics.

13. The competition agency is well organized, well led, and endowed with sufficient resources to fulfill its mandate.

- A. The competition agency has its own budget line item, and its funding is sufficient.
- B. The competition agency is adequately staffed.
- C. Salaries are adequate to attract and retain qualified staff.
- D. Staff includes lawyers, economists, and accountants.
- E. The competition agency has formal and informal staff training programs in place.
- F. The competition agency has the authority and means to hire additional expertise on an as-need basis (e.g., industry experts, academics, consultants, advisors).

Score

- G. The competition agency draws on the experience of other countries and international organizations.
- H. The competition agency has adequate space and, as appropriate, regional offices.
- I. The competition agency has an adequate library.
- J. The competition agency has adequate communications and information technology.
- K. Regulations required by the competition law have been promulgated.
- L. The competition agency has a written operating manual.
- M. The competition agency's priorities are clearly spelled out and are made public.
- N. The competition agency's decisions set forth the bases for taking or not taking an enforcement action.
- O. The competition agency's enforcement decisions demonstrate sound application of the competition law and economics.

14. The agency charged with registering foreign investments is well organized, well led, and endowed with sufficient resources to fulfill its mandate.

- A. Its head and management staff are non-political and/or they view their role as administrative and ministerial.
- B. It has sufficient staff.
- C. It has sufficient funding (through direct state budget, fees for registration or other services, or both).
- D. Its physical facilities are accessible and welcoming, and there are branch or regional offices throughout the country to the extent necessary.
- E. It issues official forms (which may or may not be mandatory) for registrations; the forms are available free or at minimal cost from the registry or bookstores; the forms cover all types of investments; and there is a handbook or other instructions.
- F. It has adequate, formally issued internal regulations and operating procedures.
- G. It has a website which is easy to use and regularly updated, and which contains the company law and relevant regulations, instructions and forms for registration, fee schedules, data on individual companies, and other useful information.
- H. Registration can be done remotely on the internet or by computer at the registry office.
- I. The investment registry has an internal improvement plan, setting targets for improvement of procedures, and annually reviewing its operations to identify any systemic weaknesses for improvement.

15. National implementing institutions ably support the need for targeted and efficient use of public funds in support of agriculture and rural-sector growth.

- A. There exists a well articulated, national strategy for agriculture, either stand-alone or as part of a national economic growth and/or poverty reduction strategy, which guides agriculture development, programs and planning.
- B. Policy supports active involvement in regional and/or global agriculture institutions and initiatives.
- C. The universe of institutions charged with implementing agricultural policy, including executive and legislative branch institutions, universities, and independent agencies, are clearly delineated and widely understood.
- D. Poverty reduction and economic growth are clearly defined in the mandates of the national institutions charged with implementing agricultural and rural development policy.
- E. National institutions charged with implementing agricultural and rural development policy have sufficient professional and administrative capacity to carry out this mandate.
- F. Institutions responsible for implementing agricultural and rural development policy have sufficient authority and support to carry out its mandate, including clear policy statements and support from the government.
- G. National institutions responsible for implementing agricultural and rural development policy have sufficient funding through government budgets to maintain both equipment and services.

Score

- H. National institutions responsible for implementing agricultural and rural development policy have clearly delineated parameters and authority with respect to other government bodies whose actions and decisions directly affect government spending.
- I. Supply chain enhancements, such as cold chain construction or modification, are ably supported by relevant government entities.
- J. Data sharing among implementing institutions is routine.

16. Ministry of Commerce, Industry and Trade are able to quantify both the current and potential value of the Agriculture Sector.

- A. National Agriculture priorities understood by key staff across Government (including Ministry of Finance and Ministry of Foreign Affairs) and cross functional teams in place which include agriculture sector expertise.
- B. Relevant statistics are available and accessible by the public.
- C. Relevant statistics are considered reliable and defensible and meet international standards.
- D. Statistics are available online.

Supporting Institutions

1. The value chains for agricultural and horticultural products are efficient.

- A. Markets and intermediaries are able to accommodate the normal daily flow of product.
- B. Markets and intermediaries are able to accommodate occasional surges in product availability.
- C. Actors generally understand the market options available for moving product across different channels of distribution.
- D. Product losses due to lack of sales outlets are not significant.

2. Distribution channels for agricultural and horticultural products are competitive.

- A. There are multiple channels, and multiple buyers within each channel, to which farmers can sell their product.
- B. Collusion on pricing at farm gate does not work to the detriment of downstream actors or consumers.
- C. Collusion on pricing at intermediate stages does not work to the detriment of upstream or downstream actors or consumers.
- D. Collusion on pricing at market distribution centers does not work to the detriment of upstream actors or consumers.

3. Expertise is available to insure that information regarding agricultural best practices is available to growers.

- A. Farmers have easy access to expertise in the area of land preparation.
- B. Farmers have easy access to expertise in the area of planting practices and timing.
- C. Farmers have easy access to expertise in the area of cultivation practices for all plant and livestock varieties of economic importance.
- D. Farmers have easy access to expertise in the areas of harvesting (in the case of plants), and slaughter (in the case of livestock).

4. Faculties of agricultural and natural resource economics provide an effective foundation of knowledge to university students about modern systems of production, marketing and environmental economics.

- A. The process of admission to the faculty of agricultural and natural resource economics is open, transparent and based on merit.
- B. Faculties of agricultural and natural resource economics are adequately funded, with faculties, facilities and other resources that are sufficient to build a well trained and sufficiently competent cadre of trained professionals.
- C. Agriculture curriculum goes beyond farm-level production to include the entire value chain through consumption.

Score

- D. Universities have well established and endowed agriculture programs and faculty.
- E. University and other agriculture research is designed to contribute to agriculture development.
- F. Agriculture-related research findings are well-known and efficiently integrated into agriculture practices.

5. Trade and Commodity Associations are well established and engaged in promoting the development of the agricultural and rural sectors.

- A. Market brokers exist and are active.
- B. Associations for the promotion of particular products (crops, livestock, fish, transformed products) exist and are active.
- C. Associations exist and are active for the promotion of industrial development for the transformation of raw agricultural products into higher valued goods.
- D. Leading organized Private Sector institutions in country have active agriculture members and agriculture sector committees.

6. The media is supportive of a modern agriculture and rural sector and regularly informs the public of issues important to these sectors.

- A. The print, electronic, and digital media reach wide portions of the agricultural and rural sectors.
- B. Reporters demonstrate their understanding of rural and agriculture issues through timely and well-research articles.
- C. Ag Sector specific media active and dynamic w/ broad reach and coverage in rural areas as well as urban areas.

7. Public, private and academic research institutions provide farmers and farmer associations with reliable information on soil management.

- A. There are adequate resources to assist farmers to maintain nutritional balance for their soils.
- B. There are adequate resources to assist farmers to manage soil acidity/alkalinity issues.
- C. There are adequate resources to orient farmers toward crop rotations designed to maintain fertility.

8. Distribution channels for fertilizers are competitive.

- A. There are multiple importers, and multiple vendors.
- B. No single vendor or importer wields a determining role over pricing or availability.
- C. Prices for fertilizers are commensurate with the revenue-generation capacity of the agricultural products they help to produce.

9. Expertise is available to insure fertilizer cycles are adapted to specific soil and crop specifications.

- A. Benchmarks are established.
- B. Productivity is monitored.
- C. Application rates are monitored.
- D. Variances are investigated.
- E. The expertise exists in both the public and private sectors.

10. Each irrigation district is organized according to management best practices, including:

- A. All users of the resources are represented, directly or indirectly, in the direction of the resources;
- B. Day-to-day management is performed by professionally-trained managers;
- C. Operational and capital expenditures required to maintain and replace the resources are covered by user fees.

11. Public, private and academic research institutions routinely conduct trials to determine the suitability and productivity of new planting materials.

Score

- A. Tests are conducted on new seed varieties to determine potential improvements in yields, vigor, production costs, post-harvest characteristics, flavor and appearance.
- B. Tests are conducted on new rootstocks to determine potential improvements in yields, vigor, production costs, post-harvest characteristics, flavor and appearance.
- C. Tissue cultures and other accelerated-growth planting materials are regularly tested to determine their potential for economic improvement at farmer level.
- D. There are functioning modalities to move successful research from the lab to commercial markets. (ie licensing agreements for newly released seed varieties with private companies based on fair and transparent mechanisms.)

12. There are centers of excellence devoted to post-harvest innovation in key areas of the post-harvest value chain.

- A. There are institutions which identify, test and facilitate the adoption of innovations in packaging materials.
- B. There are institutions which identify, test and facilitate the adoption of innovations in the sphere of atmosphere modification.
- C. There are institutions which identify, test and facilitate the adoption of fresh-cut processing equipment and techniques, as well as other forms of value addition.
- D. There are institutions which identify, test and facilitate adoption of innovations in the area of shelf-life extension.

13. There is an efficient system for collection and distribution of prices for agricultural and agri-food commodities.

- A. Associations or government agencies collect price information on a timely basis for all important agricultural and agri-food commodities at major distribution points across the country.
- B. Associations or government agencies collect price information on a timely basis for important agricultural exports in offshore markets.
- C. Price information is disseminated to all interested parties within the country by several appropriate and accessible forms of communication (SMS, email, radio, bulletin board).

Social Dynamics

1. There are multiple examples of profitable farmers and farming operations, across multiple crops and scales of operation.

- A. There are profitable feed stocks operations.
- B. There are profitable grain and pulse producers.
- C. There are profitable fruit and vegetable production operations.
- D. There are profitable producers of fiber crops.
- E. There are profitable farming and livestock operations at across a range of scales of operation:
 - i. Small scale (<2 Ha); ii. Medium scale (> 2Ha, <20 Ha); iii. Large scale (>20Ha).
- F. There is evidence that smallholders are effecting a transition from subsistence cropping to commercial cropping systems.

2. Productivity levels are competitive with major world producers for a range of agricultural commodities.

- A. Year-on-year growth trends are favorable.
- B. Overall production is increasing.
- C. Yields per unit meet global standards

3. There are examples of specialty crops (e.g. cacao, coffee, tea), which generate earnings for the agricultural economy.

- A. Year-on-year growth trends are favorable.
- B. Overall production is increasing.
- C. Yields per unit of production are increasing.

Score

-
4. Components of delivered product cost are competitive with imported products on the domestic market.
-
- A. Costs of land preparation are competitive.
 - B. Costs of planting materials are competitive.
 - C. Costs of fertilizer and crop protection chemicals are competitive.
 - D. Costs of pre-harvest labor are competitive.
 - E. Harvesting costs are competitive.
 - F. Costs of post-harvest packaging and processing are competitive.
 - G. Costs of packaging materials are competitive.
 - H. Energy is available and cost competitive.
 - I. Market access roads are built and maintained.
-
5. Production records are maintained at all levels to permit efficient trace-back in the event of a food safety incident.
-
- A. Records are maintained at farm level.
 - B. Records are maintained at aggregation level.
 - C. Records are maintained at wholesale distribution point.
 - D. Records are maintained at retail distribution.
 - E. Records are maintained at point of exit for export commodities.
 - F. Records are maintained at point of entry for imported products.
-
6. There is an ample supply of arable land for agricultural use.
-
- A. Availability of arable land exceeds 0.27 Ha per capita.
 - B. Total surface of arable land remains stable.
-
7. Soil fertility is adequate to the production of a broad range of agricultural and horticultural crops.
-
- A. Soil classes are adequate to support sustained production at economically-viable yields.
 - B. Adequate organic and chemical materials are available to maintain the nutritive balance of the soils.
 - C. Laws and regulations allow and encourage the proper maintenance of soil fertility.
-
8. There is an ample supply of nutrient material available.
-
- A. There is an ample supply of organic material available in the majority of the principal production zones.
 - B. Where organic material is lacking, efforts are underway to increase availability.
 - C. Synthetic fertilizers and crop protection materials are commercially formulated and distributed throughout the agricultural community.
 - D. When domestic production is insufficient to meet national demand, synthetic fertilizers and crop protection materials are imported on a preferential and expedited basis.
-
9. There is an ample supply of fresh water for irrigation.
-
- A. Water availability exceeds 1,000 cubic meters of renewable fresh water per person.
 - B. Sources of water for irrigation perimeters are self-renewing, and not subject to depletion.
 - C. Where sources of irrigation water cross national boundaries, treaties assuring permanent access to water supplies are in place.
 - D. Water is actively, professionally, and transparently managed as a vital natural resource with a prioritization on productive agriculture investments.
-
10. There is a favorable ratio between land available for irrigation, and land which is actually under irrigated production.
-

Score

- A. Water control and distribution projects keep pace with the demand for irrigated farmland.
- B. Irrigated agricultural land is allocated on a uniform, understandable and equitable basis.
- C. Once allocated, irrigated land may be bought or sold subject only to agreement between buyer and seller.

11. Consumption of agricultural and agri-food products on the domestic market is significant and growing.

- A. The domestic market represents an important distribution outlet for the majority of the agricultural production of the country.
- B. Prices available on the domestic market are comparable with prices available in other countries in the region.
- C. The impact of price controls on farmgate revenues is negligible.
- D. Urban consumer market modalities moving from informal markets to more formal retail and food service.

12. The state's role in the agricultural and rural sector economy effectively promotes private sector participation and economic growth.

- A. The national government is considered to be "pro-agriculture" and has an identifiable champion engaged in promoting progress in laws and regulations promoting agriculture and rural sector enterprise.
- B. The agriculture and rural sector communities perceive the government to be "pro-agriculture".
- C. The agriculture and rural sectors actively seek new and better laws and regulations that promote their interests.
- D. The government provides for meaningful agricultural and rural sector participation in the entire legal and regulatory reform process.
- E. The government clearly states when it is in the public interest to protect at-risk debtors.
- F. There is an explicit dialogue between public and private sectors actor on the need to move up the value chain from low value commodities to higher value, refined products.
- G. The government, public and private sectors understand the threat to agriculture and rural production and trade posed by inefficient production systems, high energy costs, poor infrastructure, agricultural trade insecurity, and inefficient/expensive customs.

13. The government and political leadership support a culture of competition.

- A. Leading political figures publicly advocate competition as a means to improve the economy.
- B. Legislation to introduce competition into sectors that were previously isolated from competition is usually successful.
- C. Government officials look to and draw from other countries' experiences enacting competition laws.
- D. The overall legal framework does not create or permit unnecessary licensing or market entry restrictions favoring incumbents.
- E. The governmental entity responsible for privatization collaborates with the implementing institution to ensure competitive privatization.

14. The state's role in the economy does not diminish private sector participation in the economy.

- A. The percentage of total bank loans to governmental or quasi-governmental entities does not exceed international best practice.
- B. State Owned Enterprise production is less than 10% of GDP.
- C. Government borrowing is not perceived to be driving up interest rates.
- D. Government participation in the economy does not prevent competition of wholesale goods or services.
- E. Government participation in the economy does not prevent competition of retail goods or services.
- F. There is private sector participation and competition in the air transport industry.

Score

- G. There is private sector participation and competition in the telecommunications industry.
- H. There is private sector participation and competition in the energy sector.
- I. There is private sector participation and competition in the ground transport industry.
- J. There is private sector participation and competition in the shipping industry.
- K. There is private sector participation and competition in the tourism sector.
- L. There is private sector participation and competition in the banking sector.
- M. There is private sector participation and competition in the agriculture sector.

Dealing with Licenses

Legal Framework

1. Laws relating to licenses for agriculture and agribusiness are accessible and easy to understand.

- A. Laws concerning the licensing of agricultural activities stipulate the reasons for the license requirement, as well as the type of compliance required to obtain and conserve a license.
- B. Changes to legislation concerning the licensing of agricultural activities are published on a timely basis, and updated whenever necessary.
- C. Legislation regarding the licensing of agricultural activities can be challenged on both administrative and judicial grounds.

2. With respect to agribusiness and rural land use projects, the licensing procedures and post license inspection functions are lawful, necessary and business friendly.

- A. Laws are drafted so as to make compliance inspection requirements predictable and minimally disruptive of normal business operations.
- B. Private sector agricultural interests and NGO's are routinely consulted as licensing laws affecting agricultural activities are being drafted.

3. The laws concerning various agribusiness related licenses fulfill legitimate regulatory purposes.

- A. The number of licenses required for initiating and sustaining agricultural or agribusiness activities is consistent with international best practices.
- B. All licenses are designed in such a way that their intent and their effect are identical.
- C. The law recognizes agriculture's need for temporary and piecemeal employment provisions.

4. Licenses are required for the acquisition and use of agricultural chemicals.

- A. Laws clearly stipulate the content of the information which agricultural chemicals must furnish to their users in order to secure licenses.
- B. Legislation regarding the issuance of licenses to use agricultural chemicals and other inputs clearly states the skills and training required for obtaining such licenses.
- C. Legislation stipulates the inspection procedures necessary to maintain licensing status.

5. Agribusiness service providers including spray companies, chemical providers, harvesters, packers and other transformation companies (e.g., threshers, huskers, etc.) require licenses to operate.

- A. Laws dealing with license requirements focus on the training, skills and procedures needed for safe and sustainable application.
- B. Laws dealing with the handling and use of agricultural chemicals and services concentrate on insuring the adoption of good practices, and do not unnecessarily result in competitive advantage by any sector or group.

6. Export licenses are designed to facilitate the flow of goods and do not reduce access to international trade.

- A. Laws which prescribe licenses for participation in the export of agricultural goods stipulate the objective compliance criteria which must be met in order to be granted such licenses.
- B. Export licensing legislation is even-handed in its effect, and does not unduly advantage or disadvantage any particular group or groups within the agricultural community.
- C. The laws and licensing regulations concerning SPS, food safety, organics, etc., are designed to harmonize with international standards in order to facilitate exports.

7. Licenses do not pose restrictions in terms of crops or crop cycles.

Score

- A. Laws which regulate the issuance of agricultural export licenses are careful to avoid distortions to the private sector's decisions as to when, and in what sequence, crops are grown for export.
- B. Laws which regulate the issuance of agricultural export licenses do not proscribe the exportation of selected agricultural commodities, except in limited cases such as maintenance of strategic reserves.
- C. Where such limits are imposed by law, their application is clearly defined and limited to the terms stipulated in the legislation.

8. Import licenses for agricultural products and inputs are structured so as to encourage and facilitate importation of goods and services necessary for the development of the agribusiness sector.

- A. Legislation provides for the ready importation of seed and other planting materials, subject to normal SPS safeguards.
- B. Legislation provides for the ready importation of packaging materials used for the preparation and shipment of agricultural products for export shipment.
- C. Legislation provides for the routine importation of farm machinery, as well as machinery used in the transformation of agricultural products.

9. The legal framework fosters an efficient market for agricultural inputs.

- A. Laws regulating the sale and distribution of seeds allow for competitive sourcing, certification of quality, and minimal import tariffs.
- B. Laws regulating the sale and distribution of pesticides and herbicides allow for competitive sourcing, certification of quality, and minimal import tariffs.
- C. Laws regulating the sale and distribution of fertilizer allow for competitive sourcing, certification of quality and minimal import tariffs.
- D. Laws regulating the sale and distribution of agriculture equipment allow for competitive sourcing, certification of quality, and minimal import tariffs.
- E. Laws promote the domestic development of bio-fuels and reasonably priced energy for agricultural and rural-sector production.
- F. The Central Bank and financial regulators do not impede the extension of credit terms from growers and grower associations to their wholesale, retail and export customers pending the sale and remittance of proceeds for their agricultural production.
- G. National institutions charged with implementing agricultural and rural development policy have sufficient professional and administrative capacity to carry out this mandate.

10. The reasons for granting and revoking agribusiness licenses must be clearly understood, uniformly applied and the possibility of appeal exists in the event of suspension, revocation or initial denial.

- A. Withholding or revocation of licenses must be based on clear and published criteria, which must be provided to the requesting party.
- B. Application of the standards used to withhold or revoke licenses in the agricultural sector must be applied consistently across the entire sector.
- C. In the event that a request is denied or a license is revoked, the requesting/party or license holder has the right of appeal, according to provisions that are timely and expeditious.

11. The source of legal authority for all licenses and regulations related to doing business – whether dealing with certain technical or professional areas; land use, construction or environmental issues; trade in goods or services, or other pursuits – is clear.

- A. The constitution clearly sets forth the law-making rights and responsibilities of the legislative branch.
- B. The constitution clearly enunciates the implementing authority of the executive branch.
- C. The constitution clearly enunciates the authority of the judicial branch, and that authority includes the right to strike down laws or regulations that are deemed unconstitutional or otherwise contrary to law.
- D. The notion of "checks and balances" is enshrined in the constitution.

Score

- E. There is clear legislative basis for the authority of executive agencies to issue decrees, orders, regulations, and other requirements related to doing business. The scope of this authority is clear and unambiguous.
- F. The source of legal authority for regional, provincial or local institutions to regulate certain aspects of doing business is found in the constitution or in other cornerstone legislation. The scope of this authority is clear and unambiguous.
- G. If there is a branch of government charged with engaging in regulatory reform, the source and scope of that authority is clearly set out in empowering legislation.
- H. Access to the chief source of authority for the country's regulatory environment is readily accessible in print and/or electronic form and is available in all national languages of the country.
- I. The country has a single building code that is widely accessible, consistent with international best practice, and routinely updated to account for advances in the construction industry.

12. Laws and other regulations concerning land use and zoning allow adequate commercial development on transparent terms.

- A. The law permits a wide range of real property development – commercial, residential and agricultural. The use and geographical categories for each type of land use are clearly defined and reasonable.
- B. The law provides for re-categorization and rezoning using objective standards and procedures and reflecting actual local conditions and needs.
- C. The law does not allow regulation using “rational use” or other subjective standards which can be political or corruption-encouraging.
- D. The law does not penalize, or allow loss of, agricultural land for the owners’ non-use or absence.
- E. Zoning maps are updated no less than every 10 years.
- F. Regulations pertaining specifically to the use of farm land and farm-related property are clear and accessible to the constituencies who are most affected by them.

Implementing Institutions

1. Internationally certified lab easily accessible to agriculture sector and agribusinesses to facilitate exports.

- A. Agriculture exports able to be inspected and certified per destination market requirements at origin.

2. Agencies that oversee compliance with agribusiness licensing requirements are well organized, well led, and endowed with sufficient resources to fulfill their mandate.

- A. National institutions charged with implementing agricultural and rural development policy have sufficient professional and administrative capacity to carry out this mandate.
- B. The agency responsible for plant protection and quarantine have sufficient professional and administrative capacity to carry out this mandate.
- C. The agencies responsible for consumer protection (relating to chemical residue, weights and measures, micro-biological contamination) have sufficient professional and administrative capacity to carry out this mandate.
- D. The agencies responsible for animal health (including disease surveillance, animal movement, vaccination programs, etc.) have sufficient professional and administrative capacity to carry out this mandate.

3. Regional and local institutions that are engaged in the agribusiness licensing process are well organized, well led, and endowed with sufficient resources to fulfill their mandates.

- A. The institutions responsible for environmental protection are well organized, well led, and endowed with sufficient resources to fulfill their mandates.
- B. The organizations responsible for worker safety are well organized, well led, and endowed with sufficient resources to fulfill their mandates.
- C. The organizations responsible for plant protection and quarantine are well organized, well led, and endowed with sufficient resources to fulfill their mandates.

Score

- D. The organizations responsible for consumer protection (relating to chemical residue, weights and measures, micro-biological contamination) are well organized, well led, and endowed with sufficient resources to fulfill their mandates.
-
4. Agencies charged with inspecting licensed agribusinesses do so only for lawful, necessary purposes and in a business friendly manner.
-
- A. Procedures are clearly understood by enforcement agencies and licensed activities alike.
B. Enforcement is uniform and consistent across all regulated activities.
C. Provisions are made to impede corruption from entering the process of compliance verification.
D. Inspectors are sensitive to the need to avoid any undue disruption to the companies they are inspecting.
-
5. Institutions responsible for issuing licenses relating to agriculture chemicals provide sufficient information about the following areas:
-
- A. Requirements regarding proper storage are clearly defined;
B. Directions for proper use and application are readily available; and
C. Precautions with respect to proper disposal are carefully communicated.

Supporting Institutions

-
1. There is adequate educational support to meet training requirements for applicators, harvesters, traders and transformers as stipulated in the licensing procedures.
-
- A. Vendors can provide full compliance details for purposes of licensing.
B. Third-party service providers warranty their compliance with licensing requirements.
C. Processors provide their agricultural suppliers with evidence of their continued compliance with regulatory requirements.
-
2. Providers of extension services effectively contribute to an environment that supports a well informed, safe and sustainable agribusiness sector.
-
- A. Extension agents are knowledgeable about compliance requirements, and able to communicate these requirements to their constituents in a clear and actionable manner.
B. Extension agents receive regular cycles of training on changes in licensing regulations and enforcement practices.
C. There are sufficient resources within the ministry responsible for agricultural extension to insure that all interested users in the agricultural community have access to the extension services they require in order to meet their licensing obligations - including small farmers and commercial producers.
-
3. The private sector, inclusive of cooperatives and grower associations, as well as traders, processors, and marketers (retail/brands), is active and has a real voice in determining the regulatory environment that governs them.
-
- A. Input from the private sector is welcomed in the process of establishing licensing requirements.
B. The private sector actively pursues opportunities to articulate the needs of its agricultural partners in forums where licensing regulations are set.
C. The private sector advocates on behalf of its agricultural constituents in the case of perceived inequities or mis-interpretations of license or inspection procedures.
-
4. The legal profession effectively contributes to an environment that supports a fair and efficient regulatory environment for agriculture related licensing.
-
- A. There is an established bar association that includes lawyers who represent the agribusiness community in commercial matters.
B. Lawyers' associations have specialized groups for agribusinesses related to commercial law and/or commercial dispute resolution.

Score

- C. Lawyers' associations hold continuing legal education and training programs to educate members about commercial legal developments and commercial dispute resolution.
- D. Lawyers' associations hold continuing legal education and training programs to educate members about alternative dispute resolution including arbitration.
- E. There is an adequate supply of attorneys who can represent agribusiness endeavors of all sizes, from sole proprietors to large corporations.
- F. The bar association provides accessible and affordable legal help to small and medium-sized enterprises operating in the agriculture field.
- G. The bar association has formal mechanisms to identify needs relating to the agriculture sector's regulatory environment.

5. The private sector is active in the promotion of a fair and efficient regulatory environment for agriculture related licensing.

- A. Chambers of commerce provide their memberships and the public with information and training on the regulatory environment impacting agriculture.
- B. The agribusiness community regularly reports on developments within the regulatory environment.
- C. Specialized publishers develop and make available standardized forms for most common regulatory requirements in the agriculture sector.
- D. Trade and industry associations have affiliations with international trade organizations and are involved in the harmonization of regulatory compliance with international standards.
- E. Trade and industry associations are informed of regulatory development and have advocated new practices and reforms to existing law to accommodate changes in the agriculture sector.

Social Dynamics

1. Corruption does not undermine the regulatory environment.

- A. The need to avoid corruption in the development or execution of agricultural licensing requirements is universally understood.
- B. Institutional controls exist which guard against the development of corrupt practices.
- C. Punishments for corruption are material, and enforcement of these punishments is reliable.
- D. Under Transparency International's most recent Corruption Perception Index, the country scores better than 4.
- E. If the country's score on the most recent CPI is less than 7, there is a comprehensive, multi-agency program to combat corruption in state institutions.
- F. There is no recent history of major donors or lending institutions cancelling programs, loans or activities on the grounds of official misuse of funds.
- G. Prosecution of corruption is not generally regarded as a means of weeding out political opponents.
- H. The media covers allegations of official corruption in a responsible and thorough manner.
- I. Judges, prosecutors, and media representatives do not significantly risk their personal safety by participating in inquiries or prosecution of official corruption.

2. All factors in the agribusiness arena recognize the importance of licenses which are lawful and effective in providing neighbors, workers and consumers with the products they need without undermining environmental safety or a competitive business climate.

- A. Government and industry work to educate the agricultural community on the importance of licenses for the smooth operation of the sector.
- B. There is general understanding within the community regarding the benefits of compliance, and the potential hazards of non-compliance, with regard to the common good.
- C. General public recognizes the agricultural sector (producers, processors, etc.) as critical partners to economic, health, and social wellbeing of country.

3. Government and industry work together to reduce the regulatory burden caused by agriculture related licenses.

Score

- A. There are regular consultations to highlight areas where the benefits of regulation are outweighed by the burdens of compliance.
- B. The government works to incorporate recommended changes to legislation, where needed.
- C. Government and industry work to modify enforcement and inspection procedures which are thought to be disruptive to the agriculture sector.

4. No one segment within private sector holds undue influence or prioritization in development of legal or regulatory frameworks relating to licensing.

- A. Stakeholders across value chain balance interests for overall sector growth.
- B. The government is open and welcoming to private-sector participation and has formal mechanisms for soliciting input from the agribusiness and professional community.

Employing Workers

Legal Framework

1. Laws and regulations pertaining to labor and employment are readily available, clearly drafted, and easy to use.

- A. Print copies of the labor and employment laws, including not only traditional labor and employment legislation, but also laws and regulations pertaining to occupational safety and health, wages and hours, social security, immigration, and employment in specific sectors, are readily available.
- B. New laws are published according to a uniform, timely and consistently implemented procedure (such as through regular publication of an Official Gazette).
- C. The universe of labor and employment law and regulation is published in all official languages of the country.
- D. The universe of labor and employment law and regulation is available on a regularly updated Internet site.
- E. With respect to labor and employment, the licensing and approval functions and procedures of the following authorities are clearly defined:
 - F. a. Labor relations and collective bargaining authority
 - G. b. Wage and hour authority
 - H. c. Occupational Safety and Health authority
 - I. d. Social Security and benefits administration authority
 - J. e. Tax authority (payroll taxes)
 - K. f. Immigration authority
 - L. g. Equal Employment Opportunity authority
 - M. h. All other authorities charged with licensing or regulating labor and employment-related functions

2. The labor law provides for the core labor standards as enunciated by the International Labour Organization.

- A. The law provides that workers may associate freely without fear of retribution by their employers, including through the formation of labor unions.
- B. The law provides for the right of collective bargaining between labor unions and their employers.
- C. Acts by companies to interfere with or discourage the formation of labor unions are prohibited by law.
- D. The rights of association and collective bargaining extend to agricultural workers.
- E. The law prohibits forced labor.
- F. There is a law that specifically prohibits trafficking in persons.
- G. The law provides for minimum age provisions which are in accordance with International Labor Standards as established by the ILO.
- H. The law observes the ILO conventions and recommendations against the worst forms of child labor, including labor that is abusive, dangerous, or otherwise especially grievous to children.
- I. The law prevents discrimination in employment on the basis of race, color, sex, religion, political opinion, national extraction or social origin.

3. Laws governing the hiring of agricultural and agri-food workers are simple to follow and business-friendly.

- A. Workers may be hired at employer's discretion, without regard to race, ethnicity, or political affiliation.
- B. Laws allow workers to be brought in from neighboring regions within the country for purposes of providing skilled or unskilled labor.
- C. Laws allow workers to be brought in from other countries for purposes of providing skilled or unskilled labor.

Score

D. Laws allowed for piecemeal based pay.

4. There are provisions for termination of agricultural and agri-food employees that protect worker rights without unduly burdening company efficiency.

- A. Laws provide that agricultural workers can be terminated for cause.
- B. Laws are drafted so as to make compliance inspection requirements predictable and minimally disruptive of normal business operations.

5. The law recognizes agriculture's need for temporary employment provisions.

- A. Laws permit the employment of agricultural workers on a seasonal basis.
- B. Laws permit the hiring of agricultural workers on a part-time basis.
- C. Laws permit reasonable employer flexibility in the definition of:
 - D. a) tasks to be performed;
 - E. b) work location; and
 - F. c) work schedules.

6. Immigration laws encourage and regulate the entry of agriculture related migrants as required by the seasonal nature and skill set required by an agricultural workforce.

- A. Laws permit the hiring of expatriate skilled labor and management expertise where needed for agribusiness success and sector growth.
- B. Laws concerning employment of agricultural workers provide equal protection between fixed and migrant workers.

7. Occupational safety and health laws provide for on-the-job worker protection from illness and injury, without unduly restricting the operating needs of agriculture related businesses.

- A. Laws and regulations pertaining to occupational safety and health are based on reasonable standards of sectoral safety (agriculture, factory work, etc.)
- B. Laws and regulations pertaining to occupational safety and health are regularly updated to take into account changes in sectoral standards and practices.
- C. The law provides for periods of notice and comment when a significant change is proposed for a safety or health requirement.
- D. The occupational safety and health law provides protections for whistle-blowers, within carefully defined circumstances.
- E. Laws and regulations pertaining to occupational safety and health are clear, consistent, and easily accessible.

Implementing Institutions

1. Government agencies recognize the need to minimize documentary and procedural requirements in hiring and firing agricultural workers.

- A. Government agencies take private sector input into consideration in the drafting and enforcing of regulations relating to the employment of agricultural workers.
- B. Government agencies coordinate and cooperate on an inter-agency basis in order to minimize the procedural burdens associated with the hiring and firing of agricultural workers.
- C. Documentary and procedural requirements are enforced in a consistent and transparent manner.

2. The government is aware of the unique support service requirements of a migrant workforce and have developed plans to meet those requirements.

- A. Government agencies are staffed, funded and organized so as to oversee and enforce legal requirements related to basic health services for agriculture workers and their families.
- B. Government agencies are staffed, funded and organized so as to oversee and enforce legal requirements related to shelter needs for agriculture workers and their families.

Score

- C. Government agencies enforce laws and provisions regarding the use of child labor in agricultural activities.
- D. Government agencies cooperate with donors and NGOs in meeting their responsibilities to enforce legislation related to the employment of agricultural workers.
- E. Government agencies ensure education and training is provided as needed for migrant workers.

3. The role and responsibilities of each institution charged with implementing and enforcing the labor and employment law is clearly defined and understood, with minimal overlap or duplication of these roles and responsibilities.

- A. The following functions are assigned to specific implementing institutions, agencies or offices, and those functions do not overlap or conflict with those held by other institutions:
 - B. i. Oversight of labor relations and collective bargaining;
 - C. ii. Oversight of wage and hour law;
 - D. iii. Investigation and prosecution of child labor and forced labor abuses;
 - E. iv. Implementation and enforcement of equal employment opportunity;
 - F. v. Oversight of occupational health and safety;
 - G. vi. Oversight of social security law and benefits administration;
 - H. vii. Administration and collection of payroll taxes;
 - I. viii. Implementation and enforcement of immigration law, including employment of foreign workers;
 - J. ix. Assistance to groups with special employment needs, such as women, minorities, or disabled people; and
 - K. x. Enforcement of anti-trafficking laws.
- L. The activities and authority of these institutions is not undermined by the collection of informal fees or other indicia of corruption.
- M. It is easily ascertainable what approvals, permits, licenses and procedures pertaining to the employment of workers are needed for start-up and continuing operation of any agriculture related business.
- N. The number of these approvals, permits and licenses is the minimum that is necessary for business purposes.
- O. Provincial or local institutions do not duplicate the licensing or oversight role held by one another or by national institutions.
- P. Where there are administrative tribunals dedicated to resolving labor disputes, their jurisdiction may be supplemented, but is not duplicated, by the courts.

4. The courts are regarded as an appropriate institution for resolving agricultural labor-related disputes, once administrative remedies have been exhausted.

- A. Lawyers and business persons report that, if they go to court to resolve an agricultural labor dispute, they can expect a fair decision, based on published laws, regulations and standards, in a timely manner.
- B. Only one appeal is a matter of right, while second and third appeals are at the discretion of the courts.
- C. The appellate process does not permit adding to the factual record from the lower court -- there is no do novo fact finding on appeal.
- D. In cases involving labor and employment, both parties respect and observe the decisions of judges, even if the decision is adverse to their positions.
- E. Judges who hear labor and employment cases have formal, university-level training in commercial law and are required to have practiced before tribunals or, before taking the bench, are required to take relevant courses.

5. Administrative systems for creating, updating, and reviewing labor and employment regulations are clear, open, and free of corruption.

- A. Persons charged with drafting labor and employment regulations have adequate resources and training, including key sectoral expertise.

Score

- B. Persons charged with drafting labor and employment regulations have adequate resources and training.
- C. The process of creating or revising labor and employment regulations involves pre-enactment activities that serve to inform and educate the stakeholding community.
- D. Notice and comment are part of the regulatory process.
- E. Individuals and institutions that participate in the regulatory development process report that their views are given fair consideration.

Supporting Institutions

-
1. Agricultural cooperatives and grower associations confer regularly with their membership over matters dealing with the employment of agricultural workers.
-
- A. Agricultural cooperatives and grower associations are encouraged to participate in public considerations of new policy, and of changes to existing policy, with respect to the employment of agricultural workers.
-
2. Agriculture cooperatives, associations, and related insitutions provide guidance, training, and support necessary for agricultural worker management and administration.
-
- A. Agricultural cooperatives and grower associations prepare and distribute to their memberships summary outlines of "do's and don't's" with respect to agricultural worker management and administration.
- B. Agricultural cooperatives and grower associations conduct periodic training to assist their members in dealing with issues involved in agricultural worker management and administration.
-
3. Associations or agencies provide agricultural employers and workers with opportunities for training and continuing education.
-
- A. There are training centers in rural communities which provide basic training in agricultural practices, including proper handling of agricultural chemicals.
- B. There are regional centers which provide more advanced practical courses in production techniques, soil management, and other specialized agricultural and veterinary techniques.
- C. Seminars are offered from time to time on new product and new variety introductions, and on other innovations in agricultural practices.
-
4. The private sector demonstrates an interest in the long-term welfare and productivity of the country's agriculture workforce.
-
- A. Mechanisms exist for regular consultations between private sector organizations and labor unions or other organizations representing the interests of agriculture workers.
- B. The vast majority of employers do not interfere with the right of agriculture workers to associate freely, and those that obstruct this right face legal sanction.
- C. The vast majority of employers do not engage child labor.
- D. The private sector, through trade and professional associations, works with government agencies to streamline bureaucratic labor requirements, in particular to avoid informal employment of agriculture workers.
- E. The private sector endeavors to provide safe and healthy work environments for their agriculture employees, including specialized safety training.
- F. The country's larger private employers offer opportunities in continuing education and skills training in agriculture for their employees.
- G. The private sector, through trade and professional associations, is active in the promotion and practice of equal employment opportunity.
- H. Foreign investors promote improvements in human capital, through such means as domestic and overseas training, investment in literacy, contributions to public health, and so forth for agriculture workers.
-
5. The media report regularly, freely, and accurately on matters relating to labor and employment in the agriculture sector.
-

Score

- A. The media has sufficient access to all appropriate sources of information concerning the labor and employment terms and conditions in the agriculture sector.
- B. The media can report freely on issues pertaining to agriculture labor and employment without fear of government reprisal.
- C. The private sector considers media coverage of agriculture labor and employment issues to be sufficient, accurate and fair.
- D. Agriculture workers and their representatives consider media coverage of labor and employment issues to be sufficient, accurate and fair.
- E. Government actors consider media coverage of agriculture labor and employment issues to be sufficient, accurate and fair.
- F. Reporters have access to training and education in issues pertaining to coverage of the regulatory environment for agriculture.

6. Public and private educational institutions are responsive to the needs of the country's agriculture workforce.

- A. Quality education for all ages is also available through private providers.
- B. There is no institutionalized system of informal payments to teachers or schools for agriculture programs.
- C. Mandatory fees -- such as fees for uniforms or books -- do not discourage children from attending school.
- D. There is a public university system that provides four-year programs in major disciplines specific to agriculture and offers campuses that are accessible beyond the capital city.
- E. There is a network of formal and informal training institutions that provide continuing education and skill-building opportunities in agriculture related areas for youth and adults.
- F. Students at the primary, secondary and university level have access to education in major second languages.
- G. Opportunities to study abroad are publicized and utilized, and persons who study abroad typically return to the country.

7. Universities, think tanks and other knowledge-oriented institutions provide an effective foundation of knowledge of the relationship between agriculture related labor and employment law and market flexibility.

- A. Economics faculties incorporate courses relating to policy issues pertaining to the flexibility of labor markets.
- B. Business schools teach the practical aspects of applying the labor and employment law by incorporating agriculture case studies, etc.
- C. Law faculties provide an effective foundation of knowledge to law students about agriculture related labor and employment law, and the relationship of these laws to macroeconomic policy.
- D. University professors contribute to the national dialogue on agriculture related labor and employment law through research, publications, and symposia.
- E. There are opportunities for training and continuing education in labor and employment law in schools specializing in agriculture.

8. Institutions (health, education, social services) provide services to facilitate cross-sector labor flows.

- A. Public policy in health, education, and social services supports the transition of labor from less-productive to more-productive uses.

9. The legal profession effectively contributes to an environment that supports a fair and efficient regulatory environment.

- A. There is an established bar association that includes lawyers who represent the business community in employment and labor matters.
- B. Lawyers' associations have specialized groups related to employment law and/or labor dispute resolution.
- C. Lawyers' associations hold continuing legal education and training programs to educate members about employment legal developments and labor dispute resolution.

Score

- D. Lawyers' associations hold continuing legal education and training programs to educate members about alternative dispute resolution including arbitration.
- E. There is an adequate supply of attorneys who can represent business endeavors of all sizes, from sole proprietors to large corporations.
- F. The bar association provides accessible and affordable legal help to small and medium-sized enterprises.
- G. The bar association has formal mechanisms for identifying needs relating to the regulatory environment.

Social Dynamics

1. Both migrant and permanent labor forces in the agriculture sector are respected through legal and cultural norms.

- A. The physical needs of agricultural workers with respect to safety, hygiene and rest periods are universally respected by their employers.
- B. The family needs of agricultural workers with respect to health, education and shelter are likewise respected.
- C. Respect for these basic requirements is universal for all agricultural workers, irrespective of tribe, regional or national origin, gender, or political affiliation.

2. Citizens recognize the need to create an environment that balances the needs of agriculture workers and employers.

- A. Media reports the challenges inherent in balancing agriculture worker employment security with efficient business operations.
- B. Agriculture workers and employers make good faith efforts to resolve whatever disputes arise in this regard.

3. Villages and other customary organizations make accommodations to incorporate migrant and temporary rural workers.

- A. Villagers generally accept the value that transitory workers bring to their community.
- B. Where disputes arise between villagers and transitory workers there is an effective vehicle within the village to help in the resolution of such disputes.
- C. Where migrant workers are present villages recognize the need to extend basic social services including access to shelter and basic medical necessities.

4. There is public consensus that the goal of a labor and employment regime is not only that of protecting the interests of incumbent workers (in agriculture, mining, etc.), but also supporting market flexibility and employment in the formal sector generally.

- A. The national legislature does not exhibit an anti-company bias as exhibited through promotion and enactment of restrictive labor legislation.
- B. Top executive branch officials do not promote more restrictive labor and employment practices at the expense of business growth and market flexibility.
- C. Domestic employers report that they are treated fairly by administrative tribunals or courts in the context of labor disputes.
- D. Foreign-owned companies report that they are treated fairly by administrative tribunals or courts in the context of labor disputes.
- E. Employers report that the enforcement of the law is consistent -- that is, regulations as applied to one employment situation are consistently applied in analogous situations.
- F. Implementing institutions do not charge informal fees for the expedition of licenses or other regulatory requirements.
- G. There is an on-going effort within all branches of government to simplify and reduce paperwork requirements and to eliminate regulatory redundancies.

5. Women and minority groups have equal access to the labor market.

- A. There are no laws that, in content or effect, restrict or disallow the participation of women in any non-military jobs or sectors including agriculture.

Score

- B. There are no laws that, in content or effect, restrict or disallow the participation of ethnic or religious minorities in any jobs or sectors including agriculture.
- C. Under law or common cultural practice, women do not need the permission of a male family member to work.
- D. Women are afforded equal access to on-the-job training opportunities in all sectors including agriculture.
- E. Ethnic and minority groups have equal access to on-the-job training opportunities in all sectors including agriculture.
- F. Opportunities for primary, secondary and university education are the same for women as they are for men.
- G. Opportunities for primary, secondary and university education are equal among all ethnic and religious groups.

6. Agribusiness and agriculture sector more generally attracts educated and most skilled nationals.

- A. Non-ag sectors do not dominate employment of best educated and skilled nationals leaving the agribusiness.

7. The labor force is skilled.

- A. Adult literacy is 90% or above.
- B. The last 10 years have exhibited improved rates of literacy.
- C. Emigration does not significantly impact the availability of skilled labor.
- D. Foreign investors engage local employees for not only unskilled work, but also for jobs that require higher levels of proficiency.
- E. English, French, Spanish, or Portuguese is a common second language (even where one of these languages is the first language).

8. The labor force is healthy.

- A. Life expectancy for both sexes is over 70 years.
- B. The prevalence of HIV/AIDS among adults is less than 0.75%.
- C. Death from malaria is uncommon.
- D. The urban population has access to clean drinking water.
- E. The rural population has access to clean drinking water.
- F. Rates of immunization (1 year olds) against the following diseases are better than 90%:
 - G. 1. Tuberculosis
 - H. 2. DPT
 - I. 3. Polio
 - J. 4. Measles
 - K. 5. Hepatitis B
 - L. 6. Tetanus
- M. Domestic violence is uncommon.
- N. Alcohol and drug abuse is uncommon.

9. Child labor is actively discouraged through legal and cultural means.

- A. The country is a signatory to the U.N. Convention on the Rights of the Child.
- B. The process of registering the birth of a child is straightforward, easily accessed, and free.
- C. Education for children aged 6-16 is compulsory and free.
- D. Access to education for girls is equal to that of boys.
- E. Programs exist to help working children transition to school.
- F. Exploitative behaviors, such as employment of child labor and physical abuse of children, are not socially tolerated.
- G. The minimum legal age for direct participation in armed hostilities is 18, and this is enforced.

Score

H. Employers that break child labor laws are routinely prosecuted and punished under the law.

Registering Property

Legal Framework

1. Laws and regulations foster an active and non-discriminatory land market.

- A. Up-to-date, accurate, public information pertaining to land sales and sale prices is freely available.
- B. Land ownership or rights are clearly defined.
- C. Where land is acquired under "eminent domain" type procedures, fair market value is paid to landholders.
- D. Laws define real property to include crop and range land, ponds, timber stands, and buildings.
- E. Laws are in place to allow the consolidation of land parcels for agricultural and other productive purposes, including housing, industrial, and commercial development.
- F. Inheritance laws are designed to promote farms of economically viable size.
- G. Land-use disputes between farmers and pastoralists are adjudicated within a well-understood legal framework.
- H. Inheritance laws are gender neutral.
- I. In countries where polygamy is common, land laws specifically certify each woman's rights to inherit land.

2. Agricultural land can be bought, leased, sold or traded according to the decision of its owner(s) or leaseholders.

- A. Title is vested in the individual landowner or leaseholder.
- B. Externally-imposed restrictions on use or application are not burdensome.
- C. Zoning restrictions are subject to appeal and are consistently enforced.

3. There are no statutory limits to the amount of agricultural land which can be exploited, or the uses to which the land may be placed.

- A. There is no quantitative limit to the amount of land that can be acquired by any individual or family.
- B. There is no quantitative limit to the amount of land which can be applied to the production of a particular crop.
- C. Limitations with respect to livestock or poultry population density are consistent with generally-accepted industry standards.
- D. Any limitations or restrictions based on non-agricultural considerations (zoning, environmental, etc.) are applied uniformly with respect to all landholders.

4. There are no statutory restrictions with regard to irrigated land which limit its accumulation, availability or use.

- A. Individuals and family units may accumulate as much irrigated land as they can afford to buy.
- B. Individuals and family units may grow any crops they wish on their irrigated land, subject to reasonable regulation practiced on a worldwide basis.
- C. Seizure or expropriation of irrigated land may take place only for generally approved reasons, and only in exchange for fair compensation.

5. Preferential land allocation is not allowed.

- A. Preferential allocation of irrigated land based on tribe or ethnicity is not allowed.
- B. Preferential allocation of irrigated land based on political affiliation is not allowed.
- C. Preferential allocation of irrigated land based on gender is not allowed.
- D. Preferential allocation of irrigated land based on national origin is not allowed.

Score

-
6. There is a clearly defined correlation between land rights and the water rights that accompany it.
-
- A. In areas where there is established irrigation infrastructure, the water rights of landholders are clearly understood as to:
 - B. a) volume of water which can be used;
 - C. b) timing of water availability; and
 - D. c) hierarchy of access.
 - E. In areas where there is no established irrigation infrastructure, water rights associated with each land holding are clear and reliable, so as to not unduly inhibit private investment in irrigation infrastructure.
-
7. The source of legal authority for all land and property regulations related to agribusiness – whether dealing with certain technical or professional areas; land use, construction or environmental issues; trade in goods or services, or other pursuits – is clear.
-
- A. The source of legal authority for regional, provincial or local institutions to regulate certain aspects of doing business is found in the constitution or in other cornerstone legislation. The scope of this authority is clear and unambiguous.
 - B. If there is a branch of government charged with engaging in regulatory reform, the source and scope of that authority is clearly set out in empowering legislation.
 - C. Access to the chief source of authority for the country's regulatory environment is readily accessible in print and/or electronic form and is available in all national languages of the country.
 - D. The country has a single building code that is widely accessible, consistent with international best practice, and routinely updated to account for advances in the construction industry.
-
8. Laws and other regulations concerning land use and zoning allow adequate commercial development on transparent terms.
-
- A. The law permits a wide range of real property development – commercial, residential and agricultural. The use and geographical categories for each type of land use are clearly defined and reasonable.
 - B. The law provides for re-categorization and re-zoning using objective standards and procedures and reflecting actual local conditions and needs.
 - C. The law does not allow regulation using "rational use" or other subjective standards which can be political or corruption-encouraging.
 - D. The law does not penalize, or allow loss of, agricultural land for the owners' non-use or absence.
 - E. Zoning maps are updated no less than every 10 years.
 - F. Regulations pertaining specifically to the use of farm land and farm-related property are clear and accessible to the constituencies who are most affected by them.
-
9. Individuals and legal entities, domestic or foreign, may freely own land and other real property interests. "Ownership" includes the right to exclusive possession, exclusive use, and free alienation.
-
- A. Domestic citizens and legal entities can own land and other real property interests used for residential, commercial and industrial purposes.
 - B. Foreign individuals and legal entities can own land and other real property interests used for residential, commercial and industrial purposes.
 - C. Domestic citizens and domestic legal entities can own agricultural land.
 - D. Foreign citizens and foreign legal entities can own agricultural land.
 - E. If foreign ownership is restricted or prohibited, there are alternatives for foreigners which actually work, such as leasing or holding through a domestic individual or company.
 - F. Individuals and legal entities can own property in common, including "joint tenancy" (or an equivalent.)
 - G. There is a well defined regime of easements and other servitudes affecting land use.

Score

- H. The government may terminate (“condemn”) private land rights only for clear public purposes and with payment of reasonable compensation.
- I. The process and procedures for privatization of land are objective, non-discriminatory, and clear (regarding, for example, the identity of the governmental agency having jurisdiction, bidding or price-negotiation procedures, and time frames).
- J. The law does not discriminate based on gender.
- K. The law applying to real property is the same in all parts of the country.
- L. The law does not punish landowners for non-use of agricultural land (i.e., fallow or tree-growing).

10. There is a clear and accessible body of supporting regulations for all law pertaining to ownership and use of real property.

- A. The law of civil procedure is supported by rules of procedure that clearly set forth the process for resolving property disputes.
- B. Land registries operate under clear and accessible rules of procedure, including unambiguous rules pertaining to administrative fees and costs.
- C. Notaries operate under clear and accessible rules of procedure, including unambiguous rules pertaining to administrative fees and costs relating to real property.
- D. Tax authorities operate under clear and accessible rules of procedure.
- E. Regulations pertaining specifically to the use of farm land and farm-related property are clear and accessible to the constituencies who are most affected by them.
- F. Regulations are published in all official languages of the country.

11. The legal framework provides adequately for both public recording of interests in real property and protection of recorded interests against third parties.

- A. The law provides for registration of ownership, liens and encumbrances including mortgages and tax liens, servitudes including easements, and (possibly) lease rights.
- B. The law provides clearly for the protection of the interest of owners and others whose interests are registered, and for protection of the interest of buyers who rely on the registry. Disputes on those matters are rare.
- C. The law uses a cadastre or torrens system in which title and ownership are determined by the registry or other public record or, if not, there are other adequate title-protection means such as title insurance.
- D. The law provides for registration of land, buildings and fixtures together (unified registry).
- E. The law provides for an official document to be issued to a land owner which certifies his registered legal rights.
- F. The law requires public access to the registry records.

12. The legal framework provides for the recognition and protection of customary landholdings, particularly in rural areas.

- A. An appropriate legal methodology is in practice for identifying customary landholders and their properties.
- B. Customary landholders have successfully used the courts to protect their property interests.

13. The legal framework provides adequately for mortgages. It encourages – or does not discourage – an active mortgage credit market.

- A. Under the law, any owner of any land or buildings, including agricultural land, may pledge that property as collateral to secure a loan. The loan need not be for purchase of or other use on the property.
- B. The law states clearly the essential items for a mortgage agreement, including identification of the land or other rights pledged, the identity of the mortgagor and mortgagee, and the obligation being secured.
- C. The law allows second and subordinated mortgages on freely-negotiated terms.

14. Taxation of land is based on market value or other understandable value and is transparent, not arbitrary, and not discriminatory.

Score

- A. Taxes on real property are determined on an objective, understandable and predictable basis and the tax amounts and basis for determination are easily ascertainable.
- B. Taxes are not so high as to discourage use or development of land for commercial, including agricultural, purposes.
- C. The law clearly prescribes the collection and enforcement mechanisms for taxes on real property. Those are not arbitrary or discriminatory.
- D. The tax law does not punish or otherwise discriminate against landowners whose real property is used in multi-year productive activities (such as tree crops or timber production).

15. Owners of real property may sell, lease, donate, exchange, and bequeath their interests freely.

- A. An owner may transfer, by any of such means, to any other domestic or foreign individual or legal entity, without permission from the government or a government official.
- B. The law does not impose minimum or maximum lease terms for agricultural or other specific uses, or for specific industries or types of parties.
- C. Sales and leases are, in fact, commonly executed at freely negotiated prices and other terms and in the "normal course" of business.
- D. The procedure for carrying out land transactions is simple and quick, without needless formalities or documentation and requiring only the signatures of the parties and possibly a notarial and/or land registry official.
- E. Transaction costs such as appraisal, survey, notarial and registry fees, and lawyers' fees do not represent an excessive part of the transaction value, and do not preclude or discourage deals.
- F. The law safeguards the interests of heirs who are late in registering their inheritance of land and other real property.

16. The law provides protection for plant varieties and the scope of protection is commensurate with international norms.

- A. The law provides that a protected plant variety must be:
 - B. A. Heterogeneous
 - C. B. Stable in its essential characteristics through subsequent generations.
 - D. The rights holder has the following exclusive rights:
 - E. A. To produce the plant variety for purposes of commercial marketing.
 - F. B. To sell the plant variety.
 - G. C. To market the plant variety.
 - H. The term of protection granted new plant varieties lasts at least 15 years.
 - I. A new plant variety must be filed within a year or less after the variety has been publicly disclosed or offered for sale or it may not be protected.
 - J. New plant varieties are examined before being granted.
 - K. There need not be authorization of the right holder to use the variety in the creation of other varieties unless repeated use of the protected variety is needed in the commercial production of other varieties.
 - L. Farmers have the right to save, use and sell seed obtained, or descended from seed obtained, by authority of the right holder, for purposes of reseeding. This in no way gives them rights to produce seed specifically for commercial exploitation.
 - M. Any other exceptions to the exclusive rights of plant breeders are limited and are based only on public interest considerations.
 - N. There are legal remedies/penalties for plant variety infringement, including:
 - O. A. Injunctive relief (i.e., an order to cease the infringing action).
 - P. B. Compensatory Damages
 - Q. C. Penalties are in proportion to violation

Implementing Institutions

Score

- | | Score |
|--|----------------------|
| 1. Land use authorities have access to GPS and other identification tools in defining property limits. | <input type="text"/> |
| <hr/> | |
| A. Landholders can clearly identify the boundaries of their holdings. | |
| B. The identity of each holder's boundaries is centrally recorded in a location where it can be readily consulted. | |
| C. Changes in property limits are promptly and accurately recorded. | |
| D. There are procedures for challenging the official definitions of land limits and ownership. | |
| 2. The Ministry of Agriculture is sufficiently staffed and financed to ensure that those with land and water rights get the water correlated with the their rights. | <input type="text"/> |
| <hr/> | |
| A. Water rights pertaining to each landholding are centrally recorded in a location where they can be readily consulted. | |
| B. Competent authority exists to resolve questions which arise with respect to land and water access. | |
| C. Once resolved, government personnel are authorized and empowered to enforce such resolutions. | |
| 3. Where there are water disputes, the Ministry of Agriculture (or other relevant body) has adequate resources to resolve these disputes. | <input type="text"/> |
| <hr/> | |
| A. Competent specialists are available to address such disputes administratively. | |
| B. Specialists have ready access to the permanent records regarding water and land rights, and are able to interpret such rights correctly. | |
| C. Workers and employers make good faith efforts to resolve whatever disputes arise in this regard. | |
| 4. Those who believe they are being discriminated against from gaining access to land or water have recourse to courts and to ministries which are competent to rule on such matters. | <input type="text"/> |
| <hr/> | |
| A. There are clearly defined pathways for the appeal of adverse administrative rulings. | |
| B. Once administrative appeals have been exhausted, the judicial system is available for the pursuit of further challenges. | |
| C. The procedures followed in the course of these judicial appeals make them accessible to all potential claimants. | |
| 5. The Ministry of Agriculture and communal authorities recognize the existence of grazing and migration rights and are competent to address disputes stemming from the exercise of such rights. | <input type="text"/> |
| <hr/> | |
| A. Lands which are customarily reserved for joint use by herders and farmers are adequately identified. | |
| B. The rights of all user groups are generally understood and respected. | |
| C. Where disputes arise, procedures exist for definitive resolution. | |
| D. Migratory corridors are delimited, and rights of transit are respected. | |
| 6. The land registry is well organized, with sufficient resources. | <input type="text"/> |
| <hr/> | |
| A. Its head and management staff are non-political and/or they view their role as administrative and ministerial. | |
| B. It has sufficient staff and the staff know the relevant law, forms and procedures, including both those for initial company formation and for later actions. | |
| C. It has sufficient funding (through direct state budget, fees for registration or other services, or both). | |
| D. Its physical facilities are accessible and welcoming, and there are branch or regional offices throughout the country, including in rural areas. | |

Score

- E. It issues official forms (which may or may not be mandatory) for registrations; the forms are available free or at minimal cost from the registry or bookstores; and the forms cover all types of registrations.
- F. It has adequate, formally-issued internal regulations and operating procedures.
- G. It has a website which is easy to use and regularly updated, and which contains the company law and relevant registry regulations, instructions and forms for registration, fee schedules, data on individual companies, and other useful information.

7. The land registry performs its registration duties effectively and succeeds in its obligation to ensure that important real property information and data are available to the public.

- A. The staff know the relevant law, forms and procedures, including both those for initial company formation and for later actions.
- B. The registration experience is efficient and user-friendly – the staff are personally helpful, they will spot and help with technical mistakes, all users are treated the same, there are no long lines, and the entire registration process takes at most a few weeks.
- C. If a registration is rejected the staff give a clear explanation based on the law and regulations, and the rejection can be appealed or any defect cured quickly.
- D. All fees are clearly posted and are at a level which does not discourage registration of real property transactions; and no extra fees, taxes or personal payments to staff are necessary.
- E. The land registry provides ready public access to all registered records.
- F. The land registry provides certified extracts and copies of registered records at no charge or minimal charge.
- G. The land registry makes copies of the relevant law and its own forms, regulations and fee schedules freely available to the public at no charge or minimal charge.
- H. The land registry issues and publishes periodic newsletters, reports or other informational pieces intended to increase user awareness.

8. The land use authorities, including those that license or regulate the specific uses of real property, are well organized, with sufficient resources.

- A. With respect to the use of real property, the licensing and approval functions and procedures of the following authorities are clearly defined:
 - B. a. Zoning authority
 - C. b. Fire authority
 - D. c. Environmental authority
 - E. d. Water and sanitation authority
 - F. e. Construction authority
 - G. f. Road authority
 - H. g. Electricity authority
 - I. h. Occupational safety and health authority
 - J. i. Health authority
 - K. j. Agricultural authorities
- L. Their heads and management staff are non-political and/or they view their role as administrative and ministerial.
- M. They have sufficient staff.
- N. They have sufficient funding (through direct state budget, fees for registration or other services, or both).
- O. They have adequate, formally-issued internal regulations and operating procedures.
- P. There is adequate staff training and education.

9. The authorities that license and regulate the use of real property perform their duties efficiently and effectively and ensure that important information pertaining to land use is available to the public.

Score

- A. They provide adequate information to the public about zoning, the requirements for obtaining approval of a particular land use or construction permit, and the regulations governing use of any particular property.
- B. Builders have access to a step-by-step procedure chart that directs them to those offices they must visit and what documents they must bring in obtaining approval for a construction project.
- C. The number of government bureaucracies required to approve a land use or construction permit is not excessive and decisions are made promptly.
- D. Land use authorities have consolidated their functions -- fire, worker safety, water, sanitation, project design, health, tax, etc. -- into a single office at a municipal level.
- E. Inspections of land use (such as construction projects) take place based on risk (i.e., following the completion of a specific stage in construction), rather than arbitrary timing.
- F. If an application is rejected, the staff give a clear explanation based on the law and regulations, and the rejection can be appealed or any defect cured quickly.
- G. All fees are clearly posted and are at a level which does not discourage development or real property transactions; and no extra fees, taxes or personal payments to staff are necessary.
- H. The mandate of the land use authorities is administrative and ministerial. They make decisions based on objective criteria based on legitimate commercial and social needs and interests.
- I. The public has reasonable input into the criteria used by land use authorities and their substance of their decisions.
- J. Their activities are carried out at the local (city or district) level, with an emphasis on affording maximum local input.
- K. Their records are required to show and do show, on a current basis, all zoning maps which have been issued or approved together with the applicable use requirements and restrictions.
- L. The land use authorities provide ready public access to all current zoning maps and current land use and construction permits.
- M. The land use authorities make copies of the relevant law and their own forms, regulations, and fee schedules freely available to the public at no charge or minimal charge.
- N. The land use authorities issue and publishes periodic newsletters, reports or other informational pieces intended to increase user awareness.

10. The courts are regarded as an appropriate institution for resolution of real property disputes.

- A. Courts are in fact often used when real property disputes are not settled informally.
- B. Lawyers and commercial actors report that, if they go to court, they can expect to receive a just decision, grounded on published laws, regulations and standards, in a timely manner.
- C. Lawyers and commercial actors respect and observe the decisions of judges, even if the decision is adverse to their positions.
- D. Time standards for judges resolving real property law disputes are in place and generally observed.
- E. Disputes over real property typically undergo settlement discussions or mediation prior to trial.
- F. Judges who hear real property cases have formal, university-level training and are required to have practiced before tribunals or, before taking the bench, are required to take relevant courses concerning subjects they will address on the bench.
- G. Judges who hear real property cases receive periodic continuing legal education on issues relating to real property.

11. Where customary or traditional institutions play a part in resolving disputes over real property, their activities and decisions are considered to be transparent, consistent, efficient, and fair.

- A. When accessed to resolve questions of real property ownership and other land-related disputes, the customary institutions weigh evidence presented by all interested parties and issue decisions that are supported by the weight of the evidence.
- B. Where necessary and relevant, customary tribunals access and rely on the country's formal legal framework when considering and resolving disputes.
- C. Customary institutions generally hold the respect of the individuals and communities that are impacted by their authority.

Score

- D. Parties to real property disputes consider customary tribunals to be an efficient and effective resource for resolving their disputes.
- E. Both men and women are represented on customary tribunals.
- F. The decisions of customary tribunals evidence respect for the right of women to purchase, own, and inherit real property.
- G. The decisions of customary tribunals evidence respect for the right of minority groups to purchase, own, and inherit real property.
- H. All issues heard before customary tribunals may also be considered by State administrative bodies or the courts.
- I. When issuing decisions, customary tribunals cite reasons for their decisions.

12. Institutions set up to resolve cases (including real property disputes) through alternative dispute resolution (ADR) are regularly engaged by the business community and are effective in carrying out their missions.

- A. A sufficient number of arbitration centers, arbitrators and mediators are available to hear cases, including subject matter/sectoral experts in addition to lawyers.
- B. Parties are encouraged to use ADR prior to entering the court system.
- C. Arbitration or mediation decisions are recognized and respected by the parties as binding.
- D. Arbitration/mediation center(s) have sufficient staff and resources to train businesses regularly on the advantages of ADR and the procedures for employing it.
- E. Arbitration/mediation center(s) have sufficient staff and resources to train arbitrators and mediators.
- F. Arbitration/mediation centers allow parties to choose their arbitrators/mediators.
- G. The rules of procedure of the arbitration/mediation centers are in accordance with relevant international standards and best practice, and encourage the expeditious disposition of cases.
- H. The cost of commencing arbitration/mediation proceedings is not a disincentive to using arbitration as a means for resolving contractual disputes.
- I. Judges have the power to and regularly refer cases to ADR, be it through court-annexed procedures or other private means.
- J. Judges who review appeals from arbitral/mediation awards have formal training in the principles of arbitration.
- K. Judges reject arbitral/mediation awards on legitimate procedural grounds only, and do not substitute their judgment for that of the arbitrator except where there is demonstrable negligence or fraud on the part of the arbitrator.
- L. Parties to commercial disputes regularly seek out ADR as an alternative to using the formal court system.

13. The tax authorities administer land taxation efficiently and in a manner which is transparent and not arbitrary, discriminatory or corrupt.

- A. The taxing authorities observe and support the principles stated in Legal Framework, Key Indicator Number 7, above.
- B. Their authority, organization and administration are consistent with the principles stated above for the land registry and the land use authorities.
- C. Their appraisals of land value and determination of actual tax levels are transparent and not arbitrary, discriminatory or corrupt.
- D. They are so perceived by owners of land and the business community.

14. There are one or more expert government agencies with trained personnel and adequate resources to satisfactorily handle administrative functions concerning intellectual property rights (IPR) in a transparent and nondiscriminatory fashion.

- A. There is a designated government agency to handle matters relating to plant varieties.
- B. Registration procedures are publicly available and are applied in a transparent, nondiscriminatory fashion for plant varieties.
- C. Registration applications may be filed in a hard copy (i.e., paper) format for plant varieties.
- D. Registration applications may be filed electronically via the Internet for plant varieties.

Score

- E. There is a publicly available database of registrations for plant varieties.
- F. This database is available and searchable over the Internet for plant varieties.
- G. The perception of the fees and time associated with completion of the registration process is that it is reasonable and meets the needs of business with respect to plant varieties.
- H. The government regularly trains personnel so that there is an up-to-date expertise in all areas of intellectual property within the relevant registries and other offices.
- I. Government offices responsible for the registration of patent rights and/or the substantive examination of patent rights, have adequate access to prior databases.
- J. Government offices responsible for the registration of patent rights and/or the substantive examination of patent rights, have adequate access to the appropriate databases.
- K. A body has been appointed or otherwise established to determine royalty rates for mechanical, public performance and any other applicable mandatory copyright and related rights licenses .
- L. This body receives public comment/input in its decision making process; its decisions and rationale for its decisions are published and available to the public.

Supporting Institutions

-
1. Water associations are in place in all major irrigation perimeters and are authorized and capable of resolving disputes between users.
-
- A. Water associations are able to define and clarify issues of access, including priority of use, for all association users.
 - B. Water associations are equipped to deal swiftly and effectively with questions relating to maintenance of existing works.
 - C. Water associations are equipped to deal with questions relating to expansion of current works, and construction of new works.
-
2. The private sector is active in the promotion of a fair and efficient property regulatory environment.
-
- A. Chambers of commerce provide their memberships and the public with information and training on the property regulatory environment.
 - B. The business community regularly reports on developments within the property regulatory environment.
 - C. Trade and industry associations provide lists of attorneys or law firms that can provide assistance to their members with respect to property (including IPR.)
 - D. Trade and industry associations are informed of property regulatory development and have advocated new practices and reforms to existing law to accommodate changes.
 - E. Water associations are responsible for establishing and collecting fees based on the calculated needs for operation, maintenance and rehabilitation of existing works.
-
3. Real property brokers, appraisers and surveyors have sufficient expertise and practical experience, and have a positive influence on both legal compliance and the market in land transactions.
-
- A. There is an adequate number of such persons who have expertise and practical experience.
 - B. Such persons are in fact regularly used by individuals and companies for advice and representation in real property transactions.
 - C. Brokers and brokerage groups: i. have developed methods such as multiple listing services to bring together large numbers of buyers and sellers;
 - D. ii. usefully gather and disseminate information on prices and trends in the market; and
 - E. iii. provide their services at reasonable fees.
 - F. iv. Appraisers and surveyors participate in the market and use internationally-recognized appraisal and survey methods.
-
4. Notaries, whether mandatory or optional, support an effective system of land use and transfer rights.
-

Score

- A. Where notarization is required, parties consider notaries to be reasonably available and accessible.
- B. Notary fees are considered reasonable by end-users.
- C. Notaries are reasonably familiar with the standards prescribed by the Civil Code and related laws for written agreements.
- D. Lawyers do not report excessive interference by Notaries with the substance of real property-related documents.
- E. The notarial process does not add excessive time to the process of real property registration, use, or transfer.

5. Private farmers' associations play a meaningful role in the development and fair and effective implementation of real property law and regulations.

- A. They monitor implementation of the land law as it affects their members and rural society in general, and propose amendments to laws to advance farmers' interests.
- B. They gather and disseminate information about land prices, lease rates, and numbers of transactions.
- C. They facilitate provision of legal assistance to low-income rural landowners.
- D. They are regarded as truly representative of the interests of farmers.

6. The media reports regularly, freely, and accurately on matters related to land use and real property law.

- A. The media has sufficient access to all appropriate sources of information concerning land use and real property law issues.
- B. The media can report freely on issues pertaining to land use without fear of government reprisal.
- C. The private sector considers media coverage of land use and real property law issues to be sufficient, accurate and fair.
- D. Government actors consider media coverage of land use and real property law issues to be sufficient, accurate and fair.
- E. Reporters have access to training and education in issues pertaining to coverage of business and commercial law topics.

7. The donor community effectively supports a free and fair system of real property law.

- A. Local representatives of the business and legal communities are generally aware of the real property-related work being done by donor agencies.
- B. Local representatives of the business and legal communities report general satisfaction with donor agencies, if any, working to support the real property environment.
- C. Coordination of donor activities relating to improving the real property system is considered by both local actors and donors to be adequate and effective.
- D. "Success stories" reported by donors, in particular those pertaining to real property, are substantiated by sustained, positive results on the ground.
- E. Donor activities pertaining to real property are regularly subject to monitoring and evaluation and prove responsive to suggestions for change and improvement.

8. The legal profession effectively contributes to a business environment that supports real property rights.

- A. The business community believes that there is an adequate number of lawyers who have expertise in real property law.
- B. There is an established bar association that includes lawyers who represent the business community in real property disputes.
- C. Lawyers have access to an effective system of continuing education about real property law.
- D. The bar association effectively represents the legal community in public debate over updates and changes in the real property law.
- E. Law faculties provide an effective foundation of knowledge to law students about real property.

Social Dynamics

Score

-
1. There is no political or institutional bias with respect to priority access for irrigation water in any given irrigated perimeter or to land.
-
- A. Access to irrigation water is not limited by considerations of gender.
B. Access to irrigation water is not limited by considerations of national origin.
C. Access to land is not limited by considerations of tribal or ethnic origin.
D. Access to land is not limited by considerations of political affiliation.
E. Access to land is not limited by considerations of scale of enterprise (large or small).
F. small farmers are able to incrementally acquire additional land or expand holding size w/o unreasonable expense or hindrances.
-
2. Property rights are well understood, recognized and protected by the private sector, trade associations and the government.
-
- A. Individual and corporate property rights are recognized as legitimate and durable.
-
3. Inheritance practice are designed to promote farms of economically viable size.
-
- A. Community social dynamics ensure that inherited land is regularly left in a block for production, sold, or in some other way handled that promotes farms do not continue to shrink in an uneconomical manner.
-
4. Real property rights are respected by all sectors of society.
-
- A. The right of individuals to own land is established in the Constitution or a major law.
B. Where there is a recent history of a very limited number of landholders, whether it be the State or inordinately privileged families or institutions, a program of land reform has resulted in improved and more equitable access to land.
C. Programs of land reform appropriately balance the food-security needs of individual families with opportunities for larger farms to operate and be oriented toward exports.
D. The issue of land-grabbing by privileged interests is not considered a major problem.
E. Where unlawful "land grabs" have taken place, the courts and other government institutions are readily available to hear and resolve the problems.
F. Squatting on land owned by others is not considered a major problem.
G. Where squatting has taken place, the courts and other government institutions are readily available to hear and resolve the problem, in a way that does not result in homelessness or otherwise perpetuate poverty.
H. Where there has been a recent history of privatization of state-owned property, including real property, the sale of the property has been transparent and fair, and not reserved for or directed to a limited number of privileged interests.

Getting Credit

Legal Framework

1. Laws concerning land ownership do not prevent the use of land and water rights as collateral in financial transactions.

- A. Laws regarding land title provide sufficiently clear attribution of ownership to justify the collateralization of land for purposes of obtaining credit.
- B. Water rights are so defined and transferable under law as to allow their use as collateral.
- C. Laws do not unreasonably limit the terms of levels of credit which can be negotiated between landholders and lenders.

2. Microfinance and commercial banks are treated distinctly under financial regulators to allow for maximum lending to rural areas and nontraditional borrowers.

- A. Microfinance lenders are allowed by law to operate free of depository or reserve requirements in granting agricultural loans.
- B. Laws allow microfinance lenders to extend agricultural loans without collateral security.

3. Laws do not abridge the use of informal credit.

- A. The legal system provides for the transaction and protection of agricultural loans in the form of goods and services between vendors of such services and their customers in the agricultural sector.
- B. The legal system does not impede the negotiation of pre-harvest advances from wholesalers or distributors to their agricultural suppliers.
- C. The legal system does not impede the extension of credit terms from growers and grower associations to their wholesale, retail and export customers pending the sale and remittance of proceeds for their agricultural production.

4. There is a law on secured transactions, and it is readily available, clearly drafted, and easy to use.

- A. There is a law on secured transactions that specifically allows for the use of movable property as collateral to secure a loan.
- B. The law is current and is regularly updated by practical-minded experts.
- C. Print copies of law pertaining to secured transactions are readily available to members of the legal profession, the business community, and important interested sectors, including the agricultural sector.
- D. Laws related to secured transactions are published in all official languages of the country and written in plain, understandable language.
- E. The law is user-friendly -- clearly drafted, well-organized by subject, with a table(s) of contents at the front, and with article headings.
- F. Laws pertaining to secured transactions are available through a variety of publicly accessible means, including libraries, Internet sites, etc., including in rural areas, and these are regularly updated.

5. The law on secured transactions enables quick, inexpensive, and simple creation of a proprietary security right without depriving the person giving the security of the use of his or her assets.

- A. A framework law on secured transactions (found in a stand-alone law, a Law on Obligations, commercial code, etc.) contains all elements necessary for two or more parties (either individuals or corporations) to create a legally binding exchange of promises.
- B. The framework law facilitates the creation of multiple kinds of relationships regarding secured interests, including direct personal guarantees, third-party guarantees, bank guarantees, etc.

Score

- C. The law on secured transactions protects property interests that allow at-risk collateral owners legal protection and insurance for collateral subject to acts-of-God events (e.g., typhoons, drought, illness).
- D. The framework law provides for adequate legal remedies for breach of a secured transactions contract as well as clear measures for calculating monetary damages if possession of the secured property is not reasonably possible.
- E. The law allows for non-possessory pledges in a variety of tangible and intangible property interests, including pledges of after-acquired property, values expressed in foreign currency, inventory, equipment, warehouse receipts, future harvests, etc.
- F. A general rather than specific description of assets is permitted in collateral agreements.
- G. A general rather than specific description of debt is permitted in collateral agreements.
- H. Any legal or natural person may grant or take security in the property.
 - I. The law recognizes that ownership or title is not necessary for a borrower to seek creation of a secured interest, instead recognizing that lawful possession can allow for the creation of such interest.
 - J. The law allows for public notice of a security interest to be attained through means other than only through a registration at a collateral registry, such as through possession of the collateral by a creditor or third party.
- K. A law on civil procedure (or commercial procedure) is clear, accessible, and consistent with other laws as they pertain to secured transactions.
- L. The law establishes that courts have a clear mandate, which is understood and accepted by the other bodies of the state, to interpret, apply, and enforce secured transactions law.

6. The legal framework is forward-looking in that it anticipates and provides for non-traditional types of secured transactions.

- A. There is a law on franchising agreements that is in-line with international best practices.
- B. There are modern leasing and factoring laws which support the creation of secured interests using those assets for security.
- C. Various laws exist to protect consumers who may be damaged in the course of completing a contract based on a secured transaction (i.e., consumer protection laws and data protection/secretcy laws).
- D. Private credit providers, such as leasing companies, may initiate the development of new forms of secured transactions and establish industry-wide standards for these transactions.
- E. The types of property that can be used as collateral are clearly outlined in the law and include agricultural equipment, livestock, and current and future crops.
- F. The law allows for financing leases on agriculture equipment.
- G. In clearly defined instances, the law allows farmers to pay off debt with future crop earnings as an alternative to eviction in the event of default.
- H. The law anticipates special needs and interests of agricultural borrowers, including seasonal constraints on the ability to repay loans.
- I. The law adequately addresses electronic transactions of all kinds, including electronic signatures of contracts, to allow for use of those transactions to complete secured transactions.

7. One or more laws support a clear and effective structure for credit reporting.

- A. Credit information may be gathered on both business entities and individuals.
- B. The law outlines the kinds of information that can be gathered for individuals and entities and at a minimum ensures that each entry can be uniquely identified.
- C. The law places a reasonable limit on the amount of time that credit information can be maintained so that adequate credit information is accessible but negative information eventually is removed from the credit report and rehabilitation of the creditor is possible.
- D. The law allows for the creation of either (or both) public and private owned/operated credit bureaus.
- E. Privacy and confidentiality of persons and entities whose information is held in a credit bureau are protected through the relevant governing laws, such a consumer protection laws, identity theft laws, etc.

Score

- F. The law supports multiple sources of credit information, including utilities, retailers, lenders, cooperatives, etc.
- G. The law provides for sufficient oversight and regulation of bureaus to ensure transparency and neutrality in the credit bureau's operations.
- H. The law and regulations on credit bureaus clearly outline who can request and access credit information. The law allows individuals and businesses to request their own credit information.
- I. The law and regulations provide for means to appeal and correct erroneous credit information.
- J. A reliable individual identification system (national or private) is in place w/ sufficient fraud protection so as to allow credit history attribution.

8. Development of financial sector law and policy is prioritized around increasing access to financial services.

- A. There is a regulatory impact analysis process for proposed reforms prior to adoption.
- B. Reform initiatives are examined against risk management capabilities and institutional capacity to supervise and monitor implementation.
- C. Proposed reforms are consistent with the objective of expanding financial sector development while protecting financial sector stability.
- D. The pace of financial sector reforms is balanced against the financial condition and preparedness of sector participants to restructure.
- E. Proposed legislation or regulation considers effect on and does not discriminate against foreign owned financial intermediaries.
- F. Development of financial sector law and policy is mindful of the beneficial aspects of accessible new technologies, such as cell phones and internet-based services.

9. The legal framework fosters a financial sector supportive of the agriculture-based and rural economies.

- A. Laws do not set interest rate caps or create other unnecessary obstacles to serving high-cost clients.
- B. Laws permit flexible loan structures suitable for agriculture cyclicity, including loans payable at end of season.
- C. Laws permit value-chain finance including:
 - D. a. Trader credit.
 - E. b. Contract Farming/Outgrowing schemes.
 - F. c. Use of warehouse receipts.
- G. NGOs are permitted to operate in the microfinance sector.
- H. There is a legal basis for the provision of crop insurance.
 - I. Laws enable access to funds from remote locations, such as through the use of cell phones and other electronic services.

10. There is a clear and accessible body of supporting regulations for all law pertaining to secured transactions.

- A. The law and related regulations create clear and easily understandable rules and procedures for registering a security interest and outline the consequences for registration and non-registration of such interests.
- B. The fees associated with the registration of a secured interest do not discourage parties from registering such interests with the registry.
- C. Collateral registries operate under clear and accessible rules of procedure, including unambiguous rules pertaining to administrative fees and costs.
- D. Notaries and other officials involved in the creation of security interests operate under clear and accessible rules of procedure, including unambiguous rules pertaining to administrative fees and costs.
- E. The role of bailiffs and other officials who are involved in the enforcement of secured transactions is clearly defined and accessible.

Score

F. Copies of regulations pertaining to secured transactions -- including sales of goods, secured transactions on services, real property secured transactions, insolvency and other contract-related law -- are readily available to the public in both rural and urban areas.

G. Regulations are published in all official languages of the country.

11. Owners of real property may sell, lease, donate, exchange, and bequeath their interests freely.

A. An owner may transfer, by any of such means, to any other domestic or foreign individual or legal entity, without permission (or with permission, but without undue interference and delays) from the government or a government official.

B. The law does not impose minimum or maximum lease terms for agricultural or other specific uses, or for specific industries or types of parties.

C. Sales and leases are, in fact, commonly executed at freely negotiated prices and other terms and in the "normal course" of business.

D. The procedure for carrying out land transactions is simple and quick, without needless formalities or documentation and requiring only the signatures of the parties and possibly a notarial and/or land registry official.

E. Transaction costs such as appraisal, survey, notarial and registry fees, and lawyers' fees do not represent an excessive part of the transaction value, and do not preclude or discourage deals.

F. The law safeguards the interests of heirs who are late in registering their inheritance of land and other real property.

Implementing Institutions

1. The exchange rate is not kept at artificially high levels.

A. National monetary policy generally allows exchange rates to be set by market forces.

B. Monetary policy authorities intervene to protect their currency rarely and on a limited scale.

2. Regulators of agricultural banks understand the specific risks associated with loans in support of agricultural production.

A. There are provisions for the carry-forward of losses due to failures associated with:

B. a) weather-related disruption;

C. b) crop-related disruption;

D. c) transportation-related disruption; and

E. d) market-related disruption.

3. The Central Bank and financial regulators do not dictate terms associated with trade financing agreements between agribusinesses their suppliers and their customers.

A. The Central Bank and financial regulators provide for the transaction and protection of agricultural loans in the form of goods and services between vendors of such services and their customers in the agricultural sector.

B. The Central Bank and financial regulators do not impede the negotiation of pre-harvest advances from wholesalers or distributors to their agricultural suppliers.

4. The source of legal authority for all credit and financial services regulations related to the agriculture sector is clear.

A. The constitution clearly sets forth the law-making rights and responsibilities of the legislative branch.

B. The constitution clearly enunciates the implementing authority of the executive branch.

C. The courts have been shown to uphold related property interests of financial institutions relating to specific credit lending activities.

D. The notion of "checks and balances" is enshrined in the constitution.

Score

- E. There is clear legislative basis for the authority of executive agencies to issue decrees, orders, regulations, and other requirements related to doing business. The scope of this authority is clear and unambiguous.
- F. The source of legal authority for regional, provincial or local institutions to regulate certain aspects of credit and financial services is found in the constitution or in other cornerstone legislation. The scope of this authority is clear and unambiguous.
- G. Access to the chief source of authority for the country's regulatory environment is readily accessible in print and/or electronic form and is available in all national languages of the country.

5. A collateral registry or system of registries enables the creation and security of secured transactions contracts.

- A. Sufficient notice and information has been given to the public of the existence of the collateral registry, its role and its operations.
- B. The physical facilities of the collateral registry are accessible and welcoming, and there are branch or regional offices throughout the country offering easy access to services for both rural and urban populations.
- C. The procedures necessary for registering a security interest are straightforward.
- D. The fees to register a security interest are reasonable.
- E. The time to register a security interest is reasonable.
- F. Procedures for amending or challenging a security registration are straightforward and easily understandable.
- G. Registry staff is adequately trained to ensure strong customer service, high levels of integrity, and the ability to help in the improvement of the registry's operations.
- H. Registry management and directors are adequately trained for their roles and are not just political figures.
- I. The registry has sufficient funding to meet operational needs.
- J. The information contained in the registry is secure both as a result of the integrity of the registry staff as well as the quality of the IT systems.
- K. The registry has sufficient information technology (IT) capacity to meet operational needs, including a public website which explains its fees and processes. It has the ability to update its IT capacities to improve service.
- L. The registry goes through periodic reviews of its processes and procedures.
- M. If more than one registry is used for different kinds of property, then the registries are able to share information, and do so in a timely manner.

6. Commercial banks, rural banks, credit unions, microfinance institutions and other formal lending institutions are knowledgeable and capable of efficiently and transparently executing loans based on moveable property.

- A. Banks and other financial institutions only require a general description of moveable property to be used as collateral, e.g. the overall value of a herd of cattle as opposed to specifically identified individual cattle.
- B. Banks and financial institutions are able to readily and easily discover whether prior and superior claims exists on a security interest in question.
- C. Banks and financial institutions make loans to secured and unsecured creditors based on established criteria such a credit histories, proof of title to the property in question, and other standardized, predictable factors, and not only personal knowledge.
- D. Banks and other financial institutions issue loans at interest rates that are low enough so as to not be a disincentive for businesses, including agriculture and rural enterprises, from seeking a loan.
- E. Banks and other financial institutions provide clear and consistent information to borrowers about their obligations, the mechanics of repayment, and the consequences of default.
- F. Banks and other financial institutions are willing to accept as collateral a wide variety of agriculture-related movables, including equipment, livestock, and current and future crops.
- G. SMEs, including farms and rural enterprises, have relatively equal access to loans in comparison to large companies and multinationals.

Score

H. Loans to SMEs, including farms and rural enterprises, are issued at reasonable rates.

7. There is a competitive, functioning commercial banking sector with services that meet the needs of different segments of the population.

- A. Banks operate within a clear regulatory framework.
- B. There is significant breadth within the banking sector that enables competition for the provision of services to the private sector.
- C. Banks, at a minimum, are able to offer depository and credit services.
- D. The banking sector is predominantly privately owned.
- E. The banking sector observes high standards of corporate governance, consistent with international standards.
- F. Fees for services are reasonable.
- G. Banking services are available in all regions of the country, including urban, suburban, and rural areas.
- H. Banks are an integral part of an efficiently functioning payment system.
 - I. Where there is a significant Muslim population, banks and microfinance institutions offer loans and other services that are Shari'ah-compliant.

8. There are a broad range of institutional financial sector participants contributing to effective financial intermediation and offering a wide range of financial services.

- A. Alternative options for private sector savings (deposits/investments) are available.
- B. There are vibrant non-bank financial intermediaries offering competing financial services and products to the private sector.
- C. Non-bank financial intermediaries are present in all regions of the country, including in rural areas, and are reasonably accessible to all.
- D. A variety of financial instruments offering different levels of risk, return and maturities are available to the private sector.
- E. Various types of Insurance applicable to agriculture and agribusiness is available to companies at all sectors of the economy -- large, SME, and micro.
- F. Consumers have options to choose among product and service offerings.
- G. The transfer of remittances into the country is considered inexpensive, accessible, and easily managed within the formal sector.
- H. Cell phones are widely available and can be used for legal transfers of money.

9. Banks provide the agriculture-based and rural sectors with savings and investment instruments.

- A. Banks, credit unions, and micro-finance institutions provide financial services including credit, savings, and insurance to the agricultural and/or rural economy.
- B. Quick, low-cost loans are provided by the formal banking sector to the agricultural and rural sector communities.
- C. The formal banking sector is preferred to the informal banking sector for seasonal crop and marketing loans.

10. Credit bureaus support the efficient dissemination of credit information.

- A. The public has been afforded sufficient notice and information pertaining to the existence of credit bureaus, including their role and operations.
- B. The physical facilities of the credit bureau(s) are accessible and welcoming, and there are branch or regional offices throughout the country offering easy access to services for both rural and urban populations.
- C. The credit bureau has sufficient information technology (IT) capacity to meet operational needs, including a public website the contains sufficient information on services and fees. It has the ability to update its IT capacities to improve service.
- D. Credit bureau staff is sufficient, adequately trained to ensure strong customer service, high levels of integrity, and has the ability to help in the improvement of the bureau's operations.

Score

- E. Credit bureau management and directors are adequately trained for their roles and are not just political figures.
- F. The credit bureau has sufficient funding to meets operational needs.
- G. The information contained in a credit bureau is secure both as a result of the integrity of the bureau staff as well as the quality of the IT systems.
- H. Forms and fees associated with credit bureau services are accessible and understandable.
 - I. While providing information to be included in an individual or entities' credit report to a credit bureau is a voluntary act, the credit bureau can accept information from a variety of sources including banks, utilities, retailers.
 - J. The credit bureau goes through periodic reviews of its processes and procedures.
- K. The process for review of a negative, adverse, or erroneous credit report is accessible, understandable, transparent and can be completed in a reasonable amount of time.
- L. Credit reports are provided in a reasonable amount of time for a reasonable fee through a straightforward process.
- M. TOTAL/AVERAGE

Supporting Institutions

1. The agribusiness community, including growers associations and cooperatives, promotes and supports access to agriculture related finance.	<input type="text"/>

<ul style="list-style-type: none"> A. Agricultural organizations work with the formal financial sector to encourage the extension of agricultural credit terms that are appropriate both for the lenders and for the borrowers. B. Where possible, the agribusiness community works to broaden the base of borrowers, hence reducing the adverse effect of individual defaults. 	
2. Farmer's associations and cooperatives educate their membership on matters of financial management.	<input type="text"/>

<ul style="list-style-type: none"> A. Agricultural cooperatives and grower associations assist their members to solicit and obtain agricultural loans through formal channels. B. Agricultural cooperatives and grower associations offer training and other forms of assistance to help their members succeed in meeting their financial commitments incurred through agricultural loans. C. Agricultural cooperatives and grower associations assist banks and other financial institutions in developing financial instruments which mitigate some of the transactional costs and risks involved in the extension of agricultural loans. 	
3. Banks assist agricultural exporters to secure their credit risk.	<input type="text"/>

<ul style="list-style-type: none"> A. Banks work with grower associations to assist them in mitigating the risks of export transactions through: B. a) assistance in developing Letter of Credit terms with export customers; C. b) providing short-term L/C-backed export financing; D. Banks work with grower associations to develop alternative payment terms (e.g., sight drafts) for export trade which mitigate risk exposure and facilitate the obtaining of export financing. 	
4. The regulatory structure encourages public and private financial institutions to lend to agribusiness concerns.	<input type="text"/>

<ul style="list-style-type: none"> A. Workers and employers make good faith efforts to resolve whatever disputes arise in this regard. B. Banks are allowed to securitize and resell their agriculture loan portfolios. C. Where appropriate, limited loan guarantee mechanisms are encouraged and/or provided to private banking institutions. 	
5. Insurance for crop production and shipment is routinely available at a reasonable price.	<input type="text"/>

<ul style="list-style-type: none"> A. Private insurance companies offer insurance products suitable for the agriculture economy. 	

Score

- B. At least one government entity offers insurance or insurance like programs for agricultural commodities.
- C. Individuals, companies and cooperatives engaged in agriculture routinely access insurance services.

6. Where agriculture commodities are stored in common facilities, adequate systems are in place either to maintain identity of ownership or to provide for fair distribution of proceeds in the event that product is mixed.

- A. Where there is agreement to maintain individual identity of product in storage, the storage system is designed and equipped to maintain identity.
- B. Where product is pooled in common storage, there is agreement by users as to the systems by which fair distribution of proceeds following sale are to be calculated.
- C. The agency or association responsible for management of the storage facility can and does keep adequate records of receipts and deliveries to satisfy users in the event of disputes.

Social Dynamics

1. The agribusiness community is active in the promotion of a fair and efficient credit and financial services regulatory environment.

- A. Chambers of commerce provide their memberships and the public with information and training on the financial services regulatory environment.
- B. The business community regularly reports on developments within the financial services regulatory environment.
- C. Trade and industry associations have affiliations with international trade organizations and are involved in the harmonization of regulatory compliance with international standards.
- D. Trade and industry associations effectively represent the private sector in public debate over monetary policy and overall sector development.
- E. There are one or more publications that address the relationship between private sector interests and access to credit.
- F. Trade and industry associations are informed of regulatory development and have advocated new practices and reforms to existing law to accommodate changes.
- G. Borrowers view formal financing as an avenue for growing their business.
- H. Agribusiness borrowers take advantage of vendor related financing.
- I. Agribusiness borrowers take advantage of international trade related financing.
- J. Preharvest or preproduction financing from customers is readily available and routinely used.

2. Intangible and moveable assets are viewed as true assets by members of the financial community.

- A. Banks and vendors loan against future crops.
- B. Banks, vendors and customers loan against agribusiness equipment and implements.
- C. Public and private lenders advance funds against future proceeds from plant varietal and patent varietal royalties.
- D. Public and private lenders advance funds against future livestock and dairy proceeds.

3. Within the government, there is political will and a sense of urgency for improvement of conditions related to the financial services regulatory environment, and concrete steps are being taken.

- A. At the government level, Ministry of Agriculture officials are knowledgeable and active in the area of financial services regulatory framework and regularly confer with their appropriate counterparts within the Ministries of Commerce, Industry, and Finance.
- B. The government is open and welcoming to agribusiness and agriculture community participation and has formal mechanisms for soliciting financial services related input from the sector.

Score

4. The domestic business and legal communities respect the legitimacy and enforceability of secured transactions agreements.

- A. Foreign investors report strong compliance by local companies with secured transactions agreements.
- B. Even where there is not a strong tradition of secured transactions involving movable property, local businesspeople demonstrate understanding of the value of secured transactions in terms of accessing credit and how that can lead to economic growth.
- C. Commercial actors are generally willing to seek and implement legal advice with respect to completing secured transactions arrangements.
- D. State institutions, including arms of the Government and State-Owned Enterprises, generally comply with the terms of secured transactions arrangements.
- E. Judges are accustomed to enforcing the terms of secured transactions.

5. Micro, small, and medium-sized enterprises have the opportunity and means to take advantage of the benefits of secured transactions arrangements.

- A. Within the past five years, secured transaction arrangements based on moveable property have increased.
- B. There is an effort to educate such businesses about the benefits of greater access to credit.
- C. For MSMEs, microfinance organizations exist that offer loans under reasonable terms.
- D. In general, micro-enterprises and small businesses understand the benefits of completing formal secured transactions arrangements.
- E. Small and medium-sized farms have the opportunity to take advantage of the benefits of secured transactions arrangements.

6. A stable macroeconomic environment is creating the conditions for prudent financial sector policy development.

- A. Unstable macroeconomic conditions are not distorting financial sector policy development.
- B. Macroeconomic conditions are not creating disincentives to lending to the private sector.
- C. Macroeconomics conditions are fostering the willingness for private sector risk taking.
- D. Macroeconomic conditions are providing incentives for foreign capital investment in the financial sector.

Protecting Investors

Legal Framework

1. Agriculture lenders, investors and creditors are accorded the same rights and protections as other investors and creditors in other sectors of the economy.

- A. Lenders and creditors can file claims in bankruptcy against delinquent agricultural borrowers.
- B. Lenders and creditors can foreclose on pledged agricultural property and seize agricultural assets.
- C. Investors in agricultural activities have access to the same challenge and recovery procedures as are available to investors in other sectors of the economy.

2. All investors are afforded equal protection under the law irrespective of national origin, gender, tribe or political affiliation.

- A. Foreign and domestic banks enjoy equal standing under the laws governing claims and recovery.
- B. Foreign and domestic investors are treated with equal consideration under the laws governing claims and recovery.
- C. In cases where there are both public and private investors in an agribusiness enterprise, the law does not discriminate either against private investors in favor of government institutions, or vice versa.

3. The company law imposes fiduciary duties in all company types and provides for their monitoring and enforcement.

- A. The law states the duties of care and good faith of a company's directors and managers as those duties are internationally recognized.
- B. The law states the duty of loyalty, including elements of that duty such as the duties not to compete, not to take corporate opportunities, not to use company property for personal needs, not to disclose company confidential information, etc.
- C. The duty of loyalty applies to controlling members/shareholders of a company as well as to directors and managers of the company.
- D. Directors and managers must formally disclose personal conflicts of interest.
- E. Conflict-of-interest transactions must be approved by disinterested managers/directors or members/shareholders, and the law specifically states the consequences if they are not (e.g., that the transaction is void or voidable at the company's option).
- F. The law provides companies and members/shareholders with adequate remedies for breaches of fiduciary duty including both direct and derivative lawsuits against directors and managers personally.
- G. The above rules apply to all types of companies – partnership, LLC (or other closely held), and widely held companies.

4. The company law provides a clear governance and management structure for all types of companies, consistent with international corporate governance best practices.

- A. In widely held companies:
 - B. i. Only the shareholders can decide stated major matters; other interest groups such as employees or the State have no vote.
 - C. ii. There must be a board of directors elected by the shareholders only, which has a clearly defined competence.
 - D. iii. There must be a separate management (officer) body appointed by the board of directors.
- E. In closely held companies:
 - F. i. As a default provision, unanimous or supermajority member consent is required for matters as above and for admission of new members.
 - G. ii. It is clear who has management authority and authority to bind the company with third parties, and it is clear how those persons are chosen.

Score

5. The commercial legal framework is accessible to foreigners.

- A. The body of commercial law is available on a regularly updated Internet site.
- B. The commercial law is available in English.
- C. The commercial law is available in a major second language other than English.
- D. Where the state provides incentives to investors, those incentives are clear and consistent with regional or international norms.
- E. Information about how to take advantage of investment incentives is readily accessible.
- F. All regulations pertaining to the commercial law are readily available to the public, either in print or over the Internet.
- G. All regulations pertaining to the commercial law have been translated to English.

6. The legal framework provides for the equal treatment of foreign investors.

- A. Laws have been enacted that provide a legal framework for direct investment. The law may include special provisions for foreign direct investment.
- B. Foreign investors may freely invest in any area of economic activity other than those reserved to the state as areas of national security.
- C. There is no requirement of local participation in the ownership of companies or property, including real property, except in areas reserved to the state, if any.
- D. Exceptions to the principle of non-discrimination are clearly spelled out.
- E. The government periodically reviews the costs of reserving certain areas of economic activity to domestic enterprises against the intended public purpose of the restriction(s).
- F. Foreign investors do not perceive the investment law(s) to be unduly cumbersome or complicated with respect to the ability for outsiders to invest in one or more businesses.
- G. The government does not require foreign investors to meet performance targets in terms of output or price of goods and services in order to maintain their investments (except in the context of concession contracts based on performance).
- H. The legal regime for investment does not discriminate in favor of foreign investors or against local investors.

7. The legal framework pertaining to commercial dispute resolution is readily available, clearly drafted, and easy to use.

- A. Print copies of law pertaining to commercial dispute resolution are readily available to members of the legal profession, the business community and the general public, including in rural areas.
- B. New laws are published according to a uniform, timely and consistently implemented procedure (such as through regular publication of an Official Gazette).
- C. Law is published in all official languages of the country.
- D. The law is user-friendly -- clearly drafted, well-organized by subject, with a table(s) of contents at the front, and with article headings.
- E. Law pertaining to all aspects of commercial dispute resolution is available on a regularly updated Internet site.
- F. Courts post or otherwise very clearly identify the fees and costs involved with commencing commercial cases.

8. Regional, district or other local courts exist for addressing disputes affecting the agricultural and rural economy.

- A. There is a clear legal framework that establishes local courts.
- B. The local court system lies within the formal judicial framework.
- C. The revenue base for the local court is clearly stated in the law and functions so as to fully cover administrative costs.
- D. Local courts have jurisdiction over a wide range of commercial and property disputes.
- E. Local courts operate according to clear, transparent, published rules and procedures.
- F. Courts are prevalent and accessible in rural areas.
- G. Local courts make their rules and procedures available to the public.

Score

- H. Local courts issue written decisions based on the published, established law.
- I. Decisions of the local courts responsible can be appealed to the court system.

9. The legal framework provides courts with adequate jurisdiction to hear disputes pertaining to real property.

- A. The courts are empowered to hear disputes regarding real property matters in general, including contract claims, mortgage foreclosures, and boundary and title disputes.
- B. The courts are empowered to hear cases arising from the property registration process, including suits against or appeals from decisions of the land registry.
- C. The courts are empowered to hear cases arising from the land use regulation process, including suits against or appeals from decisions of the land use authorities.

10. The legal framework provides foreign investors with fair and effective means of dispute resolution.

- A. There are no provisions in the law of civil or commercial procedure that directly or indirectly discriminate against foreigners.
- B. The law allows for Alternative Dispute Resolution of commercial disputes involving foreign investors, including the enforcement of decisions reached through ADR.
- C. The International Convention for the Settlement of Investment Disputes (ICSID) has been ratified.

11. Courts are fair and efficient in their treatment of disputes involving foreign investors.

- A. Foreign investors report that, if they go to court, they can expect to receive a just decision, grounded on published laws, regulations and standards, in a timely manner.
- B. First-instance and appellate jurisdiction over commercial disputes involving foreigners is clear.
- C. Courts recognize and enforce foreign judgments in a non-bureaucratic, effective manner.
- D. Courts recognize and enforce the awards of international arbitration tribunals in a non-bureaucratic, effective manner.
- E. Judges make decisions independently, without regard to inappropriate political pressures or non-judicial considerations.

12. Where incentives to foreign investors are offered, they are consistent with regional norms and ultimately result in a net fiscal benefit to the country.

- A. The following tax incentives designed to promote foreign direct investment are consistent with regional norms and ultimately result in a net fiscal benefit:
 - B. a. Tax holidays
 - C. b. Investment allowances and tax credits
 - D. c. Timing differences
 - E. d. Reduced tax rates
 - F. e. Free economic zones
- G. The Tax Authority has analyzed all tax incentives to fully understand:
 - H. a. The profile of the beneficiaries
 - I. b. The specific revenue impact
 - J. c. Administration and tax-avoidance issues
- K. The Tax Authority has considered special purpose tax incentives:
 - L. a. for regional development
 - M. b. for sectoral development
 - N. c. for employment creation
 - O. d. for export promotion
 - P. e. for free trade or export processing zones
- Q. Incentive structures for foreign investment are regularly reviewed and reconciled with overall national fiscal policy.

Implementing Institutions

1. Courts are well organized, well led, and endowed with sufficient resources to fulfill their mandate.

- A. There is a sufficient number of courts to provide for safe and convenient access to the population, including in urban, suburban, and rural areas.
- B. The courts are clean, orderly, and project a gravity of purpose.
- C. Courtrooms and their facilities are adequate and in good repair and are generally sufficient to meet the needs of the judiciary.
- D. The clocks in courthouses function and are correctly set.
- E. The courts operate with a sufficient number of computers and other equipment to enable them to handle their caseloads in a reasonably efficient manner.
- F. Court fees are clearly defined and publicized, and no additional, informal fees are solicited or accepted by court staff.
- G. Court administrators hold significant administrative authority and the work of judges is confined chiefly to the substantive resolution of cases.
- H. Court staff hold clearly defined roles and are subject to periodic performance reviews.
- I. The judiciary has an administrative office or other unit responsible for overall oversight and management of the courts.

2. Judges are independent and impartial.

- A. Judges are appointed based on objective criteria, that, even if influenced somewhat by politics, foster a system of independent, impartial judges.
- B. A judicial code of ethics exists to address major issues such as conflict of interest, ex parte communications, and inappropriate political activity.
- C. Judges do not engage in ex parte communications.
- D. Judicial decisions only may be reversed through the judicial appellate process.
- E. The judiciary has control over its own budget.
- F. Judicial salaries are adequate to attract and retain qualified judges, enabling them to support their families and live in a reasonably secure environment, without having to have recourse to other sources of income.
- G. Senior-level judges are appointed for fixed terms that provide a guaranteed tenure, which is protected until retirement age or the expiration of a defined term of substantial duration.
- H. Judges treat agribusiness disputes as business disputes.
 - I. Judges are required to disclose their assets on an annual basis.
 - J. Judges have immunity for actions taken in their official capacity.
- K. A meaningful process exists under which judges, lawyers and members of the public may register complaints concerning judicial conduct.
- L. Judges are free from concerns regarding their personal security, and if a situation arises where their safety is in doubt they are afforded additional security.
- M. Judges may be removed from office or otherwise punished only for specified official misconduct and through a transparent process, governed by objective criteria.

3. The courts are free of corruption.

- A. Court staff is hired according to an open, competitive process.
- B. Cases are randomly assigned.
- C. Courtroom proceedings are open to, and may accommodate, the public and the media.
- D. Court fees are clearly defined and publicized, and no additional, informal fees are solicited or accepted by court staff.
- E. There exists a code of conduct for court staff, including standards of integrity and confidentiality.
- F. The salaries of the administrative staff are sufficient to attract and retain qualified staff.

Score

4. Courts and regulatory agencies have the power, resources and disposition to enforce investor rights.
- A. Provisions exist requiring investor consultation in the event of major re-structuring, investment, or dis-investment decisions.
- B. Provisions exist requiring investor consultation on matters dealing with mergers and acquisitions.
5. The courts are -- and are regarded as -- an effective institution for resolving agriculture related disputes pertaining to companies, cooperatives, and corporate governance.
- A. Courts are in fact often used when company disputes are not settled informally.
- B. Company and business cases are heard in a separate court from those which hear other cases.
- C. Lawyers and commercial actors report that, if they go to court, they can expect to receive a just decision, grounded on published laws, regulations and standards, in a timely manner.
- D. Lawyers and commercial actors respect and observe the decisions of judges, even if the decision is adverse to their positions.
- E. Time standards for judges resolving company law and corporate governance disputes are in place and generally observed.
- F. Disputes involving company law typically undergo settlement discussions or mediation prior to trial.
- G. Judges who hear company law cases have formal, university-level training and are required to have practiced before tribunals or, before taking the bench, are required to take relevant courses concerning subjects they will address on the bench.
- H. Judges who hear company law and corporate governance cases receive periodic continuing legal education on issues relating to company law and corporate governance.
6. Alternative Dispute Resolution (ADR) is regularly used and effective in resolving agriculture related disputes pertaining to companies, cooperatives, and corporate governance.
- A. There is an arbitration chamber or other system that is commonly used to resolve disputes arising from companies and cooperatives.
- B. There is an arbitration chamber or other system that is commonly used to resolve disputes arising from companies and cooperatives and these systems are easily accessed by rural or remotely located agricultural entities (producers, processors, etc.)
- C. Arbitration chambers handle cases with both foreign and domestic parties.
- D. There is a sufficient supply of qualified local arbitrators and they are willing to operate outside of main urban areas.
- E. Arbitration or mediation are in fact often used in preference to court litigation.
- F. Arbitration chambers have a clear and transparent method of certifying and/or licensing arbitrators and provide training for them.
- G. Arbitration chambers or other bodies provide training or outreach services to all categories of businesspersons, including those in locations outside main population centers where agricultural enterprises typically operate.
- H. Parties are free to choose their arbitrators or mediators.
- I. There is a set of commonly-used or recognized rules for arbitration and mediation.
- J. The cost of arbitration or mediation is not a disincentive to using it.
- K. Judges who hear appeals from arbitral awards have formal training in the principles of arbitration, mediation and other ADR.
- L. Judges reject arbitral awards on legitimate procedural grounds only, and do not substitute their judgment for that of the arbitrator except where there is demonstrable negligence or fraud on the part of the arbitrator.
7. Alternative Dispute Resolution (ADR) systems do not lead to inequitable treatment of investors.
- A. Investors participate in the process of arbitrator selection.

Score

- B. Rules and procedures under which mediations and arbitrations are conducted do not favor other claimants over investors.
- C. Investors have voice and vote in all ADR proceedings dealing with settlements, disposition of assets, or material modifications in company structure.
- D. Investors have the right to challenge ADR outcomes through judicial appeal.

8. ADR is regularly used and effective in resolving matters pertaining to corporate governance.

- A. There is an arbitration chamber or other system that is commonly used to resolve corporate governance disputes.
- B. The arbitration chamber(s) is sufficiently funded.
- C. Arbitration chambers handle cases with both foreign and domestic parties.
- D. There is a sufficient supply of qualified local arbitrators.
- E. Arbitration or mediation are in fact often used in preference to court litigation.
- F. Arbitration chambers have a clear and transparent method of certifying and/or licensing arbitrators and provide training for them.
- G. Arbitration chambers or other bodies provide training or outreach services to agribusiness persons.
- H. Parties are free to choose their arbitrators or mediators.
- I. There is a set of commonly-used or recognized rules for arbitration and mediation.
- J. The cost of arbitration or mediation is not a disincentive to using it.
- K. Judges who hear appeals from arbitral awards have formal training in the principles of arbitration, mediation and other ADR.
- L. Judges reject arbitral awards on legitimate procedural grounds only, and do not substitute their judgment for that of the arbitrator except where there is demonstrable negligence or fraud on the part of the arbitrator.

9. Governmental agencies actively encourage investment in agriculture enterprises.

- A. Agencies follow organized campaigns to alert investors to investment opportunities in the country's agribusiness sector.
- B. Agencies meet with potential investors or investor groups, and are empowered to grant incentives and to make other accommodations in order to attract investment into the agribusiness sector.

10. The Investment Promotion Agency (IPA) effectively promotes quality agribusiness investment and represents and responds to the special interests of agriculture investors.

- A. The IPA promotes and maintains an effective dialogue with investors.
- B. The IPA is adequately funded.
- C. It has sufficient staff.
- D. It has sufficient funding (through direct state budget, fees for registration or other services, or both).
- E. Its physical facilities are accessible and welcoming, and there are branch or regional offices throughout the country to the extent necessary.
- F. The performance of the IPA is regularly reviewed by knowledgeable actors within the government, who use an objective set of monitoring indicators.
- G. The IPA collects and maintains data on foreign investment, including registration, levels of investment, employment, liquidation, and other statistics of interest to policy makers and the private sector.
- H. The IPA (or a related agency) has strategies for developing foreign investment in the agriculture sector of the economy. These strategies reflect an understanding of the types of investment that will lead to the strongest prospects for economic growth.
- I. The IPA works closely with relevant ministries and private-sector institutions to respond to information needs and investment priorities of potential agriculture sector investors.

Supporting Institutions

1. The legal profession is well equipped to assist the agricultural sector with the protection of the sectors legal rights.

- A. Educational institutions offer specialized courses in rural property, water rights, agricultural contracts and related subjects which prepare lawyers to specialize in agricultural law.
- B. There is a professional association of agricultural lawyers.
- C. Reliable and knowledgeable legal assistance is available to agricultural actors at all levels of the value chain, and in all parts of the country.

2. The legal profession has both expertise and practical experience, and it has a positive influence on company and cooperative law compliance and corporate governance generally.

- A. Lawyers are required to have a law degree and to pass a bar exam which has transparent rules and is free of corruption.
- B. There is an adequate number of lawyers who have expertise and practical experience in companies, cooperatives, and corporate governance.
- C. Lawyers are in fact regularly used by companies, cooperatives and other persons for advice and representation.
- D. Lawyers regularly provide company registration service at reasonable fees.
- E. There is an established bar association that includes lawyers who represent the business and cooperative community in commercial disputes.
- F. The bar association provides meaningful services to lawyers, including continuing legal education in a variety of commercial law topics, regular updates in the profession and the commercial law, and other opportunities for sharing information.
- G. Lawyers have an effective continuing education system on company law, cooperatives, and corporate governance.
- H. Lawyers have access to an effective system of continuing education about alternative dispute resolution of disputes pertaining to companies, cooperatives, and corporate governance.

3. Various public and private actors provide timely, accurate and effective information for foreign investors to make informed assessments of investment risks and obligations.

- A. A system of credit bureaus is in place and regularly accessed by the community or foreign investors.
- B. The accounting profession is regularly called upon to provide pre-contract valuation information and other financial data that serves to develop an accurate assessment of risk.
- C. The media reports regularly, freely and accurately on matters related to foreign investment.
- D. The business or legal community supports one or more specialized publications on the commercial law and other business issues.
- E. A registry of secured transactions is in place and accessible at a reasonable cost so that investors can check for the reliability of movable collateral.
- F. A real property registry is accessible at a reasonable cost so that parties can check for liens and other restrictions on real property.
- G. Legal services are accessible and affordable to foreign investors.
- H. Registries of names, copyrights, trademarks, patents and other intellectual property are up-to-date and readily accessible to the business community.

4. Trade and industry associations effectively contribute to a sound environment for companies, cooperatives, and corporate governance.

- A. Trade and industry associations (including chambers of commerce, bankers associations and agriculture groups) are accustomed to advising their membership on matters of relevant law and corporate governance.

Score

- B. Trade and industry associations have affiliations with international trade organizations and are involved in the harmonization of company law and corporate governance practices with international standards.
- C. Trade and industry associations provide lists of attorneys or law firms that can provide assistance to their members.
- D. Trade and industry associations effectively represent the private sector in public debate over updates and changes in the commercial law.
- E. Trade and industry associations are informed in technology developments as they relate to companies and cooperatives and have advocated new practices and reforms to existing law to accommodate changes (e.g., digital signatures).
- F. Trade and industry associations provide meaningful opportunities in agriculture sector for networking, training, and sharing of best practices. This should include a presence, activities, programs or events outside largest population centers or mechanisms to bring the agriculture community to a convenient location to participate.
- G. Organizations of foreign investors contribute positively to the business environment, through networking services, training, publications, and other means.

5. Courts are fair and efficient in their treatment of agribusiness disputes involving foreign investors.

- A. Foreign investors report that, if they go to court, they can expect to receive a just decision, grounded on published laws, regulations and standards, in a timely manner.
- B. First-instance and appellate jurisdiction over commercial disputes involving foreigners is clear.
- C. Courts recognize and enforce foreign judgments in a non-bureaucratic, effective manner.
- D. Courts recognize and enforce the awards of international arbitration tribunals in a non-bureaucratic, effective manner.
- E. Judges make decisions independently, without regard to inappropriate political pressures or non-judicial considerations.

6. The donor community effectively supports a strong system of commercial dispute resolution.

- A. The donor community regularly interacts with local members of the legal profession and the business community to ensure that their programs are effective and meet actual needs.
- B. Coordination of donor activities relating to improving the agribusiness environment with respect to contracts is considered by both local actors and donors to be adequate and effective.
- C. Agribusiness environment "success stories" reported by donors, in particular those pertaining to contract formation and enforcement, are substantiated by sustained, positive results on the ground.
- D. Donor activities pertaining to the agribusiness environment are regularly subject to monitoring and evaluation and prove responsive to suggestions for change and improvement.

7. The agribusiness community engages in effective means of self-help prior to commencing formal dispute resolution processes.

- A. Small and medium-sized enterprises are accustomed to engaging lawyers to assist in preparing and enforcing contracts.
- B. Systems of customary law are effective for resolving small contractual disputes.
- C. The agribusiness and legal communities have developed and use a body of standardized contracts.
- D. The agribusiness community regularly accesses informational sources that help reduce their risks, such as credit bureaus and other informational agencies.
- E. The agribusiness community engages in predictable, sequential methods of collection of debts.
- F. The agribusiness community is accustomed to taking advantage of contractual rights -- such as repossession of property, where legal -- without undue involvement of the courts.
- G. Certification and inspection services have adopted uniform standards and procedures that can be easily incorporated into commercial contracts in the agriculture sector.

Score

8. Institutions and centers used for ADR are utilized and are sufficiently funded, staffed, supported, and recognized.

- A. A sufficient number of arbitration centers, arbitrators and mediators are available to hear cases, including subject matter/sectoral experts in addition to lawyers.
- B. Arbitration centers are easily accessible in both rural and urban settings.
- C. Parties are encouraged to use ADR prior to entering the court system.
- D. Arbitration or mediation decisions are recognized and respected by the parties as binding.
- E. Arbitration/mediation center(s) have sufficient staff and resources to train businesses regularly on the advantages of ADR and the procedures for employing it.
- F. Arbitration/mediation center(s) have sufficient staff and resources to train arbitrators and mediators.
- G. Arbitration/mediation centers allow parties to choose their arbitrators/mediators.
- H. The rules of procedure of the arbitration/mediation centers are in accordance with relevant international standards and best practice, and encourage the expeditious disposition of cases.
- I. The cost of commencing arbitration/mediation proceedings is not a disincentive to using arbitration as a means for resolving contractual disputes.
- J. Judges have the power to and regularly refer cases to ADR, be it through court-annexed procedures or other private means.
- K. Judges who review appeals from arbitral/mediation awards have formal training in the principles of arbitration.
- L. Judges reject arbitral/mediation awards on legitimate procedural grounds only, and do not substitute their judgment for that of the arbitrator except where there is demonstrable negligence or fraud on the part of the arbitrator.
- M. Parties to commercial disputes regularly seek out ADR as an alternative to using the formal court system.

9. Where customary or traditional institutions play a part in resolving commercial disputes related to agriculture, their activities and decisions are considered to be transparent, consistent, efficient, and fair.

- A. Where appropriate, informal or customary processes are used by agribusinesses and individuals to solve commercial disputes.
- B. Customary institutions conduct proceedings in which evidence is presented by all interested parties and the decisions issued are supported by the weight of the evidence.
- C. Where necessary and relevant, customary tribunals access and rely on the country's formal legal framework when considering and resolving disputes.
- D. Customary institutions generally hold the respect of the individuals and communities that are impacted by their authority.
- E. Both men and women are represented on customary tribunals.
- F. The decisions of customary tribunals evidence respect for the commercial and property rights of women.
- G. The decisions of customary tribunals evidence respect for the commercial and property rights of minority groups.
- H. All issues heard before customary tribunals may also be considered by State administrative bodies or the courts.
- I. When issuing decisions, customary tribunals cite reasons for their decisions.
- J. Informal/Customary law decisions comport with the black letter law of the relevant jurisdiction.
- K. Decisions of an informal/customary law system are easily enforceable and respected within the formal legal system.
- L. Decisions of a informal/customary law system may be appealed to the legal system established by the black letter law in the relevant jurisdiction.

10. The legal profession effectively contributes to an environment that supports a fair and efficient regulatory environment.

Score

- A. There is an established bar association that includes lawyers who represent the agribusiness community in commercial matters.
- B. Lawyers' associations have specialized groups related to commercial law, agriculture, and/or commercial dispute resolution.
- C. Lawyers' associations hold continuing legal education and training programs to educate members about commercial legal developments and commercial dispute resolution.
- D. Lawyers' associations hold continuing legal education and training programs to educate members about alternative dispute resolution including arbitration.
- E. There is an adequate supply of attorneys who can represent agribusiness endeavors of all sizes, from sole proprietors to large corporations.
- F. The bar association provides accessible and affordable legal help to small and medium-sized enterprises.
- G. The bar association has formal mechanisms for identifying needs relating to the regulatory environment.

11. The private sector is active in the promotion of a fair and efficient regulatory environment.

- A. Chambers of commerce provide their memberships and the public with information and training on the regulatory environment.
- B. The business community regularly reports on developments within the regulatory environment.
- C. Specialized publishers develop and make available standardized forms for most common regulatory requirements.
- D. Trade and industry associations have affiliations with international trade organizations and are involved in the harmonization of regulatory compliance with international standards.
- E. Trade and industry associations provide lists of attorneys or law firms that can provide assistance to their members with respect to credit.
- F. Trade and industry associations effectively represent the private sector in public debate over monetary policy and overall sector development.
- G. There are one or more publications that address the relationship between private sector interests and access to credit.
- H. Trade and industry associations are informed of regulatory development and have advocated new practices and reforms to existing law to accommodate changes.

Social Dynamics

1. The legal profession effectively contributes to an environment that supports a fair and efficient regulatory environment.

- A. There is an established bar association that includes lawyers who represent the business community in commercial matters.
- B. Lawyers' associations have specialized groups related to commercial law and/or commercial dispute resolution.
- C. Lawyers' associations hold continuing legal education and training programs to educate members about commercial legal developments and commercial dispute resolution.
- D. Lawyers' associations hold continuing legal education and training programs to educate members about alternative dispute resolution including arbitration.
- E. There is an adequate supply of attorneys who can represent business endeavors of all sizes, from sole proprietors to large corporations.
- F. The bar association provides accessible and affordable legal help to small and medium-sized enterprises.
- G. The bar association has formal mechanisms for identifying needs relating to the regulatory environment.

2. The private sector agriculture sector dialog with the public sector is not dominated by one subset of interests.

- A. Private sector industry groups or trade associations facilitate dialog between all relevant stakeholders in specific value chains or across the agriculture sector more generally.

Score

- B. Private sector advocacy with the government is not dominated by one sub-interest group at the expense of other stakeholders or overall agriculture sector economy growth.

3. The private sector is active in the promotion of a fair and efficient regulatory environment.

- A. Chambers of commerce provide their memberships and the public with information and training on the regulatory environment.
- B. The business community regularly reports on developments within the regulatory environment.
- C. Specialized publishers develop and make available standardized forms for most common regulatory requirements.
- D. Trade and industry associations have affiliations with international trade organizations and are involved in the harmonization of regulatory compliance with international standards.
- E. Trade and industry associations provide lists of attorneys or law firms that can provide assistance to their members with respect to credit.
- F. Trade and industry associations effectively represent the private sector in public debate over monetary policy and overall sector development.
- G. There are one or more publications that address the relationship between private sector interests and access to credit.
- H. Trade and industry associations are informed of regulatory development and have advocated new practices and reforms to existing law to accommodate changes.
- I. The government and donor community assist small agriculture and rural enterprises with improving their accounting systems and other business development practices.
- J. The government and donor community assist small agriculture and rural enterprises with technology and training to increase their production volume.
- K. The government and donor community assist small agriculture and rural enterprises with technology and training to increase their quality of production.
- L. The government and donor community assist small agriculture and rural enterprises with technology and training to increase their ability to deliver on time quality products in the quantity ordered.
- M. The government and donor community assist small agriculture and rural enterprises by addressing issues that effect input supply, factors of production and output marketing and distribution.
- N. The government works with the informal sector on adopting uniform metric weights and measures, unit pricing, and sanitary packaging techniques/technology.

4. Government and politicians at all levels within the country take serious account of the policy positions adopted by the agricultural community.

- A. Active political involvement is considered a worthwhile and necessary activity within the agricultural community.
- B. Government officials seek out input from agricultural leaders in formulating reforms and in drafting laws germane to the agricultural sector.
- C. At the government level, important officials are knowledgeable and active in the area of company law and are business-friendly in general.
- D. There is an effective law reform process including a governmental committee dedicated to company law reform, including drafting of new laws or amendments.
- E. A formal mechanism exists for reviewing the performance of the company registry on a regular basis, and the director of the registry is committed to improving its performance and effectiveness.
- F. The government is open and welcoming to private-sector participation and has formal mechanisms for soliciting input from the business and professional community.

5. Within the government, there is political will and a sense of urgency for improvement of conditions related to the courts, and concrete steps are being taken.

- A. At the government level, important officials are knowledgeable and active in the area of company law and are business-friendly in general.
- B. There is an effective law reform process including a governmental committee dedicated to company law reform, including drafting of new laws or amendments.

Score

- C. A formal mechanism exists for reviewing the performance of the company registry on a regular basis, and the director of the registry is committed to improving its performance and effectiveness.
- D. The government is open and welcoming to private-sector participation and has formal mechanisms for soliciting input from the business and professional community.

6. Within the private sector there is a sense of urgency and the will for improvement of conditions related to the regulatory environment, and concrete steps are being taken.

- A. The business community exhibits responsiveness to external pressures to improve knowledge of and execution of principles of corporate governance.
- B. Individuals or organizations within the private sector that actively or passively oppose improvements in corporate governance are known to the stakeholding community, including government officials and private sector leaders.
- C. Efforts are made by government actors, private sector leadership, and/or the donor community to identify and understand vested interests that oppose improved corporate governance and to work to change their attitudes and practices.
- D. The business community regularly provides input including statistics, studies and draft law suggestions.
- E. Banks and other financial institutions demonstrate a commitment to sound practices of corporate governance.
- F. Large NGOs demonstrate a commitment to sound practices of corporate governance.

7. There is public confidence in the courts and their ability to enforce or resolve disputes around contracts.

- A. The public perceives that the judiciary is an independent branch of government that is not beholden to the dictates of the executive branch or the legislature.
- B. The public in general perceives that the judiciary is impartial.
- C. Women and minority groups perceive that the judiciary is impartial.
- D. The public perceives that the judiciary resolves disputes in a timely manner.
- E. There is public respect for the judicial office.
- F. The public views the courts as an appropriate venue for resolving civil disputes, where informal methods of dispute resolution have failed.
- G. The agricultural community, and rural illiterates in particular, use the courts in protecting their interests with regards to contracts.

8. The rule of law is respected by all sectors of society and is not undermined by official corruption.

- A. Under Transparency International's most recent Corruption Perception Index, the country scores better than 4.
- B. If the country's score on the most recent CPI is less than 7, there is a comprehensive, multi-agency program to combat corruption in State institutions.
- C. There is no recent history of major donors or lending institutions cancelling programs, loans or activities on the grounds of official misuse of funds.
- D. Prosecution of corruption is not generally regarded as a means of weeding out political opponents.
- E. The media covers allegations of official corruption in a responsible and thorough manner.
- F. Judges, prosecutors, and media representatives do not significantly risk their personal safety by participating in inquiries or prosecution of official corruption.
- G. There is evidence that society regards the law as a force for resolving, rather than creating, problems.
- H. There is a common adage throughout various sectors of society that "no one is above the law."

9. If there is a substantial "informal economy," that problem is understood and the government and the business community are taking effective steps to address it.

Score

- A. The extent and nature of the informal economy is known -- specifically, the extent to which it consists of:
- B. i. "micro" businesses such as individual vendors or single family stalls, shops or farms;
- C. ii. larger SMEs such as businesses with up to 50 employees;
- D. iii. large businesses; or
- E. iv. specific types of businesses, or businesses in specific geographical regions.
- F. The reasons for the problem, including specific obstacles toward formalization, are generally understood by the following stakeholders:
- G. i. government officials;
- H. ii. business leaders and influential players in the private sector; and
- I. iii. the research or academic community.
- J. There is awareness of issues of special interest to entrepreneurs, and schools and training institutions teach these issues.
- K. The government is taking effective steps to address the problem of informality, which may include efforts at law or regulatory reform, improvement and streamlining of registry or other agency procedures at the local level, work with specific industry segments, etc.
- L. The business and professional community is taking effective steps to cure the problem, which may include assisting in law reform, lobbying for regulatory improvement, advising clients of the law and of the benefits from exiting the underground economy, etc.
- M. The donor community is aware of the informal economy problem and the above issues and efforts, and actively and effectively assists in reform efforts.

10. Corruption does not undermine the regulatory environment.

- A. Under Transparency International's most recent Corruption Perception Index, the country scores better than 4.
- B. If the country's score on the most recent CPI is less than 7, there is a comprehensive, multi-agency program to combat corruption in state institutions.
- C. There is no recent history of major donors or lending institutions cancelling programs, loans or activities on the grounds of official misuse of funds.
- D. Prosecution of corruption is not generally regarded as a means of weeding out political opponents.
- E. The media covers allegations of official corruption in a responsible and thorough manner.
- F. Judges, prosecutors, and media representatives do not significantly risk their personal safety by participating in inquiries or prosecution of official corruption.

11. The political and security environment does not discourage foreign investment.

- A. Foreign companies doing business in the country are not vulnerable to sabotage or other security issues based on their foreign ownership.
- B. Foreigners are not dissuaded from living and working in the country due to high rates of crime.
- C. There are no legal or practical bars against the exercise of religious freedom.
- D. There are no legal or practical bars against the free movement of women in business and social circles.
- E. The government does not require or otherwise pressure foreign investors to divulge private information about their clients or business partners without a clear and compelling interest.

12. The media report regularly, freely, and accurately on matters related to the courts.

- A. The media has sufficient access to all appropriate sources of information concerning commercial law issues.
- B. The media can report freely on issues pertaining to the courts without fear of government reprisal.
- C. The private sector considers media coverage of the courts to be sufficient, accurate and fair.
- D. Judges consider media coverage of courts (and in particular, their commercial law functions) to be sufficient, accurate and fair.

Score

- E. Reporters have access to training and education in issues pertaining to coverage of business and commercial law topics.

Paying Taxes

Legal Framework

1. Land tax rates are not regressive.

- A. Taxes are assessed in proportion to asset value.
- B. The proportional rates applied to agriculture do not result in smallholders and small agribusiness persons paying a higher percentage of their asset values when compared to larger private and SOE agricultural enterprises.
- C. The law provides for challenges in the event of perceived inequity in tax rate application.

2. Duty drawback provisions exist to promote the export of value added agricultural goods.

- A. Goods which are brought into the country for use in the preparation or processing of agricultural goods for export are given partial exoneration of duty.
- B. Equipment imported for purposes of agricultural value addition are accorded advantageous tax treatment.

3. Statutory tax rates on agricultural products are set with the global competitiveness of the products in mind.

- A. Taxes imposed on domestic production of agricultural and agri-food products are comparable to those of adjacent countries in the region, and to those of agricultural trading partners.
- B. Imported agricultural foodstuffs are accorded the same tax treatment as comparable domestically-produced goods.
- C. Taxes levied against agricultural inputs and crop protection products are set at levels which do not undermine the price competitiveness of national agricultural production.
- D. Imported food products are accorded the same tax treatment as analogous products produced domestically.
- E. Where food products are imported for purposes of food security or relief, efforts are made to minimize adverse competitive impact on national producers and distributors of comparable products.
- F. Where imports are managed or controlled by State Owned Enterprises, subsidies applied to the importation of food products are matched by subsidies to domestic providers.

4. Agricultural products are not subject to export taxes.

- A. Taxes are not assessed against the export of raw agricultural products.
- B. Taxes are not assessed against the export of value-added agricultural or agri-food products.
- C. Administrative assessments for services provided in compliance with export requirements, or with import requirements in the countries of destination, are based on cost recovery, and do not serve to impose an additional tax burden on agricultural exports.
- D. Where applicable, import and export taxes are harmonized and implemented with the appropriate regional economic community.

5. Taxes on agricultural products at local, regional and national levels are transparent and accessible to all interested parties.

- A. Laws regarding sales or value-added taxes are easily understood, and posted in the locations where sales transactions typically occur.
- B. Laws regarding taxation of agricultural products are published in advance of their taking effect, and comments from affected parties are invited.
- C. Laws concerning the taxation of agricultural and agri-food products can be challenged on the grounds of equity, uniformity of application, or damage to product competitiveness.

6. The transport of agricultural products is not subject to formal or informal taxes.

- A. Transportation of agricultural goods is exempt from tolls or user fees on all public roads.

- B. Informal fees or collections are not levied against agricultural cargoes.
- C. Taxes and transit fees are not assessed at borders on agricultural cargoes, whether inbound or outbound.

7. Investment promotion programs that include tax incentive packages are available to agribusinesses.

- A. Ag enterprises of all kinds receive similar tax incentive packages as manufacturing or industrial investors.
- B. Investors across the food value chains, including retail, receive applicable tax incentives that are comparable to investors in other sectors or points in the value chain.

8. Water assessments are calculated on the basis of irrigation equipment operation, maintenance and replacement.

- A. Laws stipulate that such user fees as are collected are to be based on considerations of equipment operations, maintenance and eventual replacement, and are to be applied for these purposes only.
- B. Irrigation districts and user groups are invited to participate in the drafting of legislation governing their activities, and are authorized to challenge such laws as they deem appropriate.

Implementing Institutions

1. Dues and fees for membership in commodity and industry associations are mandated only in return for value of the services which such associations provide.

- A. The responsibilities of commodity and industry associations are clearly defined, and endorsed by their members as deserving industry support.
- B. Commodity 'check-off' programs do not inhibit competitiveness of products either in domestic market or globally.

2. Tax agencies provide adequate information to permit compliance across all levels of society.

- A. National institutions charged with implementing agricultural and rural development policy have sufficient professional and administrative capacity to carry out this mandate.
- B. Information on tax agencies, procedures, and other relevant information is accessible to those living in rural areas.
- C. There are provisions for appeals in the event that there are disputes as to the levies assessed against agricultural or agribusiness concerns.
- D. Customs officials are able to accurately identify agriculture related imports (including machinery, greenhouses, processing equipment) for correct duty application.

3. Police and military personnel engage in collection activities only for taxes and fees that are formally authorized by relevant government agencies.

- A. Collection activities are normally performed by officials of government tax agencies, or by representatives who have been officially appointed by such agencies, or by the court system, to assist in the collection process.
- B. In the event that representatives from outside the tax agency have been appointed to assist in the collection process, such representatives carry formal confirmation of their status and assignment, and willingly display their credentials if so requested.
- C. Absent such documentation, military and police personnel are not authorized to collect any tax revenues, nor to collect any fees for business operation or transit.
- D. Laws exist, and are enforced, to prohibit police or military personnel from engaging in the collection of taxes, operating assessments or transit fees, absent specific and visible authorization from government collection agencies.

4. The Tax Authority (TA) has implemented best international practices to perform key tax procedures.

Score

- A. The Ministry of Finance and the TA have established one-stop service and single issuance of taxpayer registration process and issuance of taxpayer identification numbers.
- B. The TA has established a self-assessment regime for tax administration through which taxpayers have options for filing, payment and reporting tax obligations (e.g., walk-in, postal delivery or electronic submission).
- C. The TA has established a submissions-processing function for receipt, processing and posting of tax returns and tax payments to accurate master file accounts for both individuals and businesses.
- D. The TA has established compliance-risk programs to run annually, including software cross-matching routines to identify and pursue both non-filers and stop filers.
- E. The TA has an effective collection management function to address enforced collection procedures on delinquent accounts and filers.
- F. The TA has identified and publicized "taxpayers rights" in dealing with the tax authorities for all related tax administration items.
- G. The TA has established an audit function through which risk-based workload selection systems are in place to identify the most non-compliant returns.
- H. The TA has established a formal internal appeals function to allow taxpayers internal administrative pursuit of unagreed issues and proposed tax deficiencies, prior to litigation rights.
 - I. The TA has an effective strategy and work procedures in place to address timely refund of VAT/GST claims.
 - J. The TA has adequately addressed the concept of tax amnesties for certain problem areas, where taxpayer voluntary disclosures for omissions, errors, or non-filing may be resolved without penalties and interest during the limited amnesty period.

5. Administrative tribunals charged with resolving tax disputes are considered fair and effective in carrying out their missions.

- A. The jurisdiction of all administrative tribunals specifically charged with resolving tax disputes is clear and is not duplicative of the functions of any other tribunal.
- B. The tribunals are accessible in rural areas.
- C. The tribunals are sufficiently funded.
- D. The rules of procedure of the tribunals are clear and accessible.
- E. Tribunal decision-makers are knowledgeable about the relevant laws and regulations, informed on agriculture related tax issues, and have access to supplementary information, such as information pertaining to international best practices, as needed.
- F. Tribunals are perceived as unbiased toward either tax payers or the government.
- G. Tribunal decisions are issued in a reasonable amount of time, are in writing and include the grounds for the decision.
- H. Tribunal decisions may be appealed to a court.
- I. Tribunal staff do not solicit informal fees or accept gifts.

6. The Tax Authority is well organized, well led, and endowed with sufficient resources to fulfill its mandate.

- A. Its head and management staff are non-political and/or they view their role as administrative and ministerial.
- B. It has sufficient staff as well as experts in agriculture related tax issues.
- C. It has sufficient funding (through direct state budget, fees for registration or other services, or both).
- D. Senior TA leadership exhibits a strong commitment to a fair and effective tax system, and has the qualifications necessary to do the job, including adequate and informed consideration of agriculture specific tax issues.
- E. Its physical facilities are accessible and welcoming, and there are branch or regional offices throughout the country if and to the extent necessary.
- F. It issues official forms (which may or may not be mandatory) for taxes; the forms are available free or at minimal cost from the registry or bookstores; and there is a handbook or other instructions.

Score

- G. It has adequate, formally issued internal regulations and operating procedures.
- H. It has a website which is easy to use and regularly updated, and which contains the tax law and regulations, instructions and forms for compliance, and other useful information.
- I. The Tax Authority has an internal improvement plan, setting targets for improvement of procedures, and annually reviewing its operations to identify any systemic weaknesses for improvement.

Supporting Institutions

1. The private agricultural sector has the right to participate in the process in which taxes are established, calculated and collected.

- A. Agricultural and agribusiness entrepreneurs are consulted by government and legislators during the drafting phase of tax legislation.
- B. Agricultural and agribusiness entrepreneurs participate in the development of regulations which implement tax legislation, including the calculation of rates, and the enforcement of compliance.
- C. Agricultural and agribusiness interests are encouraged to report concerns regarding abuses in the collection process, including informal tolls and fees collected by unauthorized public sector employees.
- D. Trade associations are resources for agriculture sector on relevant tax incentives and tax issues.
- E. Investment Promotion Agency is a resource for agriculture sector on relevant tax incentives and tax issues.

2. Water associations and irrigation districts include private sector representatives and user groups as part of their management committees.

- A. Management of water associations and water districts is directed by the growers and agricultural entrepreneurs who rely on the entities for their irrigation requirements.
- B. Fees are assessed on the basis of direct water usage, and are not regressive.
- C. The amounts to be recovered through fee income are calculated on the basis of system operation, system upkeep, and provisions for system replacement over time.

3. The agriculture and rural sector communities provide timely, accurate and effective information that supports informed public assessments of fiscal priorities.

- A. A community of economists, through channels such as universities, NGOs, or public-private forums, farmer associations, market development organizations, credit institutions regularly review and comment on fiscal policy, including tax administration.
- B. The agricultural and rural sector community supports one or more publications that address the relationship between their interests and tax policy.
- C. Organizations of foreign investors contribute positively to the national discussion on tax policy.

Social Dynamics

1. The agricultural community generally recognizes its responsibility to pay fair and reasonable taxes.

- A. Individual farmers and agribusiness persons, as well as the associations which represent them, understand the correlation between taxes paid and public services received.
- B. Tax avoidance is not looked upon by the agricultural community as one of its "national sports."
- C. Growers and agribusiness persons in arrears on local or irrigation district assessments are subjected to adverse attention by their associations and their peers.

2. The agricultural community recognizes its right and responsibility to challenge tax assessments which are not calculated in a transparent manner or for which commensurate value is received.

- A. Responsibility to pay just taxes carries with it the right to challenge the justness of each assessment, at all levels within the agricultural community.

Score

- B. Grower associations provide their membership with guidance on formulating challenges to tax assessments.
- C. There is no stigma attached to challenges by agriculturalists against assessments on the grounds of inequity or improper application of tax law.

3. Agriculture community conversant with tax incentives and taxation rates across the economy.

- A. Agriculture sector articulate regarding sector competitiveness as related to taxation and tax incentives.

4. Where tax reform is warranted, pre-conditions for reforms are being addressed.

- A. Existence of political and managerial commitment to tax reform has been documented.
- B. A reform management strategy has been identified where needed, following World Bank guidance for: simplification of tax laws; ease in filing requirements; and consolidation of taxes.
- C. An assessment of the extent of politicized tax administration has been made.
- D. Frequency of changes in senior management of TA have been assessed.
- E. Viewpoints of senior TA management for tax reform have been identified.
- F. Perceptions of the business community have been gathered regarding both the integrity and efficiency of TA.
- G. Key stakeholders (within public and private sectors) exhibit understanding of core competitiveness implications arising from tax regime.

Trading Across Borders

Legal Framework

1. Tariffs and regulations dealing with importation of agriculture products and foodstuffs do not interfere with access by agriculture and domestic agribusiness to the goods and services they require.
- A. Trade laws acknowledge the importance of, and protect, access by agribusinesses to imported fertilizers and crop protection materials.
 - B. Trade laws acknowledge the importance of, and protect, access by agribusinesses to imported seed and other planting materials.
 - C. Trade laws acknowledge the importance of, and protect, access by agribusinesses to imported cartons, packaging materials and packaging and processing equipment.
 - D. Trade laws recognize the role which imported technology can play in fostering innovation in agribusiness, and do not unnecessarily impede such imports.
2. Legislation does not create non-tariff barriers for import or export; and does not create market unpredictability.
- A. Legislation proscribes the use of export tariffs as a means of increasing domestic food security.
 - B. Legislation proscribes the use of export tariffs as a means of ensuring domestic price stability for agricultural commodities.
 - C. Legislation dealing with export tariffs considers the need for international price competitiveness in developing its tariff structures.
 - D. Laws dealing with export tariffs can be challenged on the basis of damage which they inflict on the export activities of agribusiness enterprises.
 - E. Legislation does not unduly hurt domestic agriculture sector in favor of artificially low consumer prices.
 - F. Legislation prioritizes production competitiveness and market forces.
3. Any and all SPS restrictions on the import or export of agricultural products are science based and do not artificially distort trade.
- A. Phytosanitary restrictions are consistent with the International Plant Protection Convention.
 - B. Pesticide and agri-chemical residue restrictions are consistent with Codex Alimentarius.
 - C. Restrictions with respect to the presence of micro-biological organisms are consistent with WHO guidelines.
 - D. Restrictions with respect to livestock and animal products are consistent with OIE guidelines.
4. Standards and technical requirements for export or import of agricultural goods are fact based and do not artificially distort trade.
- A. Restrictions regarding considerations of size, grade and other qualitative factors are consistent with those imposed on like products produced domestically.
 - B. Legal restrictions on the quality of exported goods deal only with official import requirements imposed by importing country governments, and not with requirements imposed by importing customers in those countries.
 - C. Legal restrictions on ingredients or composition of imported agricultural and agri-food products is designed only to ensure their compliance with national legislation covering analogous domestic product.
 - D. Legislation on standards and technical requirements for the import or export of agricultural goods are not designed to, and in fact do not, lead to restrictions in the volume of such exports or imports.
 - E. Laws do not prevent the importation or use of genetically modified agricultural varieties, seed or planting material.

Score

5. Monetary policy and particularly exchange rate policy is conducted in a way that is consistent with international best practice.	<input type="text"/>
<p>A. Laws dealing with the governance of exchange rates do not allow artificial manipulation to develop or discourage two-way trade in agricultural products.</p> <p>B. Laws dealing with the governance of monetary policy do not allow inflation and deflation to be utilized as tools to control the import or export of agricultural goods.</p> <p>C. Legislation with respect to resolution of disputes concerning the adverse effect of monetary measures on two-way trade require referral of such disputes to the World Trade Organization.</p>	
6. The legal framework pertaining to international trade is readily available, clearly drafted, and easy to use.	<input type="text"/>
<p>A. Copies of all laws and regulations that comprise the country's regime pertaining to trade in goods are widely available to all interested stakeholders.</p> <p>B. Copies of all laws and regulations that comprise the country's regime pertaining to trade in services are widely available to all interested stakeholders.</p> <p>C. All laws and regulations specifically pertaining to trade in agricultural products are readily accessible to stakeholders.</p> <p>D. The legal framework pertaining to international trade is user-friendly -- clearly drafted, well organized by subject, with proper indexing, and with article headings.</p> <p>E. The legal framework pertaining to international trade is published in all official languages of the country and there is a good English translation.</p> <p>F. The legal framework pertaining to international trade is current and is regularly updated by practical-minded experts.</p>	
7. The country has established a regime of treaties and agreements that supports international trade.	<input type="text"/>
<p>A. The country is a member of the WTO.</p> <p>B. The country is a member of a regional trade regime.</p> <p>C. If there is a relatively large economy in the region (i.e., China, India, South Africa, the United States), the country has developed bi-lateral trade relations with that economy.</p> <p>D. The country has bilateral trade agreements with all or most of the G8 countries.</p> <p>E. The country's regime of agreements and treaties is thorough and forward-looking with respect to trade in services.</p>	
8. The law pertaining to Customs and other border-inspection functions promotes and supports free trade and trade facilitation.	<input type="text"/>
<p>A. The law allows acceptance of electronic admissions as a legal document.</p> <p>B. There are reasonable time limitations for Customs and other border agencies to take administrative or enforcement actions.</p> <p>C. The legal framework requires publication of fees and formalities connected with importation and exportation.</p> <p>D. The legal framework requires the publication and implementation of all trade and Customs laws and regulations.</p> <p>E. The legal framework requires the publication and implementation of Customs rulings.</p>	
9. The law sufficiently empowers a Customs Authority and other border authorities -- such as agriculture and immigration -- to implement the trade facilitation aspects of the country's international trade regime.	<input type="text"/>
<p>A. The framework law clearly defines the institution or institutions responsible for implementation of laws relating to trade and the roles, responsibilities and operational procedures of each relevant institution.</p> <p>B. The framework law requires that the institution(s) render decisions based on published laws, regulations and standards; and through written documentation clearly setting forth the basis for the decision.</p>	

Score

- C. Laws grant the Customs Authority the status as the first point of entry and the right to inspect at any point for transshipped, in-bond, or imported goods.
- D. Laws grant the Customs Authority the power to hold and quarantine goods for import, export, or transshipment which violate intellectual property protections, including copyright or patent laws.
- E. Laws clearly define roles of Customs Authority versus Agriculture authorities with regards to agriculture imports inspections, confiscations, quarantines, etc.

10. The legal framework adequately regulates the Customs Brokers.

- A. The law provides that Customs, either solely or in concert with the trade community, regulates the Broker industry.
- B. The law mandates that a written, rigorous examination to obtain a broker's license.
- C. The law mandates a written code of conduct and ethics training for Customs Brokers.
- D. The law provides for operating requirements and penalties for violations.
- E. The law mandates that disciplinary action, either solely or in concert with the trade community, is taken where required.

11. The legal framework regulates Valuation, Classification and Country of Origin based on WTO standards or similar international principles.

- A. The law provides for authority to issue determinations regarding valuation, classification and country of origin.
- B. The law provides that rulings (binding and informal) are issued in a timely fashion.
- C. The law provides for penalties and fines that adequately combat undervaluation and misclassification.

12. The country is party to, and observes, international standards concerning foodstuff, and has issued laws regulating foodstuff.

- A. Customs control laws for plant, animal, and food materials are in conformity with the WTO Sanitary and Phytosanitary Measures.
- B. The legal framework conforms with the Codex Alimentarius Commission.
- C. The legal framework conforms with the WHO Convention on International Health Regulations.
- D. The legal framework conforms with the OIE International Animal Health Code on trade in animals and animal products, including disease notification, import risk analysis and import/export procedures.
- E. The legal framework requires the registration of export-oriented commercial farms, food processing, and food packaging firms to allow inspection by food safety agency.
- F. Debarment from further exports or imports is mandated for persons convicted of repeated or serious food import or export violations.
- G. The legal framework requires the registration of process and product characteristics (e.g. product composition, product history, storage time, product origin - traceability.)
- H. The agency responsible for food safety and security has the legal authority to detain suspect food prior to export, import, or transshipment and to prevent further shipment if a food officer finds credible evidence of a threat.
- I. The country recognizes foreign sanitary certificates as valid.

Implementing Institutions

1. National seed industry services effectively provide technical assistance and promote the interests of agricultural producers and input suppliers.

- A. Imported seeds are regulated in such a way as to promote free-market competition and a reasonably priced, widely accessible input.
- B. Seed industry services are available from both public and private sources.
- C. There is meaningful competition among seed industry services.
- D. Seed laws are harmonized at the appropriate regional economic community level.

Score

2. Public and private institutions provide a full range of testing and certification services to insure the safety of imported agricultural products.
- A. There are, currently active within the country, recognized institutions which can conduct sanitary and phytosanitary testing of imported products.
B. There are, currently active within the country, recognized institutions which can conduct chemical residue testing of imported products.
C. There are, currently active within the country, recognized institutions which can conduct testing for microbiological contaminants within imported products.
3. In the event of a food safety or SPS incident, there is an official agency with full responsibility for investigation and control.
- A. There is a single lead agency recognized as competent and empowered to deal with such incidents.
B. There are emergency response and product recall protocols in place with appropriate stakeholder oversight and implementation committees.
4. Public subsidies, tariffs, duties, or other marketing practices do not distort the agricultural market.
- A. Government does not provide subsidies that distort producer incentives or have an effect on prices.
B. Government does not place high tariffs or duties on agricultural products or their input components.
C. Government takes diplomatic steps to guarantee that national production, marketing, and trade is not distorted by subsidies and other discriminatory practices of international partners and competitors.
D. There is a free and fair market for fuel.
5. There is current capacity within the country to effect certifications, inspections and testing required by destination countries for the country's agricultural exports.
- A. There is capacity for the issuance of ISO certifications.
B. There is capacity for the issuance of Global GAP certifications.
C. There is capacity for the issuance of BRC certification.
D. There is capacity for the review and endorsement of HACCP certification.
6. There is current capacity within the country to train and accredit certifiers, inspectors, and testers for routinely-required agricultural and food certifications.
- A. Capacity exists within the country to train local people to work as ISO certifiers.
B. Capacity exists within the country to train local people to work as Global GAP certifiers.
C. Capacity exists within the country to train local people to work as BRC certifiers.
D. Capacity exists within the country to train local people to work as certifiers of HACCP programs.
7. Country is a signatory to, and is able to comply with the requirements of, the International Plant Protection Convention.
- A. Country is a signatory of the International Plant Protection Convention (IPPC).
B. Legislation and regulations are in place which vest PPO authority in the hands of a single government agency.
C. The agency has sufficient staffing and resources to perform its mission.
D. Agency personnel receive sufficient training to perform the agency's mission.
E. The agency has been granted sufficient authority to meet its responsibilities under the IPPC.
F. The agency possesses the capacity to conduct Pest Risk Assessments (PRA's) as a prelude to requesting market access to export markets.

Score

8. Country is a signatory to, and able to comply with the requirements of, the World Organization for Animal Health (OIE).

- A. Country is a member of the World Organization for Animal Health (OIE).
- B. Legislation and regulations are in place which vest adequate authority in the hands of a single government agency.
- C. The agency has sufficient staffing and resources to perform its mission.
- D. Agency personnel receive sufficient training to perform the agency's mission.
- E. The agency has been granted sufficient authority to meet its responsibilities under the OIE.
- F. A national animal health strategy is in place and aligns with OIE standards.

9. The border authorities hire, train, and supervise staff based on international best practices.

- A. There is an appropriate level of professional and administrative staffing to carry out their mandates.
- B. Border authorities seek to recruit the best personnel through the following recruiting techniques, background checks (including finances, personal references, prior employment, interviews, drug-testing and criminal history).
- C. Border authorities use competitive recruiting.
- D. Border authorities use written, standardized job descriptions and objectives for which there is a standardized application and for which there are written performance requirements for the position.
- E. There is a probation period for first-year employees that has liberalized termination procedure.
- F. Border authorities seek to maintain personnel with the highest integrity through employment standards transparent career development and employment policies.
- G. Border authorities have sufficient funding to pay wages perceived as adequate (based on country wage rates) to all staff, including front-line officers.
- H. Border authorities conduct periodic review of employees' of backgrounds, including drug testing during employment and periodic financial background checks throughout employment.
- I. There is a formalized objective system for advancement and promotion that includes a comprehensive performance evaluation system in which employees are reviewed on at least a yearly basis.
- J. An incentive system is in place for rewarding high performance (i.e. monetary bonus for seizures.)
- K. Termination of employment can occur for serious violations of code of conduct or poor performance.
- L. There is an automated system for handling employment that handles all aspects of the personnel system.
- M. Employees are afforded appropriate training courses, materials, guidebooks or procedural manuals are available to improve issues, such as staff competency, service, new criminal smuggling techniques.
- N. The staff training and development program includes current employees - training offerings correspond to needed skills.
- O. Technical assistance from international community is incorporated in the training programs.

10. The Customs Authority has sufficient funds, staff, and government support to perform its mandate.

- A. The Customs Authority has sufficient authority and support to carry out its mandate, including clear policy statements and support from the government.
- B. There is sufficient funding through state budget, fees collected, or a combination of both to maintain the Customs Authority's equipment and services.
- C. Customs has an internal plan, reviewed annually, which includes the improvement of efficiency and security of trade flows that identifies and prioritizes core business processes for reform.
- D. Customs has a three-to-five-year strategic plan that is reviewed, updated, and published annually and that has detailed objectives and clearly defined performance measures.
- E. The management structure of the Customs Authority reflects the priorities of the organization.

Score

- F. Customs has a system of accountability for its performance to the government institution responsible for its oversight.
- G. Customs has a merged management structure of immigration, customs, and animal/plant inspection at the border.
- H. Customs has an executive team led by a senior manager with ownership for success which is in charge of managing business process reform to streamline and simplify rules and regulation.
- I. Management routinely solicits input from stakeholders, including employees, other government agencies and private-sector parties.
- J. Customs has an intranet that provides job announcements, phone lists, laws and regulations, procedures, statistics, announcements, and messages from the head of the agency.
- K. There is an active, current web site, updated regularly, with contact information and relevant materials needed by customers.
- L. There are written, freely available and well publicized accounts of the procedures necessary to move goods and vehicles efficiently through the port, airport, and customs systems, tariff classification, valuation and country of origin rulings.
- M. Customs ensures that existing and new regulations and legislation are simple in form, content and presentation.
- N. Customs develops and applies performance standards to check that its processing and release of goods are timely and meet reasonable business needs.
- O. Allocation of Customs staff is accordance with the trade flow to minimize overtime and inconsistencies.
- P. Customs has adopted a "customer-oriented" approach to fulfilling its mandate.

11. The Customs Authority is effective in setting and maintaining standards of integrity.

- A. Customs seeks to maintain integrity standards through the creation of an independent section that:
 - B. a. is charged with investigating and enforcing the integrity code;
 - C. b. maintains a system for business sector/public to contact integrity section and report violations;
 - D. c. publishes information on integrity lapses and punishments;
 - E. d. analyzes duty collections to uncover potential problems when discrepancies arise; and
 - F. e. is itself subject to review by independent entity.
- G. Customs seeks to maintain integrity standards through the following business processes:
 - H. a. Minimization of access to money, such as by providing importer with the ability to pay customs duties and taxes via direct deposits to banks;
 - I. b. A corporate surety bonding system, or other appropriate means, such as a duty- and tax-deferral system;
 - J. c. Clear and specific guidelines for duties and taxes on imported and exported goods that allow for little discretion at the border;
 - K. d. Binding pre-entry classification and valuation rulings, on request, which will be honored by officers, throughout the customs territory;
 - L. e. A sound, scientific basis for classification decisions based on international standards;
 - M. f. In the absence of any evidence of fraud, a reasonable, fixed limit on the time during which Customs can demand additional duties and/or the re-delivery of the goods;
 - N. g. A requirement that inspectors conducting examinations are selected by an automated system; and
 - O. h. Internal controls, as published in a manual, along with automated systems to prevent violations and identify any violations that may occur.
- P. Customs provides periodic integrity training at all levels, including review of written and public code of conduct, including penalties for violations.
- Q. Customs provides for the identification for all employees working with public to be shown on request.
- R. Incentives and job protection exist for employees identifying corruption.

12. The country's clearance processes for goods facilitate cross-border trade.

Score

- A. The number of Customs officers is adequate:
- B. a. at airports
- C. b. at sea ports
- D. c. at land border crossings
- E. d. at inland inspection stations
- F. The normal hours/days of operations by Customs are adequate:
- G. a. at airports
- H. b. at sea ports
- I. c. at land border crossings
- J. d. at inland inspection stations
- K. Border posts have adequate facilities to communicate rapidly and reliably with the national or regional headquarters.
- L. Customs gives importers and exporters the option to file entries themselves or to use an authorized agent.
- M. Customers have multiple options for filing in which convenient places are generally available.
- N. Customs institutes procedures that minimize interventions for accounts that have a high level of compliance.
- O. Documentary control procedures are coordinated so that essential control data is processed in advance of arrival of goods (pre-arrival).
- P. Examination and or release of cargo is permitted prior to the filing of complete entry documentation and payment (post-departure).
- Q. Decisions for Customs interventions are based on risk-assessment techniques.
- R. The declarant's goods are handled by the minimum number of reviewers/signers necessary.
- S. Delays at the border are minimal.
- T. Experience of drawback, export refund, temporary admission regimes is positive.
- U. Customs employs post-departure review.

13. The Customs Authority has a risk-management unit or staff dedicated to implementing risk-management processes based on WTO provisions and international best practices.

- A. Staff, including senior management, are available for risk assessment in adequate numbers.
- B. The risk assessment team is well trained and well equipped.
- C. Customs has a plan, reviewed regularly, for improving risk-assessment according to strategic imperatives.
- D. Risk-assessment is conducted through an automated enforcement information system, using and other modern control techniques to minimize the incidence of physical examinations.
- E. Risk-assessment automation employs random sampling.
- F. The system identifies compliant and non-compliant major accounts and adjusts selectivity criteria accordingly.
- G. Customs implements enforcement operational plans that address high-risk assessments.
- H. The proportion of import consignments subject to physical inspection by Customs is relatively low.
- I. As a result of risk assessment, discrepancies are detected, and seizures and revenue collected are generally significant.
- J. Customs rapidly and efficiently shares information with and receives information from other intelligence agencies and other Customs agencies, other government agencies, regional and international counterparts.
- K. Intelligence activities result in usable information that lead to successful enforcement operations.

14. At the borders, agriculture infrastructure is prioritized and specifically suited for the country's products and international trade in agricultural products.

- A. Agricultural cargo facilities, including refrigerated/cold storage, loading and off-loading, and transport, are routinely available.

Score

- B. Cargo transport of perishable goods – plant and animal products – are regulated in such a way as to minimize transport delays and inspections.
- C. Adequate facilities exist to conduct health, plant, animal health and environmental inspections.
- D. Warehouse services are routinely available at reasonable prices.
- E. The agricultural authority provides a variety of services dedicated to assisting traders of agricultural goods in meeting their obligations under international, regional and bi-lateral trade agreements.

15. Port Authorities operate efficiently and employ practices consistent with international best practices.

- A. Use of advanced IT processing connects the major users, affords timely status information and generally advances the trade process, particularly through centralized manifest filing.
- B. The port has sufficient well trained staff knowledgeable of international best practice to both employ them and keep practices updated and flexible to handle current and future workload.
- C. Commitment to reform is evident and a comprehensive plan is in place to meet future demands.
- D. Facilities are adequate to can handle workload without delays in berthing or loading/unloading and consideration/ employment of private operators is used where warranted.
- E. Space is provided to customs and other regulatory agencies to conduct their work on site and cooperation between the parties to improve procedures and address problems is evident.
- F. Costs for services are competitive within the region and are not an impediment to increased trade.
- G. Port administration actively engages in open discussions with both its operators and users, addressing problems in a timely and effective manner.
- H. Container dwell times (the length of time a container remains in the port after unloading) are minimal and do not significantly impact release times or costs.
- I. The port authority is effective in establishing and enforcing high integrity standards.

16. Adequate transport services are available to haul international cargo timely and at low costs.

- A. Rail and waterway links, if available, are adequately developed and maintained to offer a competitive alternative to overland transport.
- B. Delays/ informal fees in overland transport do not occur due to unnecessary e road stops by various authorities.
- C. Current infrastructure is adequate to speed the flow of goods. Noted problems are being addressed with the needed urgency and funding.
- D. The trucking sector has an adequate supply of well maintained vehicles to meet demands.
- E. The transport sector is organized so as to be an effective advocate to address industry needs and create an effective dialog with the public sector to resolve issues.
- F. Transport costs are competitive within the region and are considered reasonable costs by the traders.
- G. The airline sector provides adequate flights, capacity and pricing to meet the needs of the trade community.

Supporting Institutions

1. The private sector is active in the promotion of a fair and efficient regulatory environment.

- A. Chambers of commerce provide their memberships and the public with information and training on the trade regulatory environment.
- B. The business community regularly reports on developments within the trade regulatory environment.
- C. Specialized publishers develop and make available standardized forms for most common trade regulatory requirements.
- D. Trade and industry associations have affiliations with international trade organizations and are involved in the harmonization of regulatory compliance with international standards.

Score

- E. Trade and industry associations provide lists of attorneys or law firms that can provide assistance to their members with respect to trade.
- F. Trade and industry associations effectively represent the private sector in public debate over trade policy and overall sector development.
- G. There are one or more publications that address the relationship between private sector interests and trade.
- H. Trade and industry associations are informed of trade development and have advocated new practices and reforms to existing law to accommodate changes.

2. Public, private and academic institutions are engaged in testing the composition (and oversight of same) of fertilizers in commercial distribution for both imports and exports.

- A. Tests confirm conformity with label specifications.
- B. Sanctions exist for adulteration.

3. One or more high-level government officials champion the cause of international trade as a development strategy.

- A. Government officials actively seek free trade agreements with other countries.
- B. Government officials are knowledgeable about and propose changes to laws and/or institutional processes affecting international trade.
- C. At least one high-level government official seeks to reform inter governmental coordination processes that govern trade.
- D. At least one high-level government officials seeks to institute programs educating the private sector and civil society about international trade.
- E. At least one high-level official is known to educate other government officials on the importance of international trade, the agreements governing it and how best to use it as a tool for development.

4. Associations or committees of importers and exporters of agribusiness related products actively liaison with Customs and other trade-related authorities, provide training to the private sector, and comment on laws and regulations.

- A. There is a well developed industry of importers.
- B. Importers provide reliable and accurate data to Customs (incidence of wrong description, false declaration, certificates of origin and undervaluation are low).
- C. There is a well-developed industry of exporters.
- D. Importers are members of a trade association and/or Chamber of Commerce and the experience is beneficial.
- E. Exporters provide reliable and accurate data to the Customs operation.
- F. Exporters are members of a trade association and/or Chamber of Commerce and the experience is beneficial.
- G. Exporters participate in useful export-promotion activities.
- H. Exporters, importers and their associations are affiliated with international organizations and are involved in the harmonization of customs law and practice with international standards.
- I. Exporters, importers and their associations actively monitor customs practice and developments, and issue opinions and appeals for change based on the results of monitoring.
- J. Exporters, importers and their associations provide input to policy makers and local business associations on international customs standards.
- K. Specialized professional publications report regularly and accurately on matters related to customs, giving the business community and general public a greater understanding of customs modernization issues.
- L. Exporters to the country are provided with national treatment regarding protection of person and property.
- M. Exporters to the country are provided with national treatment regarding granting of business licenses, import and export permits and authorizations to employ persons.

Score

5. The community of Customs Brokers/Agents and Freight Forwarders is sufficient to service the country and renders services in an efficient, transparent, and lawful manner.

- A. The quantity of the following providers is sufficient:
- B. a. freight forwarders (logistics).
- C. b. brokers/agents (formalities).
- D. The quality of the following providers is adequate:
- E. a. freight forwarders (logistics).
- F. b. brokers/agents (formalities).
- G. The cost of the following providers is reasonable:
- H. a. freight forwarders (logistics).
- I. b. brokers/agents (formalities)
- J. Brokers/Agents and Forwarder operators:
- K. a. provide and maintain accurate data to Customs, including the classification, shipper and consignee name and address, first and second notification parties, description, weight, quantity, and unit of measure of cargo being cleared.
- L. b. are well trained and knowledgeable in Customs procedures and tariff requirements.
- M. c. implement know-your-customer rules or rules otherwise dealing with reliability of clients.
- N. d. are able to trace shipments to point of origin.
- O. e. report to Customs suspicious and irregular activities.
- P. f. train importers and exporters regarding documentary procedures and requirements.
- Q. g. maintain automated interface with Customs.
- R. Experienced local consultants and service providers are available to assist with trade missions, marketing and other trade promotion activities.
- S. Brokers/Agents and Forwarder operators have an active and functioning organization that interfaces with Customs and other institutions.

6. The country has sufficient In-Bond Warehouses and Warehouse Services for agriculture products.

- A. The quantity of inbond warehouses and warehouse services is sufficient.
- B. The quality of inbond warehouses and warehouse services is adequate.
- C. The cost of inbond warehouses and warehouse services is reasonable.
- D. Warehouse operators for Customs bonded maintain adequate security characteristics (i.e. adequate physical security, lighting, access control, procedures for detecting and reporting shortages and overages).

Social Dynamics

1. Agriculture related businesses are aware of global trends in trade.

- A. The agribusiness community is generally knowledgeable about global trends affecting terms of trade for their country.
- B. The agribusiness community actively seeks to reform trade policy based on evidence of policies that have worked in other countries.
- C. The agribusiness community is generally supportive of reducing barriers to trade in goods.
- D. The agribusiness community is generally supportive of reducing barriers to trade in services.
- E. Agribusinesses are sufficiently flexible to be able to partner with international firms seeking to do business in their country.

2. There is a tangible volume and value of agricultural trade activity already taking place.

- A. Actors express satisfaction with the public and private sector support services available to them.
- B. Corruption is not perceived as a major impediment to business expansion.
- C. Trade is conducted by the private sector.

Score

- D. Trade is profitable for the actors involved.
-
3. The agricultural commodities produced enjoy a favorable consumer perception.
-
- A. They are appreciated and sell well in neighboring countries.
B. They are appreciated and sell well in overseas markets.
C. They are appreciated and sell well in the domestic market.
-
4. The horticultural commodities produced enjoy a favorable consumer perception.
-
- A. They are appreciated and sell well in neighboring countries.
B. They are appreciated and sell well in overseas markets.
C. They are appreciated and sell well in the domestic market.
-
5. The animal and dairy commodities produced enjoy a favorable consumer perception.
-
- A. They are appreciated and sell well in neighboring countries.
B. They are appreciated and sell well in overseas markets.
-
6. Quality of product is competitive with imported product on the domestic market.
-
- A. Appearance is attractive and acceptable.
B. Shelf life is adequate to the requirements of the market.
C. Packaging is attractive and provides the product with adequate protection.
D. Product is generally uniform in size and appearance.
E. Flavor of the product meets the market's expectations.
-
7. Components of delivered cost at export destinations are competitive with alternative sources of supply in export markets.
-
- A. FOB cost of the product at origin is competitive.
B. Transportation costs are competitive.
C. Costs for export documentation, inspection, and compliance with export requirements are competitive.
D. Destination costs (import fees, customs clearance, tariffs, duties, etc.) are competitive.

Enforcing Contracts

Legal Framework

1. Laws and regulations exist to provide for the execution of contracts between buyers and sellers of agricultural goods and services.

- A. Laws sanction and encourage the use of contracts in the trade of agricultural goods and services.
- B. Laws do not restrict the types of products which can be traded under contract, save for trade in controlled substances.
- C. Laws allow contracts to stipulate any requirements to which the two parties agree, provided such requirements are not in violation of pre-existing law.

2. Laws and regulations provide for growers, grower associations, cooperatives and agribusiness enterprises to enter into binding contractual agreements with third parties.

- A. Growers are legally allowed to assign responsibility for contract negotiation and execution for their crops to growers associations, cooperatives and other agribusiness enterprises.
- B. Growers associations, cooperatives and agribusiness enterprises are legally authorized to assume such assignments.
- C. Laws allow growers, grower associations, cooperatives and agribusiness enterprises to be held responsible for fulfillment of contract obligations, and to be found liable in the event of non-fulfillment.
- D. Laws allow growers, grower associations, cooperatives and agribusiness enterprises to seek retribution in the event that the parties with whom they contract do not fulfill the terms of the contract.

3. The legal framework provides courts or other local alternative dispute resolution venues the jurisdiction to hear cases relating to moveable, intangible and real property.

- A. Legislation envisions the use of courts by injured parties in the event of allegations of breach of contract dealing with agricultural goods or services.
- B. Parties to contracts dealing with agricultural goods and services have the same recourse under law to alternative dispute resolution as do contracting parties in other sectors.
- C. Legislation allows courts to adjudicate contracts involving all manner of agricultural assets, including crops, farm and processing equipment, plant variety and other patents, and goods involved in agricultural trade.

4. Laws and regulations provide for the enforcement of contractual obligations including, where applicable, civil and criminal penalties in the event of non-performance.

- A. Legislation allows courts to deal with the seizure of agricultural assets and resources if such measures are called for under the terms of the contract.
- B. Where perishable agricultural goods are involved, the law provides for accelerated procedures to ensure the timeline is commensurate with the useful commercial life of the goods.
- C. The law provides for the same civil and criminal penalties and remedies for fraud and breach of contract in contracts dealing with agricultural goods and services as are provided for any other sectors of the economy.

5. The commercial legal framework on enforcing contracts and the courts is accessible to foreigners.

- A. The body of commercial law is available on a regularly updated Internet site and in print at the local and regional government offices.
- B. The commercial law is available in English.
- C. The commercial law is available in a major second language other than English.
- D. Where the state provides incentives to investors, those incentives are clear and consistent with regional or international norms.

Score

- E. Information about how to take advantage of investment incentives is readily accessible.
- F. All regulations pertaining to the commercial law are readily available to the public, either in print or over the Internet.
- G. All regulations pertaining to the commercial law have been translated to English.

6. The legal framework provides for freedom of contract.

- A. Contracting parties are free to agree on lawful, customized terms in their contracts, including liquidated damages and other remedies, choice of forum, and choice of law.
- B. The law pertaining to real property allows owners of land and other real property to sell, lease, donate, exchange, and bequeath all, or portions of, their land interests.
- C. Law pertaining to secured transactions provides that any property right that can be identified, used, defended and transferred by the owner can be used as collateral, including movable property such as agriculture equipment, livestock and crops.
- D. Notarial law, including its implementation, does not conflict with the principle of freedom of contract.
- E. With few restrictions, labor and employment law provides for at-will employment.
- F. State restrictions on freedom of contract are confined to provisions protecting the interests of public health, safety, morals or welfare.
- G. The framework law guarantees enforcement of any contract that is not contrary to law, even if not explicitly permitted or otherwise regulated by law.

7. Law and regulations concerning government contracts are clear, accessible, and in-line with international best practices.

- A. Law pertaining to government contracts aims to prevent misappropriation of funds and ensure uniform procurement policies and practices across agencies.
- B. Up-to-date information pertaining to government contract opportunities, procedures for bidding, and results of contract decisions is freely available.
- C. Administrative bodies that handle commercial disputes between the government and private sector: a. operate according to clear, transparent, published rules and procedures;
- D. b. make their rules and procedures available to the public; and
- E. c. issue written decisions based on the published, established law.
- F. Decisions of the administrative bodies responsible for government contracts can be appealed to the court system.
- G. If the country is a member of the WTO, it has accepted the Plurilateral Agreement on Government Procurement, or, if it is a candidate for WTO membership, there is evidence of its intention to accept that agreement.
- H. Rules governing government procurement promote competition amongst bidders.
- I. Micro and small enterprises are specifically encouraged to participate in government procurements.
- J. The rules governing government procurement are publicly available and in multiple local languages, if applicable.

8. The laws pertaining to contracts are readily available, clearly drafted, and easy to use.

- A. Print copies of law pertaining to contracts -- including sales of goods, contracts on services, secured transactions, real property contracts, and other types of contracts -- are readily available to members of the legal profession, the business community and the general public in both rural and urban areas.
- B. The law pertaining to contracts is published in all official languages of the country.
- C. The law is user-friendly -- clearly drafted, well-organized by subject, with a table(s) of contents at the front, and with article headings.
- D. Law pertaining to all forms of contracts is available on a regularly updated Internet site.
- E. Courts post or otherwise very clearly identify the fees and costs involved with commencing a case involving contracts.

Implementing Institutions

Score

1. The courts are -- and are regarded as -- an effective institution for resolving disputes pertaining to companies, cooperatives, corporate governance, and agribusiness.

- A. Courts are in fact often used when agribusiness disputes are not settled informally.
- B. Company and agribusiness cases are heard in a separate court from those which hear other cases.
- C. Lawyers and commercial actors report that, if they go to court, they can expect to receive a just decision, grounded on published laws, regulations and standards, in a timely manner.
- D. Lawyers and commercial actors respect and observe the decisions of judges, even if the decision is adverse to their positions.
- E. Time standards for judges resolving agribusiness and land disputes are in place and generally observed.
- F. Disputes involving law typically undergo settlement discussions or mediation prior to trial.
- G. Judges who hear law cases have formal, university-level training and are required to have practiced before tribunals or, before taking the bench, are required to take relevant courses concerning subjects they will address on the bench.
- H. Judges who hear company law and corporate governance cases receive periodic continuing legal education on issues relating to company law and corporate governance.

2. ADR is regularly used and effective in resolving contract disputes in the agriculture sector.

- A. There is an arbitration chamber or other system that is commonly used to resolve disputes arising from companies and cooperatives.
- B. The arbitration chamber(s) is sufficiently funded.
- C. Arbitration chambers handle cases with both foreign and domestic parties.
- D. There is a sufficient supply of qualified local arbitrators.
- E. Arbitration or mediation are in fact often used in preference to court litigation.
- F. Arbitration chambers have a clear and transparent method of certifying and/or licensing arbitrators and provide training for them.
- G. Arbitration chambers or other bodies provide training or outreach services to businesspersons.
- H. Parties are free to choose their arbitrators or mediators.
 - I. There is a set of commonly-used or recognized rules for arbitration and mediation.
 - J. The cost of arbitration or mediation is not a disincentive to using it.
- K. Judges who hear appeals from arbitral awards have formal training in the principles of arbitration, mediation and other ADR.
- L. Judges reject arbitral awards on legitimate procedural grounds only, and do not substitute their judgment for that of the arbitrator except where there is demonstrable negligence or fraud on the part of the arbitrator.

3. With respect to the resolution of contractual disputes, including those in the agriculture sector, the courts are efficient.

- A. Commercial cases are heard in a court forum or division that is separate from those hearing other types of disputes.
- B. The courts are sufficiently funded.
- C. The courts are sufficiently staffed.
- D. Court staff have regular access to training in areas relevant to execution of their responsibilities.
- E. The courts have detailed internal regulations and operating procedures.
- F. The courts maintain a case tracking and filing system that ensures that cases are heard in a reasonably efficient manner.
- G. The courts operate with a sufficient number of computers and other equipment to enable it to handle its caseload in a reasonably efficient manner.
- H. Court administrators hold significant administrative authority, and the work of judges is confined chiefly to the substantive resolution of cases.
 - I. Time standards for judges resolving contractual disputes are in place and generally observed.

Score

- J. Contractual disputes typically undergo settlement discussions or mediation prior to trial.
- K. The appellate process does not involve adding to the factual record compiled in the court of first instance.
- L. Only one appeal is a matter of right, while second and third appeals occur at the discretion of the courts.

Supporting Institutions

1. Growers and grower associations routinely negotiate contracts for the delivery of their production.

- A. Contracts are routinely and customarily used by growers and grower associations in transactions involving their delivery of agricultural goods and services.
 - B. Standard forms and templates exist to facilitate the negotiation and execution of such contracts.
 - C. There are industry and trade associations which are available to assist growers and grower organizations in the preparation and execution of such contracts.
 - D. There are industry and trade associations which are available to guide growers and grower associations in the appropriate steps to follow in case a dispute emerged out of any given contract.
-

2. The legal profession is available to council growers and grower associations in the negotiation of delivery contracts.

- A. There is a specialized cadre of lawyers and jurists with particular expertise in the preparation of domestic contracts dealing with agricultural goods and services.
 - B. There is a group of lawyers and jurists with particular expertise in the preparation of cross border contracts dealing with agricultural goods and services.
 - C. Resources are also available from the banking, transportation, customs brokerage and commercial sectors to assist in ensuring that final contract terms are feasible.
-

3. Wholesalers, retailers, exporters and importers of agricultural products rely on contracts to procure and/or distribute the agricultural products they handle and understand their responsibilities under these contracts.

- A. Domestic and overseas customers/receivers of the country's agricultural goods and services routinely use contracts to specify the terms and conditions of their transactions.
 - B. Their experience with such contracts permits these customers/receivers to understand and meet their responsibilities to their suppliers.
 - C. In the event of disputes arising from the contractual terms, customers/receivers utilize orderly dispute resolution avenues to reach dispute resolution.
-

4. Trade and industry associations effectively contribute to a sound contractual environment for companies, cooperatives, corporate governance, and agribusiness.

- A. Trade and industry associations (including chambers of commerce, bankers associations and business groups) are accustomed to advising their membership on matters of relevant contract law.
- B. Trade and industry associations have affiliations with international trade organizations and are involved in the harmonization of contract law and normal terms of trade with international standards.
- C. Trade and industry associations provide sample contracts to their membership.
- D. Trade and industry associations regularly share terms of trade information with the agriculture and agribusiness community.
- E. Trade and industry associations provide meaningful opportunities in networking, training, and sharing of best practices.
- F. Organizations of foreign investors contribute positively to the business environment, through networking services, training, publications, and other means.

Social Dynamics

Score

1. The domestic market is conducive to buying and selling of agricultural products.

- A. Buyers and sellers can easily find each other to sell or buy goods.
- B. The quality of goods in the market is testable and reliable.
- C. There is a culture of sharing market information with neighbors and business partners.
- D. Where formal contracts are used, they are respected.
- E. There are sufficient storage facilities allowing the sale of agricultural products at strategic times.
- F. A vibrant private sector agriculture services industry exists to support the sector.

2. Fulfillment of contracts is viewed as an important obligation across the entire agriculture community.

- A. Successful execution of a delivery contract is viewed positively within the community.
- B. Unsuccessful execution of a delivery contract is viewed negatively within the community.
- C. The credibility of an agricultural or agri-food enterprise is linked to its performance in meeting contractual commitments.
- D. Producer side selling is viewed negatively within the producer community.
- E. Buyers regularly use production contracts without fear of producer side selling.

3. There is broad recognition of the value inherent in formal commitments underpinning commercial agriculture transactions.

- A. Media outlets report favorably on the successful negotiation of agricultural contracts.
- B. Media also report on problems of contract execution, and -- most especially -- on instances where local growers and agricultural enterprises fail to meet their obligations.
- C. Community and civic leaders recognize and articulate the need for community members to develop reputations as reliable partners.
- D. Normal terms of trade are recognized, regardless of their formality or informality.

Competition

Legal Framework

1. The competition law promotes economic efficiency and consumer welfare

- A. The goals of the competition law – whether set forth in the body of the law, regulations, legislative history, or court decisions – are clear and include the promotion of economic efficiency and consumer welfare.
- B. Promotion of other societal goals (e.g., protection of SMEs and jobs) are not among the stated objectives of the competition law or are subordinate to economic efficiency and consumer welfare.
- C. Cartels and cartel-like behavior (e.g., price-fixing, bid-rigging, market divisions, and concerted refusals to deal) are prohibited.
- D. Other non-cartel agreements among competitors that may adversely affect competition are subject to a “rule of reason” analysis.
- E. Vertical restraints (e.g., tying, exclusive dealing, reciprocal dealing) that may adversely affect competition are subject to a “rule of reason” analysis.
- F. Abuse of dominant position (monopolization) that may adversely affect competition is subject to “rule of reason” analysis.
- G. Anticompetitive mergers are prohibited.
- H. The competition law comports with international recommended practices.

2. The competition law applies to the agricultural sector; any exemptions are created ex ante and have a sound economic or social basis.

- A. The legal framework clearly defines the jurisdiction and responsibilities of the agencies, which removes any ambiguities or perceived overlapping jurisdiction.
- B. Where another law, in addition to or in place of the competition law, establishes jurisdiction over competition issues within the agricultural sector, the relevant objectives and provisions of that law are consistent with those of the competition law.
- C. Exemptions to promote societal goals are limited to extent needed to protect such goals.
- D. Natural monopolies are subject to regulation.
- E. Domestic and foreign suppliers are treated equally.
- F. Internationally accepted protections for intellectual property are exempted

3. The laws pertaining to competition are readily available, clearly drafted, and easy to use

- A. Print copies of the laws, including not only anti-monopoly legislation but also laws and regulations pertaining to consumer protection and competition within specific sectors, are readily available to all stakeholders.
- B. The competition law is published in all official languages of the country.
- C. The universe of competition law is available on a regularly updated Internet site.
- D. All regulations of the competition agency and any other implementing institutions are readily accessible to the legal community.

4. The competition law provides the competition agency with (a) reasonable and effective investigative powers and (b) remedies and sanctions adequate to deter violations and to restore competition.

- A. The competition agency has the power to compel the submission of documents.
- B. The competition agency has the power to compel oral testimony.
- C. Procedures for compelling compliance with investigative requests for information and oral testimony are speedy and effective.
- D. The competition law provides for investigations to be opened upon a complaint or the competition agency's initiative.

- E. The competition agency has the authority to conduct “dawn raids” with appropriate due process protections.
- F. The competition agency has the authority to offer leniency to conspirator(s) in order to obtain information or evidence.
- G. The competition law includes the power to undo harmful contracts and agreements or stop harmful conduct.
- H. Mechanisms for enforcing orders are speedy and effective.
 - I. The competition law includes provisions for monetary remedies (e.g., fines, penalties, restitution, disgorgement) sufficient to deter violations.
 - J. The competition law permits the competition agency to settle alleged violations of the law.
- K. Standards of proof of law violation are proportional to the sanctions.
- L. Criminal penalties, if any, are for limited types of offenses.

5. The competition law provides the competition agency with a competition advocacy mandate.

- A. The competition agency’s mandate includes promoting public awareness and understanding of the competition law in the agricultural sector.
- B. The competition agency has the authority to conduct research into matters relating to competition and consumer welfare in the agricultural sector.
- C. The competition authority has the authority to study existing and proposed laws and regulations, and governmental policies and programs, relating to the agricultural sector to assess their impact on competition and consumer welfare.
- D. The competition authority has the authority to participate in governmental deliberations on issues relating to competition and consumer welfare in the agricultural sector.

6. The legal prerequisites for sound competition law are in place.

- A. Private-property rights are well-defined and there is a system for recording and transferring property rights.
- B. Contract law is well-defined and there are enforcement mechanisms in place that facilitate exchange.
- C. Corporate law is well-defined, including rules governing the formation and operation of business enterprises.
- D. Securities law is well-defined, allowing for capital formation through the sales of securities, issuance of debt, and pledging of assets.
- E. Bankruptcy law is well-defined and facilitates the exit and redeployment of assets

7. The laws, regulations and policies applicable to the production, sale and distribution of agricultural inputs foster competition, efficiency and consumer welfare

- A. Laws regulating the sale and distribution of seeds allow for competitive sourcing, certification of quality, and minimal import tariffs.
- B. Laws regulating the sale and distribution of pesticides and herbicides allow for competitive sourcing, certification of quality, and minimal import tariffs.
- C. Laws regulating the sale and distribution of fertilizer allow for competitive sourcing, certification of quality and minimal import tariffs

8. The laws, regulations and policies applicable to the sale, transfer and ownership of agricultural land foster competition, efficiency and consumer welfare.

- A. Access to land is not limited by considerations of gender.
- B. Access to land is not limited by considerations of national origin.
- C. Access to land is not limited by considerations of tribal or ethnic origin.
- D. Access to land is allowed to foreign investors within clearly outlined and transparent parameters.

Implementing Institutions

1. The competition agency has the capacity to fulfill, and is fulfilling, its law enforcement and competition advocacy mandates with respect to the agricultural sector under the competition law

- A. The competition agency has its own budget line item, and its funding is sufficient.
- B. The competition agency is adequately staffed.
- C. Salaries are adequate to attract and retain qualified staff.
- D. Staff includes lawyers, economists, and accountants.
- E. The competition agency has formal and informal staff training programs in place.
- F. The competition agency has the authority and means to hire additional expertise on an as-need basis (e.g., industry experts, academics, consultants, advisors).
- G. The competition agency draws on the experience of other countries and international organizations.
- H. The competition agency has adequate space and, as appropriate, regional offices.
- I. The competition agency has an adequate library.
- J. The competition agency has adequate communications and information technology.
- K. Regulations required by the competition law have been promulgated.
- L. The competition agency has a written operating manual.
- M. The competition agency's priorities are clearly spelled out and are made public.
- N. The competition agency's decisions set forth the bases for taking or not taking an enforcement action.
- O. The competition agency's enforcement decisions demonstrate sound application of the competition law and economics.

2. The competition agency's decision making with respect to issues relating to competition in the agricultural sector is independent of undue political interference and free from conflicts of interest.

- A. The head of the competition agency is protected from removal without just cause.
- B. The senior staff of the competition agency is protected from removal without just cause.
- C. The competition agency's leadership and staff are subject to ethical rules barring conflicts of interest

3. The competition agency's processes, decision making, and enforcement criteria with respect to issues relating to competition in the agricultural sector are transparent.

- A. Regulations required by the competition law have been promulgated.
- B. The competition agency has a written operating manual.
- C. The competition agency's priorities are clearly spelled out and are made public.
- D. The competition agency's decisions set forth the bases for taking or not taking an enforcement action.
- E. The competition agency's enforcement decisions demonstrate sound application of the competition law and economics

4. Other government institutions whose activities directly affect market competition in the agricultural sector understand and adhere to the principles underpinning the competition law.

- A. State-owned enterprises and monopolies are subject to the competition law.
- B. Government procurement and contracting is open and competitive.
- C. Regulatory barriers to entry (e.g., licensing and approvals) are kept to a minimum.
- D. Sector regulators are in place to protect consumer welfare in natural monopoly markets

5. Courts understand and support the economic underpinnings of competition law.

- A. The competition law provides for judicial review of the decisions of the competition agency.

- B. Judges who hear competition cases have formal, university-level training in commercial law.
- C. Judges who hear competition cases receive periodic continuing legal education on issues relating to competition and other relevant areas.
- D. Judges have adequate subpoena, contempt, and enforcement powers, which are used, respected, and supported by other branches of government.
- E. Judges look to and consider the experience of other jurisdictions in rendering their decisions

Supporting Institutions

1. Ministries and other government agencies support the economic efficiency and consumer welfare goals of competition in the agricultural sector.

- A. Standards and regulations relating to agricultural sector are subject to cost-benefit analysis taking into consideration effects on competition.
- B. Ministries ask competition law enforcement authority for input on proposed legislation and regulation that may affect competition in the agricultural sector.
- C. Joint training programs take place in which the competition agency and other ministries involved in the agricultural sector participate.
- D. Privatization of state-owned or controlled enterprises attempts to create agricultural markets in which competition exists.
- E. Government actively supports reduction in trade barriers and encourages trade liberalization in the agricultural sector

2. Non-government trade and industry associations support the economic efficiency and consumer welfare goals of competition in the agricultural sector.

- A. Trade and industry associations publish materials and incorporate training in the “do’s and don’ts” of competition law and policy.
- B. The business or legal community supports one or more specialized publications on the commercial law and other business issues.
- C. Trade and industry associations report suspected law violations.
- D. Trade and industry associations contribute to television and radio programming on the basics of how free markets operate

3. Educational and research institutions support the economic efficiency and consumer welfare goals of competition in the agricultural sector.

- A. Industrial economics is a standard course in the faculty of economics at universities.
- B. Competition law and economics is taught in the country’s law schools.
- C. University professors contribute to the national dialogue on competition law and policy through research, publications, and symposia on market-related topics.
- D. There are opportunities for training and continuing education in competition-related topics.

4. Consumer groups support the economic efficiency and consumer welfare goals of competition in the agricultural sector.

- A. Consumer groups monitor and report suspected violations of the law involving the agricultural sector.
- B. Consumer groups have established mechanism for providing input into policy making at the competition agency with respect to the agricultural sector.

Social Dynamics

1. The government and political leadership support a culture of competition in the agricultural sector.

- A. Leading political figures publicly advocate competition as a means to improve the agricultural sector.
- B. Legislation to introduce competition into the agricultural sector is usually successful.

- C. Government officials look to and draw from other countries' experiences enacting competition laws to facilitate competition in the agricultural sector.
- D. The overall legal framework in the agricultural sector does not create or permit unnecessary licensing or market entry restrictions favoring incumbents.
- E. The governmental entity responsible for privatization collaborates with the implementing institution to ensure competitive privatization in the agricultural sector

2. The state's role in the agricultural sector economy effectively promotes private sector participation and economic growth.

- A. The national government is considered to be "pro-agriculture" and has an identifiable champion engaged in promoting progress in laws and regulations promoting agriculture and rural sector enterprise.
- B. The agriculture and rural sector communities perceive the government to be "pro-agriculture."
- C. The agriculture and rural sectors actively seek new and better laws and regulations that promote their interests.
- D. The impact of price controls in the agricultural sector is negligible.
- E. The government provides for meaningful agricultural and rural sector participation in the entire legal and regulatory reform process.
- F. There is an explicit dialogue between public and private sectors actor on the need to move up the value chain from low value commodities to higher value, refined products.
- G. State-owned enterprises do not reduce private sector participation in the agricultural sector.
- H. The government, public and private sectors understand the threat to agriculture and rural production and trade posed by inefficient production systems, high energy costs, poor infrastructure, agricultural trade insecurity, and inefficient/expensive customs

3. The business and legal communities understand and respect the goals of competition law in the agricultural sector.

- A. The business and legal communities are aware of the competition law or are concerned about the lack thereof.
- B. i. Producers and distributors of agricultural inputs understand and value the benefits of free-market competition.
- C. ii. Farmer producers understand and value the benefits of free-market competition.
- D. iii. Agro-processors understand and value the benefits of free-market competition.
- E. Law firms have lawyers who specialize in competition law.
- F. Businesses have competition law compliance manuals or written procedures in place.
- G. The business and legal communities advocate competition as a means to improve productivity and efficiency in the agricultural sector

4. Consumers value competition in the agricultural sector, recognize its potential benefits, and prefer competition to government regulation.

- A. Where structural adjustments cause social dislocation, social insurance programs or other government safety nets soften the impact.
- B. Consumers have recourse to NGOs and governmental entities to advocate represent their traditional consumer protection concerns.
- C. Small entrepreneurs seek freedom to grow and innovate rather than governmental regulation and protections

Food Security Infrastructure

Legal Framework

1. The country has a legal and regulatory framework that supports ports and railways in an efficient, effective manner.

- A. Laws clearly delineate the objectives and functions of the rail and port authorities.
- B. Laws clearly define the relationship between rail and port authorities and operators, such as cargo-handling services.
- C. Laws clearly define the responsibilities of the port operators, customs and transport authorities and enable for efficient management and clearing of cargo.
- D. Laws regulate rail and port authorities' financial powers and force compliance with applicable fiscal and public administration laws.
- E. The relevant law(s) give railway regulators and rail and port operators financial powers for railway management.
- F. Concession agreements set public performance measurements to be met by the operator, the rail authority or both in managing the rails.
- G. Rail security assessments are required to be conducted on a regular basis by an independent outside security auditor in compliance with international standards.
- H. Rail authorities are required to have security plans and procedures that conform with international standards.
- I. Criminal penalties for violations of rail security assessment regulations (e.g., civil penalties, criminal liability) are sufficient to compel compliance and are actively enforced.
- J. Laws allow for flexible financing options including cash flow financing or use of public debt for construction and/or maintenance of railways.
- K. Laws clearly permit non-state actors to engage in railway related projects.
- L. Laws encourage competition in the building and maintenance of railways.

2. The country has a legal and regulatory framework that supports roadways in an efficient, effective manner.

- A. Laws clearly delineate the objectives and functions of the road authorities.
- B. Laws clearly define the relationship between roads authorities and operators, such as toll roads.
- C. Laws regulate roads authorities' financial powers and force compliance with applicable fiscal and public administration laws.
- D. Concession agreements set public performance measurements to be met by the toll road operators and the roads authority.
- E. Laws allow for flexible financing options including cash flow financing or use of public debt for construction and/or maintenance of roads.
- F. Laws clearly permit non-state actors to engage in roadway projects.
- G. Laws encourage competition in the building and maintenance of roadways.
- H. Laws specify roles, responsibilities and processes for development of trunk and feeder roads.
- I. Laws clearly define acceptable weights and vehicle types permitted on the roadways, the roles of weighstations and the requirements for enforcement.

3. The country has a legal and regulatory framework that supports wholesale markets and trading center infrastructure in an efficient, effective manner.

- A. Laws regulate wholesale markets and trading centers financial powers and force compliance with applicable fiscal and public administration laws.
- B. The relevant law(s) give wholesale markets and trading center operators financial powers for railway management and development.
- C. Wholesale markets and trading center operators are required to have security plans and procedures that conform with international standards.

Score

- D. Criminal penalties for violations of wholesale market and trading center security assessment regulations (e.g.. civil penalties, criminal liability) are sufficient to compel compliance and are actively enforced.
- E. Laws allow for flexible financing options including cash flow financing or use of public debt for construction and/or maintenance of wholesale markets and trading centers.
- F. Laws clearly permit non-state actors to engage in wholesale markets and related projects.
- G. Laws encourage competition in the building and maintenance of wholesale markets and trading centers.
- H. Laws allow for public private partnerships with regard to development of, maintenance to and operations of wholesale markets and trading centers when greater public good can be demonstrated.
- I. Criminal penalties for violations of wholesale market and trading center security assessment regulations (e.g.. civil penalties, criminal liability) are sufficient to compel compliance and are actively enforced.

4. The country has a legal and regulatory framework that supports pre- and post- harvest storage in an efficient, effective manner.

- A. Laws regulate pre- and post- harvest storage centers financial powers and force compliance with applicable fiscal and public administration laws.
- B. The relevant law(s) give pre- and post- harvest storage center operators financial powers for railway management.
- C. Laws allow for flexible financing options including cash flow financing or use of public debt for construction and/or maintenance of pre- and post- harvest storage centers.
- D. Laws clearly permit non-state actors to engage in pre- and post- harvest storage centers and related projects.
- E. Laws encourage competition in the building and maintenance of pre- and post- harvest storage centers.
- F. Laws allow for public private partnerships with regard to development of, maintenance to and operations of pre- and post- harvest storage centers when greater public good can be demonstrated.
- G. Laws clearly demonstrate if and how private sector actors can utilize defunct public sector pre- and -post harvest storage assets such as grain silos from non-functioning grain marketing boards.

Implementing Institutions

1. The country has a Transportation Planning and Implementation Agency, and/or other institution responsible for the transportation planning, with a clearly defined mandate to implement relevant laws.

- A. The implementing institution(s) responsible for transportation planning and implementation has the following characteristics:
- B. a. clearly defined mandate and sufficient authority to carry out its mandate, including clear policy statements and support from the government to implement transportation improvements.
- C. b. appropriate professional and administrative staffing committed to carry out its mandate.
- D. c. sufficient numbers of agents to actively promote and implement transportation improvements.
- E. d. sufficient funding through state budget, fees collected, or a combination of both to maintain its equipment and services.
- F. e. sufficient funding to pay wages perceived as adequate (based on country wage rates) to all staff, including front-line law enforcement officers.
- G. f. an active staff training and development program utilizing appropriate training materials, guidebooks or procedural manuals to improve staff competency.
- H. g. access to specialists with sufficient expertise to provide appropriate specialized strategic goods analysis.
- I. h. engineers are of sufficient quantity and quality to adequately support transportation planning and implementation.

Score

2. The country has railways and they are adequate to provide effective services to cargo.
- A. Rails and rail facilities are adequate to accommodate near term cargo throughputs.
 - B. Rails and rail facilities have sufficient support for future expansion and efficiency improvement initiatives.
 - C. Rails and rail facilities provide sufficient infrastructure to accommodate diversity of cargo.
 - D. Rails and rail facilities are in serviceable condition and well maintained.
 - E. Rails and rail facilities maintain efficient standard operating procedures.
 - F. Rail facility improvement initiatives are actively sought and supported.
3. The country's rail infrastructure provides adequate services to various types of operations.
- A. Sufficient rail control and access infrastructure is available to enable efficient receiving and departure.
 - B. Cargo handling facilities are adequate and well-equipped.
 - C. Cargo handling facilities are provided with dedicated inspection handling area.
 - D. Cargo handling facilities have adequate security systems, including perimeter fencing and dedicated hazardous storage area.
 - E. Engineers are of sufficient quantity and quality to adequately support railway development and maintenance.
 - F. Access facilities are provided with necessary space and equipment.
 - G. Cargo storage facilities (container or warehouse) at the port are sufficient to meet the demand required by rail operators.
4. Rail infrastructure is in optimal conditions and is capable of rendering quality services to all users.
- A. Mainlines, classification yards, and loading facilities are in good condition and fully serviceable.
 - B. Cargo unloading facilities are in good condition and fully serviceable.
 - C. Cargo handling equipment is in good condition and fully serviceable.
 - D. Storage Facilities are in good condition and fully serviceable.
 - E. Landside access facilities are in good condition and fully serviceable.
 - F. Systems are in good condition and fully serviceable.
5. The country has plans in place to ensure that railway infrastructure can grow to meet increasing demand of services, including a flow of trained staff, funding and more and updated equipment.
- A. Rails and rail facilities have sufficient terminal expansion capability.
 - B. Rail management maintains expansion as a high priority.
 - C. Regulatory authorities focus on facility expansion and enhancement opportunities.
 - D. Labor and staff focus on facility optimization.
 - E. Capital expansion programs typically experience success.
6. The country's roads are adequate to provide effective services to passengers and cargo.
- A. Roads and road facilities are adequate to accommodate near term goods and passenger throughputs.
 - B. Roads and road facilities have sufficient support for future expansion and efficiency improvement initiatives.
 - C. Roads and road facilities provide effective opportunities to facilitate future trade.
 - D. Roads and road facilities provide sufficient infrastructure to accommodate diversity of cargo.
 - E. Roads and road facilities are in serviceable condition and well maintained.
 - F. Roads and road facilities have sufficient capacity to accommodate existing traffic.
 - G. Roads and road facilities current use versus capacity provides opportunities for growth within existing facilities.

Score

- H. Roads and road facility improvement initiatives are actively sought and supported.
- I. Roads are equipped with weigh stations that are regularly calibrated.
- J. Vehicle weight restrictions are enforced through the use of weighstations.

7. The country's road infrastructure provides adequate services to various types of operations.

- A. Roads and road facilities provide infrastructure to accommodate the following:
 - B. a. Freight traffic
 - C. b. Privately Owned Vehicle (POV) traffic
- D. Paved roads provide access to all major municipalities and consumption zones
- E. Multiple lanes roads are provided on arterials.
- F. Road facilities provide adequate design speeds to facilitate free flow of vehicles.
- G. Road facilities provide adequate traffic control devices to minimize accidents and improve the flow of traffic.
- H. Road facilities provide adequate physical barriers to entry from pedestrians and other non-motorized vehicles.
 - I. Road facilities provide adequate lane widths, shoulders, and escapes for all vehicle types.
- J. Engineers are of sufficient quantity and quality to adequately support road development and maintenance.
- K. Road facilities are sufficiently marked for foul weather and night operations.

8. Road infrastructure is in optimal condition and there are realistic plans to ensure that the road system can grow to meet increasing demand from rural feeder roads.

- A. Roads and road access facilities are in good condition and fully serviceable.
- B. Feeder roads and road access facilities are in good condition and fully serviceable.
- C. Traffic control systems are in good condition and fully serviceable.
- D. Road facilities operate at acceptable levels of service at peak operating hours.
- E. Road facilities operate at acceptable levels of service at non peak hours.
- F. Highway planning authorities maintain expansion as a high priority.
- G. Rural road planning authorities maintain feeder road expansion as a high priority.
- H. Regulatory authorities focus on facility expansion and enhancement opportunities.
 - I. Labor and staff focus on facility optimization.
 - J. Capital expansion programs typically experience success.
- K. Rural road planning authorities have a needs based prioritization process for planning development and service of feeder roads.

9. The country's information and communication technology sector is sufficiently developed to meet the agriculture and food security needs of the country.

- A. ICT services are adequate to accommodate the needs of the agriculture sector within the country (including farmers, traders, transporters, food security specialists, policy makers).
- B. ICT services have sufficient support for future expansion and efficiency improvement initiatives specific to the needs of the agriculture industry and food security.
- C. ICT services are in serviceable condition and well maintained in urban and rural areas.
- D. ICT services capital improvement initiatives are actively sought and supported
- E. ICT service providers have addressed differences in interoperability platform standards with the international emergency and food security ICT platform standards (e.g. International Telecommunication Union (ITU) UHF/VHF/HF radio networks).

10. Value add to market information is developed and made available to government, private sector, academia and donors.

- A. Agriculture marketing information (e.g. transport and commodity prices) is systematically collected, analyzed and presented in useful formats.

Score

- B. Associations support the private sector by collecting and preparing information targeted to members.
- C. Government regularly collect production and trade data from around the country focusing on areas of surplus and deficit.
- D. Reports and data are distributed through hard copy and the internet to any interested party.

11. The country has well developed infrastructure of wholesale markets and trading centers that enable all traders market access in an efficient way.

- A. Wholesale markets and trading centers are adequate to accommodate transaction volumes and types required by traders and other market actors.
- B. Wholesale markets and trading centers have sufficient support for future expansion and efficiency improvement initiatives.
- C. Wholesale markets and trading centers provide sufficient infrastructure to accommodate diversity of products.
- D. Wholesale markets and trading centers are in serviceable condition and well maintained.
- E. Wholesale markets and trading center improvement initiatives are actively sought and supported.
- F. Public and private sector actors engage in regular dialog regarding wholesale markets and trading center concerns.
- G. Wholesale markets and trading centers (are required to) maintain records of sale.

12. The country has well developed infrastructure of pre- and post- harvest facilities that enable all growers access to value-added services in all areas of the country.

- A. Pre- and post- harvest facilities are located in all areas where there is demand from farmers and peasants.
- B. Pre- and post- harvest storage facilities are adequate to accommodate near term harvest throughputs.
- C. Pre- and post- harvest storage facilities have sufficient support for future expansion and efficiency improvement initiatives.
- D. Pre- and post- harvest storage facilities are in serviceable condition and well maintained.
- E. Pre- and post- harvest storage facilities maintain efficient standard operating procedures.
- F. Pre- and post- harvest storage facility improvement initiatives are actively sought and supported.
- G. Public and private sector actors engage in regular dialog regarding pre- and post- harvest storage concerns.
- H. Storage facilities are designed and available for all major commodities being produced by farmers.

Supporting Institutions

1. Disputes involving road, rail, and harvest storage problems are resolved efficiently and effectively by the courts and/or administrative tribunals with specific jurisdiction and expertise.

- A. Courts consistently adjudicate appeals from administrative decisions in a transparent, impartial manner.
- B. Courts or administrative tribunals generally operate as follows:
- C. a. they are available.
- D. b. they provide sufficiently consistent and predictable outcomes in similar circumstances.
- E. c. They act in a transparent manner.
- F. d. They act in a non-discriminatory manner.
- G. e. They are independent of inappropriate political influence and extra-legal considerations.
- H. f. They are effective.

2. Concession agreements establish arbitration or other proceedings to handle problems or disputes between the operators and the authorities.

Score

- A. The country has provisions that regulate alternative dispute resolution methods, and allows their use for contractual related disputes.
- B. Arbitration can be agreed to by the parties via arbitration clauses in contracts.
- C. Authorities are not given special treatment during an arbitration proceeding.
- D. Authorities have the power to freely agree to arbitration.
- E. Arbitral awards are fully enforceable against either party.

3. The country has optimal and adequate railway transportation services with sufficient, efficient and cost effective trains and service providers.

- A. The quantity and quality of rail cargo transport is sufficient.
- B. The cost of rail cargo transport is reasonable.
- C. Rail cargo transport conduct operations electronically, including internal operations and communications between head office and branches, rail cargo transport exchange data electronically with other entities, such as customers, banks and port services.
- D. Rail cargo transport provide and maintain accurate manifest data electronically to Customs.
- E. Rail cargo transport maintain an adequate security system.
- F. Rail cargo transport provide appropriate and regularly updated staff training in security issues.
- G. Prior to loading, security checks are provided for high-risk cargo through the use of appropriate equipment.
- H. Rail cargo transport have procedures to report the detection of suspected illegal action, smuggling, or tampering to appropriate law enforcement body and have liaison channels established to receive threat information from law enforcement.
- I. Procedures exist for reporting suspicious and irregular activities.

4. The country has optimal and adequate road transportation services, with sufficient, efficient and cost effective road carriers and trucks.

- A. The quantity and quality of road carriers is sufficient.
- B. The cost of road carriers is reasonable.
- C. Road carriers maintain an adequate security system.
- D. Road carriers provide appropriate and regularly updated staff training in security issues.
- E. Prior to loading, security checks are provided for high-risk cargo through the use of appropriate equipment.
- F. Carriers have procedures to report the detection of suspected illegal action, smuggling, or tampering to appropriate law enforcement body and have liaison channels established to receive threat information from law enforcement.
- G. Procedures exist for recording, reporting and investigating shortages or overages.
- H. Carriers place seals on container/truck and the seal number is on all shipping documents and in automated systems.
- I. Seals meet the basic standards for security and reliability.
- J. When seals are broken, new seals of the same standard are affixed, and each seal is written on the document and automated system.
- K. High-security seals are placed on strategic goods.

5. The country has optimal and adequate IT infrastructure and service providers.

- A. The quantity and quality of IT (internet, telephone, wireless, satellite) providers is sufficient.
- B. The cost of IT service providers is reasonable.
- C. The quantity of mobile communications providers is sufficient.
- D. The quality of mobile communications providers is adequate.
- E. The cost of mobile communications providers is reasonable.
- F. The quantity of long distance communications providers is sufficient.
- G. The quality of long distance communications providers is adequate.
- H. The cost of long distance communications providers is reasonable.

Score

- I. Long distance communications providers maintain adequate security characteristics.
 - J. Mobile phone network access in areas of surplus and deficit production exist across the country.
-
6. Business associations champion the cause of improved agricultural related infrastructure by various means.
-
- A. Businesses believe that improved infrastructure efficiency and capacity is desirable and will improve their ability to trade and improve the business environment.
 - B. One or more prominent port or airport concessions, or private rail companies, supports infrastructure capacity, efficiency and security by:
 - C. a. increasing investment in security.
 - D. b. attempting to improve processes through programs to improve oversight and risk assessment.
 - E. c. working cooperatively with international groups offering technical assistance.
 - F. d. attending international, regional, or bilateral conferences and continuing education on the topic.
 - G. Formal mechanisms for soliciting input from the business and professional community for formulating and amending infrastructure capacity and security policy:
 - H. a. have been established by the government at the legislative level.
 - I. b. have been established between the business community and transportation agency.
 - J. c. are actively used by the government and business community.
 - K. d. are publicly known and easily available to most business firms.
 - L. e. are used by a wide swath of the business community, not simply a few well-connected firms.
 - M. Associations support local communities in understanding the importance of infrastructure to food security.
 - N. Associations support local communities in developing local infrastructure plans.
-
7. The media reports on agriculture infrastructure improvement, efficiency and security, and the community feels that they have fair access to the media.
-
- A. Major media run stories on the importance of improving agriculture related infrastructure and intermodal transportation efficiency/capacity.
 - B. Media reports relating to agriculture infrastructure development and maintenance convey a clear sense of the issue at hand.
 - C. Major media run stories on the importance of improving agriculture infrastructure and intermodal transportation security.
-
8. Educational, training and research institutions emphasize the importance of modern infrastructure and intermodal transportation to attracting international trade and improving the business environment.
-
- A. Business schools are adequately funded, with faculties, facilities and other resources that are sufficient to build a well trained and sufficiently competent cadre of infrastructure specialists.
 - B. Business schools offer classes in project finance suitable for infrastructure development and maintenance projects.
 - C. Business school curricula recognize the value of public private partnerships in infrastructure development.
-
9. Foreign government and outside groups support the development of improved agriculture infrastructure in the country with technical assistance, input to policy makers, etc.
-
- A. Foreign governments seek to include the country in bilateral or multilateral agreements related to agriculture/ food security infrastructure or seek to enforce existing agreements.
 - B. Foreign actors provide input to policy makers on international standards in agriculture related infrastructure.
 - C. International lending institutions and donor agencies provide technical assistance aimed at improving food security and basic infrastructure capacity.

Score

10. At the borders, agriculture infrastructure is prioritized and specifically suited for the country's products and international trade in agricultural products.

- A. Agricultural cargo facilities, including refrigerated/cold storage, loading and off-loading, and transport, are routinely available.
- B. Cargo transport of perishable goods – plant and animal products – are regulated in such a way as to minimize transport delays and inspections.
- C. Adequate facilities exist to conduct health, plant, animal health and environmental inspections.
- D. Warehouse services are routinely available at reasonable prices.
- E. The agricultural authority provides a variety of services dedicated to assisting traders of agricultural goods in meeting their obligations under international, regional and bi-lateral trade agreements.

11. The country has optimal and adequate wholesale markets and trading centers and services that are sufficient, efficient and cost effective for traders.

- A. The quantity and quality of wholesale markets and trading centers is sufficient.
- B. The cost of trading at wholesale markets and trading centers is reasonable.
- C. Wholesale markets and trading centers conduct operations electronically, including internal operations and communications between head office and branches, markets and trading centers exchange data electronically with other entities, such as customers, banks and port services.
- D. Wholesale markets and trading centers provide and maintain accurate transaction data electronically to Customs (export only).
- E. Wholesale markets and trading centers maintain an adequate security system (physical and electronic).
- F. Wholesale markets and trading centers provide appropriate and regularly updated staff training in security issues.
- G. Prior to loading at the wholesale market or trading center (physical commodities), security checks are provided for high-risk cargo through the use of appropriate equipment.
- H. Procedures exist for reporting suspicious and irregular activities at wholesale markets and trading centers.

12. The country has optimal and adequate pre- and post- harvest services and facilities that are sufficient, efficient and cost effective to all growers.

- A. The quantity and quality of pre- and post- harvest storage facilities is sufficient.
- B. The cost of using pre- and post- harvest storage centers is reasonable.
- C. Pre- and post- harvest storage centers conduct operations electronically, including internal operations and communications between head office and branches, pre- and post- harvest storage centers exchange data electronically with other entities, such as customers, banks and port services.
- D. Pre- and post- harvest storage centers provide and maintain accurate transaction data [electronically] to customers and other actors.
- E. Pre- and post- harvest storage centers maintain an adequate physical security systems.
- F. Pre- and post- harvest storage centers provide appropriate and regularly updated staff training in security issues.
- G. Prior to delivery at the pre- and post- harvest storage centers (physical commodities), security checks are provided for high-risk cargo through the use of appropriate equipment.
- H. Procedures exist for reporting suspicious and irregular activities at pre- and post- harvest storage centers.

Social Dynamics

1. One or more high-level government official champions the cause of improved food security infrastructure capacity, efficiency and security specific to the needs of the agricultural community.

Score

- A. The champion(s) engages in:
- B. a. proposing increased investment in either farm to market roads, water for irrigation, markets or trading centers, storage and market information.
- C. b. proposing changes to laws and/or institutional processes.
- D. c. inviting external technical assistance for agriculture industry and food security related infrastructure assignments.
- E. d. joining international, regional, or bilateral groups dedicated to improved agriculture infrastructure capacity/efficiency or speaking on topic.

2. The country's cultural environment supports the improvement of agricultural related infrastructure.

- A. Local events are held by government agencies, business organizations, or civil associations on agriculture infrastructure capacity and security issues with no foreign prompting or funding.
- B. In conversation, business people appear to understand the threat to agriculture business development posed by difficult, expensive, or outmoded infrastructure.
- C. In conversation, politicians appear to understand the threat to food security and economic growth posed by poor infrastructure security and difficult, expensive, or outmoded infrastructure and intermodal transportation procedures.
- D. Security measures are not viewed as undermining shows of trust necessary for business relationships.
- E. It is not a common method of protest or activity to erect barriers on public roadways.
- F. Prominent politicians describe the need for agriculture infrastructure security or improved agriculture infrastructure efficiency/reduced costs as being important for the health and safety and security of the country, not demanded by "outside elements" or foreigners.

Climate Change

Legal Framework

1. Government has a legal framework to integrate climate change into planning and budget mechanisms

- A. A law sets a legally binding target to reduce carbon emissions and increase climate adaptation by a specified percentage every year.
- B. Each government agency is required to prepare a list of critical adaptation needs, specifically, major existing projects, activities, and lands under its jurisdiction that will be significantly affected by climate change. The agency is required to complete adaptation statements within a fixed time of listing.
- C. President is required to report annually to Congress/Parliament on progress towards meeting the target.
- D. New measures to cut emissions and increase climate adaptation can be introduced if the target is not met, including requirements on Ministers to introduce new policies and pay cuts for the Ministers failing to cut emissions and/or increase climate adaptation
- E. The government has established climate change-related standards and technical requirements for baselines and continuous measurement/reporting that are fact-based and do not significantly distort results.

2. Government ministries integrate climate change into key strategies. Specifically, climate change is linked to:

- A. National economic growth strategy
- B. Agriculture development strategies
- C. Rural development strategies
- D. Any environmental policies and action plans

3. Government has regulations requiring a long-term assessment of availability of water resources that takes into account climate change impacts before planning for irrigation

- A. Government is aware that it must accommodate competing water demands within the context of increasing hydrologic uncertainty.
- B. Analyses of climate change scenarios for river basins suggesting the possibility of changes in stream flows are used to allocate water.
- C. Forecasts are done for both future consumptive uses and the future availability of water to keep existing uses intact.
- D. Allocation of water/irrigation rights take into account the changing amounts, seasonality, and inter-annual variability of water supplies.

4. The government has established legal and financial mechanisms with which it promotes incentive-induced conservation of forests, watersheds, and protected areas.

- A. Zoning laws follow clear guidelines about preservation of wild ecosystems, forests, and watersheds to maintain the natural resource base.
- B. Government recognizes and supports decentralized management of natural resources and landscapes, where local people are more actively involved, as the main or one key management approach in a possible mix of management regimes (centralized, private, community-based).
- C. Government allows people in the vicinity of forests, watersheds, and protected area, or others with property rights, to participate in the conservation process and to link the objectives of conservation with the local development needs of the people.
- D. Government recognizes economic mechanisms that encourage or motivate people to participate in conservation activities. (e.g. allowing them to harvest direct forest products) and/or non-financial mechanisms (e.g. according them an opportunity to participate in making decisions on conservation of the resource). Extraction needs are reconciled with conservation interests by offering the local people a proper mix of incentives.

Score

- E. Measures of environmental conservation positively impact the livelihoods of the local inhabitants and enhance the effectiveness of the intended policies.

5. The government is committed to carbon emissions reduction from both the energy and the land sectors

- A. A low carbon development strategy that takes into account land use planning is in place and is being used to guide investments.
- B. Laws regulating the sale and use of land take into account the emissions impact of changing land use.
- C. Clear and transparent laws govern use of wood and charcoal as an energy source.
- D. National government has provided a baseline-report on the energy and land sectors' emissions to the UNFCCC.
- E. A carbon emissions baseline and land use assessment exist which accounts for emissions from fertilizer, and non-CO2 greenhouse gas emissions such as methane from crop and animal production, and monitoring of changes in landscape use and carbon emissions/storage is ongoing.

6. The government is committed to carbon trading.

- A. A low carbon development strategy that takes into account planning around energy use and energy efficiency exists.
- B. The legal framework for ownership of carbon credits is clear and fair.
- C. The law clearly defines responsibilities of the federal government in managing carbon trading transactions, especially under CDM.
- D. The legal framework has a clear and fair benefit-sharing plan for carbon trading transactions that provides finance to communities at both the project and national level.
- E. The legal framework for agricultural cooperatives allows them to develop contracts for carbon credits.

7. The government is committed to supporting Clean Development Mechanism (CDM) projects (including renewable solar, wind, geothermal and/or wave power clean energy designs).

- A. The government is building capacity in developing CDM project activities.
- B. The government is improving information sharing / outreach / education and training on CDM projects.
- C. The registration process for CDM projects is straightforward, clear, and reasonable in cost.
- D. Government provides incentives to encourage development of energy efficient agricultural technologies or practices.
- E. Government incentives exist to encourage private investors to produce clean electricity (solar power, wind, bio-combustion) to complement hydroelectrical capacity and compensate for lost hydroelectrical potential due to climate change.

8. Government has the capacity to support Clean Development Mechanism (CDM) projects

- A. The CDM-supporting agency (CDM Designated National Authorities, DNAs) is well organized, well led, and endowed with sufficient resources to fulfill its mandate.
- B. The CDM-supporting agency is independent of conflicts of interest, and processes, decision-making, and enforcement criteria are transparent.
- C. The agency charged with registering foreign investments is able to deal with carbon financing deals.
- D. Government agencies encourage energy efficiency and resource conservation in agricultural practices.

Implementing Institutions

1. Government has the capacity to engage in vulnerability, impact assessments and early warning efforts pertaining to climate-related extremes.

Score

- A. Government agencies carry out systematic vulnerability assessments, impact assessments and risk management assessments for climate-related extremes to determine the potential and actual impact of climate extreme events (e.g. drought, flooding) in different sectors (e.g. agriculture, health, hydrology, hydroelectricity).
- B. Government is able to quantify potential agricultural economic losses and impacts on food security associated with climate change vulnerability and can identify vulnerable sectors, regions, or populations.
- C. Government agencies have operational early warning systems for climate-related extremes, including climate risk prediction maps for at least one season in advance, that provide to decision makers accurate, useful, and timely information on onset and end, severity and spatial characteristics of climate-related extremes for preparedness and response.
- D. Government or private institutions are actively testing, assessing, and improving the institutional capacity for risk reduction and mitigation actions for farmers, communities, and the public at large to cope with weather extremes.
- E. Government recognizes the need for and supports targeted and efficient use of public funds for adaptation-related research.

2. Government has the capacity to engage in proactive climate change mitigation planning and early response to climate-related extremes.

- A. There is one single government agency (National Climate Change Focal point) that leads and/or coordinates activities of all public and private agencies that are involved in planning, assistance and information flow to primary users regarding weather extremes (e.g. drought, flooding, hurricanes).
- B. Government has preparedness plans for weather extremes (e.g. drought, flooding, hurricanes) for different economic sectors, in which they identify direct consequences of the weather extremes (e.g. as reduced crop yields, livestock losses, reservoir depletion, and social and economic effects). These plans have clearly stated objectives and a strategy to meet those objectives.
- C. Climate change mitigation plans are well integrated into the planning and budget systems among all national, sub-national, and local government agencies, including those that ensure food security and combat desertification.
- D. National or local governments integrate mitigation plans for climate extreme events (e.g. drought, flooding, hurricanes) into their agriculture, water management, land use, and economic development strategies.
- E. Government makes financial and TA support available for farmers and others to take advantage of weather extremes mitigation options (e.g. drought response, flood control, water conservation, soil erosion control, municipal and industrial water supply, improved water use efficiency; water harvesting, storage and recycling systems; watershed and catchments conservation; afforestation in degraded lands, community forest fire prevention strategies, and sea walls to address sea level rising around coastal communities).

3. Relevant ministries ably support targeted adaptation-related programs and activities in agriculture and natural resource management.

- A. National services facilitate farmers and ranchers to have access to available information about local climate and weather extremes conditions and predictions, and technical assistance and other resources that allow them to make timely production decisions concerning crops, livestock, water, soil, etc. to adapt to climate variability.
- B. Quality short-term weather and seasonal forecasts based on high quality historical data are available even in rural areas.
- C. National crop and animal husbandry services have capacity to deal with new and changing patterns of outbreaks of disease vectors and pests.
- D. National natural resource management services have capacity to address climate-related effects pertaining forests, landscapes and protected areas (e.g. animal and plant biodiversity, wetlands, water quality).
- E. Government agencies or private institutions make good use of climate and weather data, weather forecasts, and other climate risk management tools to support agriculture and natural resource management.

Supporting Institutions

1. Universities and other research institutions ably provide support for stakeholders in all sectors to understand, prepare for and address climate change impacts.

- A. The agendas of public, private, and academic research institutions are responsive to climate change vulnerability assessments.
- B. Universities provide an effective foundation of knowledge to understand climate change impacts.
- C. Research investment leads to the identification of the social, economic, and environmental conditions that create vulnerability to weather extremes, and to the assessment and improvement of the effectiveness of technological and institutional adaptation and mitigation innovations
- D. Universities, private institutions (including private weather services) provide timely climate information for effective preparedness and mitigation of weather extremes.

2. Research organizations invest adequate research efforts for climate preparedness and mitigation.

- A. Adequate research investment exists on the technological base needed for long-term weather prediction and to improve the accuracy of the predictions regarding weather patterns (e.g. El Niño and La Niña, global climate change).
- B. Adequate research efforts exist to generate improved risk reduction farm production practices (e.g. alternative tillage practices, new drought-tolerant crop varieties, contour farming, low-till, zero grazing, and irrigation and other water management innovations suitable to address the risk of moisture deficiencies, increasing frequency of droughts and other relevant climatic conditions).
- C. Adequate research investment exists to provide evidence-based foundations for proactive water mitigation strategies (e.g. evaluate water quantity and quality from new sources, use of ground water; monitor vulnerable public water suppliers; improved accuracy of seasonal runoff and water supply forecasts; improved procedures to alert for water shortage or quality problems; study effectiveness of conservation measures; research into the relationship between drought and fires; study public willingness to pay more for more reliable water supplies).
- D. There are adequate research investments to field test and develop new concepts and approaches to land use management, and to build the capacity of natural resource users to engage in vulnerability assessments and adaptation planning and mitigation (including wildlife extension services for communities to manage wildlife resources), as part of short and long-term climate adaptation strategies.
- E. Adequate research investment exists to monitor the impact of climate change on plants and wildlife species diversity, ecosystem composition and function, and ecosystem sensitivity to short-term availability of water and higher temperatures due to climate change.

3. Services that provide support for agricultural producers adequately enable and encourage climate adaptation.

- A. Public, private, and academic extension institutions (including extension services by the Agriculture Department and the Tanzania Meteorological Agency) provide farmers and farmer associations with general education about climate change, environmental degradation, increased pressure on resources, etc., as well as reliable information on climate change impacts, and adaptation opportunities.
- B. Extension institutions mobilize technology, TA and other support for farmers to be able to improve their household livelihood and farm financial management options in light of climate change (e.g. diversifying crops, agro-systems, enterprises within one farming operation and sources of on-farm and off-farm household income; reducing soil erosion; improving water use management; enhancing soil moisture retention; minimizing soil impaction; changing location of crop and livestock production; using crop insurance, and participating in income stabilization programs).
- C. Providers of extension services effectively teach about methodologies that improve energy efficiency and vulnerability reduction in water management and carbon storage.

Score

- D. Agricultural cooperatives and other farmer organizations have mechanisms for accessing voluntary carbon financing markets and negotiating agreements.
- E. In-country institutions provide affordable technical support for CDM assessments and guide organizations through the CDM approval process.

4. Banks and other financial institutions provide services that encourage climate adaptation and risk reduction.

- A. Banks and other financial institutions are able to take into account the increasing probability of extreme events into their assessment of risk and administration of loans.
- B. Banks and other financial institutions know how to evaluate risks and administer loans that rely on financial flows from carbon markets.
- C. Banks and other financial institutions are able to evaluate and assess risk on loans related to improved energy efficiency equipment for agricultural or processing applications.
- D. Insurance for crop failure is available and affordable for private businesses and small farmers, covers staple and cash crops as well as livestock, takes into account the increasing risks due to climate change, and has an application process for insurance assistance that is straightforward and prompt.
- E. Carbon market mechanisms are available for small farmers for emission reductions and carbon sequestration efforts, and farmer-friendly assessment techniques to test soil carbon have been adopted.

5. There are adequate levels of knowledge on and capacity to address climate change and adaptation.

- A. Capacity exists within the private sector to understand and address climate change impacts on their investments.
- B. Legal profession understands the issues around carbon financing, and educational institutions offer courses on carbon financing to the legal profession.
- C. Development and resource management professionals in government and private agencies have good understanding of and favorable experience with what can be done with climate information, which results in a sustained demand for climate information services and an efficient integration of that information into development practice.
- D. National meteorological agencies are committed to a demand-led process and provide a range of useful climate risk management services, including information (e.g. real-time monitoring and seasonal forecasting) that is relevant to multiple sectors and required by decision-makers; and ensure that the decision-makers have sufficient advice and knowledge to make use of the information as easily and appropriately as possible.
- E. Government and private institutions create awareness and implement education projects on the effects of climate change, weather extremes (e.g. drought, flooding, hurricanes), early warning systems, proactive mitigation initiatives (e.g. soil, water, catchments conservation; water harvesting and storage; afforestation; use of clean energy sources; improved charcoal production and use; prevention of major climate-related human health hazards and crop and livestock pests and diseases) and emergency responses that encourage the cooperation of the general public.

Social Dynamics

1. Government and politicians at all levels within the country take climate change planning, mitigation and adaptation needs seriously.

- A. Within the government, there is political will to address adaptation and concrete steps are being taken to implement consideration into planning criteria, evaluations, and budgets.
- B. The government considers climate issues and information routinely in economic and development planning, and uses quality information that results in solid analysis of policy options.
- C. Policy makers are generally well-informed about who the climate vulnerable geographic, sectoral and social groups are, the potential climate change impacts to those groups, and the range of responses available to mitigate and respond to climate change among those groups.

Score

- D. National planning agencies have effective mechanisms to facilitate the generation, analysis and systematic integration of information on climate, economic and other risks in a form that sector-specific (e.g. agriculture, health, water, education, energy, environment, tourism) for the use of policy-makers in development planning, preparedness and emergency response.
- E. Policy-makers understand and prioritize investment of funds for proactive mitigation planning and implementation rather than relying exclusively or primarily on climate related emergency assistance.

2. Government and private sector culture and common practice encompass elements that favor effective climate change preparedness and response.

- A. The government and private sector supports a culture of long-term planning.
- B. Government encourages diversification of livelihoods through investments in education, job training, extension services that promote multiple sources of agricultural or household income, etc.
- C. Government prioritizes assistance to highly vulnerable populations.
- D. Private sector demonstrates an interest in long-term sustainability and productivity of the agricultural sector.
- E. Corruption, security, and/or authoritarian approaches do not undermine domestic or foreign investor- or community confidence.

3. Civil society is informed and actively engaged in the debate on climate change issues and the need for mitigation and adaptation.

- A. The media regularly informs the public of issues important to climate change and agriculture.
- B. Public interest organizations organize events to raise the consciousness of resource users in cities and rural areas about climate change and its possible effects.
- C. Non-specialized publications routinely feature articles on climate change issues.
- D. Trade groups have official position statements on issues pertaining to climate change and response.

4. Climate change adaptation is happening.

- A. There are early warning systems in place for food security and effective response mechanisms.
- B. There are examples of farmers who are beginning to integrate adaptation techniques or improved methods into their farming methodology.
- C. There is wide promotion of improved, small-scale agricultural techniques to increase agricultural productivity, such as conservation farming.
- D. There is a history of carbon finance projects getting funded and showing results.

