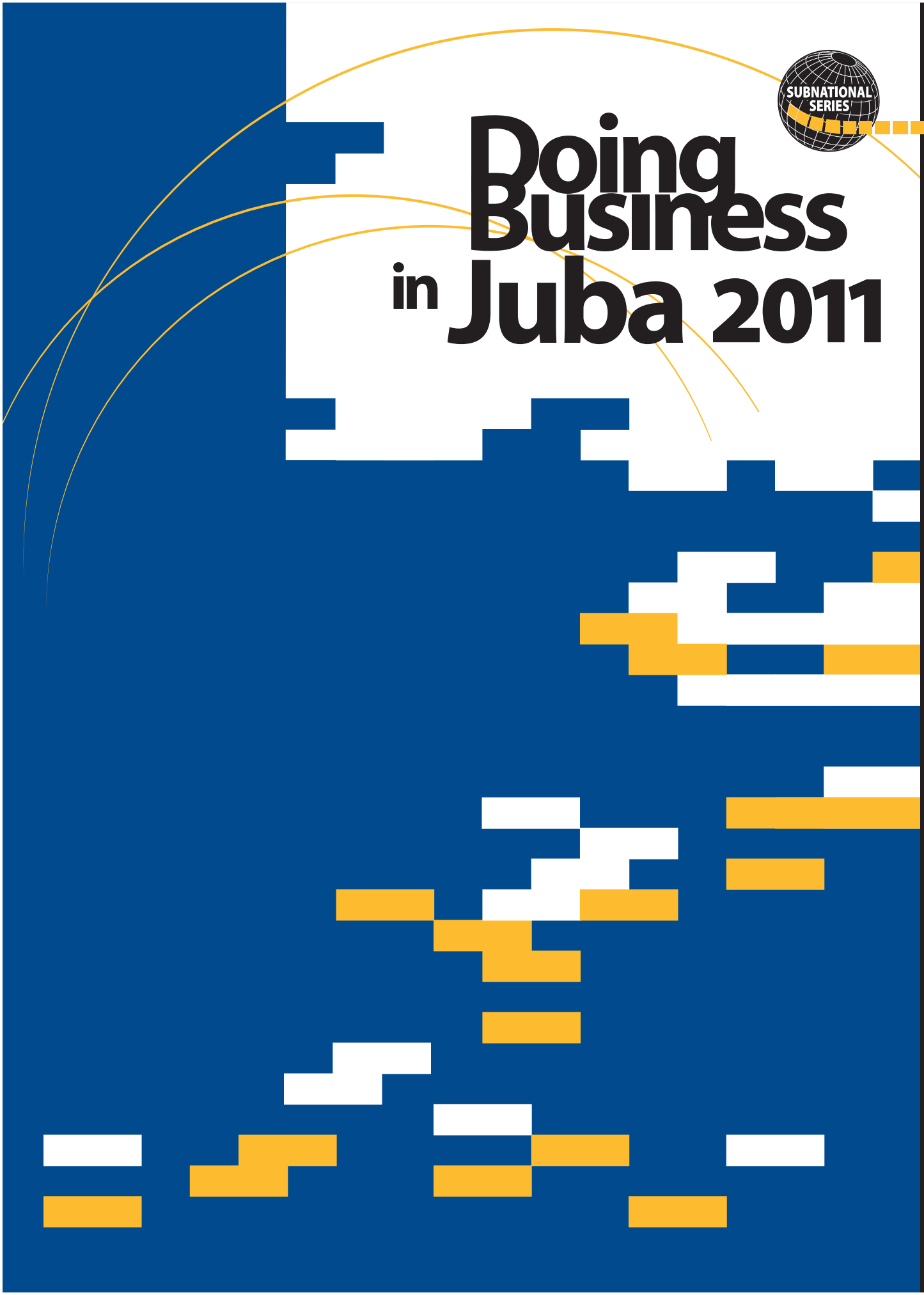
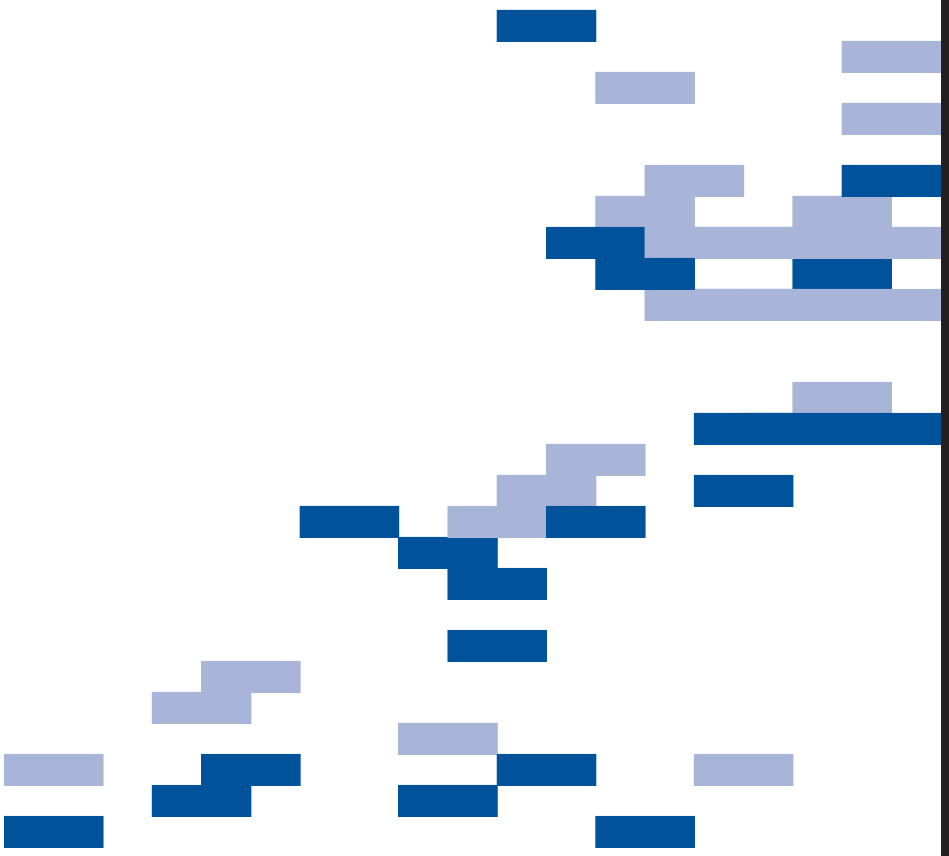


Doing Business in Juba 2011

COMPARING BUSINESS REGULATION IN JUBA AND 183 ECONOMIES

Doing Business in Juba 2011



COMPARING BUSINESS REGULATION IN JUBA AND 183 ECONOMIES

A COPUBLICATION OF THE WORLD BANK AND THE INTERNATIONAL FINANCE CORPORATION

©2011 The International Bank for Reconstruction and Development / The World Bank
1818 H Street NW
Washington, D.C. 20433
Telephone: 202-473-1000
Internet: www.worldbank.org

All rights reserved

A copublication of the World Bank and the International Finance Corporation

---

This volume is a product of the staff of the World Bank Group. The findings, interpretations, and conclusions expressed in this volume do not necessarily reflect the views of the Executive Directors of the World Bank or the governments they represent. The World Bank does not guarantee the accuracy of the data included in this work.

Rights and Permissions
The material in this publication is copyrighted. Copying and/or transmitting portions or all of this work without permission may be a violation of applicable law. The World Bank encourages dissemination of its work and will normally grant permission to reproduce portions of the work promptly.

For permission to photocopy or reprint any part of this work, please send a request with complete information to the Copyright Clearance Center, Inc., 222 Rosewood Drive, Danvers, MA 01923, USA; telephone 978-750-8400; fax 978-750-4470; Internet: www.copyright.com.

All other queries on rights and licenses, including subsidiary rights, should be addressed to the Office of the Publisher, The World Bank, 1818 H Street NW, Washington, DC 20433, USA; fax: 202-522-2422; e-mail: pubrights@worldbank.org.

Doing Business in Juba 2011 and other subnational and regional *Doing Business* studies can be downloaded at no charge at http://subnational.doingbusiness.org.

Copies of the *Doing Business 2011: Making a Difference for Entrepreneurs*; *Doing Business 2010: Reforming through Difficult Times*; *Doing Business 2009*; *Doing Business 2008*; *Doing Business 2007: How to Reform*; *Doing Business in 2006: Creating Jobs*; *Doing Business in 2005: Removing Obstacles to Growth*; and *Doing Business in 2004: Understanding Regulations*, may be obtained at www.doingbusiness.org.

Contents

About *Doing Business* and *Doing Business in Juba 2011* 1
Executive summary 7
Starting a business 11
Dealing with construction permits 16
Registering property 20
Getting credit 24
Protecting investors 27
Paying taxes 31
Trading across borders 35
Enforcing contracts 39
Closing a business 43

Data notes 47
Doing Business indicators 63
Indicator details 65
Annex: Employing workers 72
Acknowledgments 73

Doing Business in Juba 2011 measures business regulations and their enforcement in Juba, Southern Sudan. It is the first city profile in Southern Sudan. Comparisons with 183 other economies are based on *Doing Business 2011: Making a Difference for Entrepreneurs*, the eighth in a series of annual reports published by the World Bank and the International Finance Corporation. The indicators in *Doing Business in Juba 2011* are also comparable with 346 cities in 38 economies benchmarked in other subnational *Doing Business* studies. All data and reports are available at www.doingbusiness.org.

Doing Business investigates the regulations that enhance business activity and those that constrain it. *Doing Business in Juba 2011* measures regulations affecting 9 stages of the life of a small or medium-size business: starting a business, dealing with construction permits, registering property, getting credit, protecting investors, paying taxes, trading across borders, enforcing contracts, and closing a business. The data in *Doing Business in Juba 2011* are current as of November 2010.

The methodology has limitations. Other areas important to business, such as the security of property from theft and looting, proximity to major markets, quality of infrastructure services, transparency of government procurement, macroeconomic conditions and the quality of institutions are not studied directly by *Doing Business*. To make the data comparable across economies, the indicators refer to a specific type of company—generally a limited liability company.

Doing Business in Juba 2011 is part of the IFC Sudan Investment Climate Program. The program aims to reduce administrative and regulatory barriers to business, attract new investments in sectors such as agribusiness and hydro power, provide small and medium enterprises with management training, and develop access to credit and leasing.

About *Doing Business* and *Doing Business in Juba 2011*

Governments committed to the economic health of their country and opportunities for its citizens focus on more than macroeconomic conditions. They also pay attention to the laws, regulations and institutional arrangements that shape daily economic activity.

The global financial crisis has renewed interest in good rules and regulation. In times of recession, effective business regulation and institutions can support economic adjustment. Easy entry and exit of firms, and flexibility in redeploying resources, make it easier to stop doing things for which demand has weakened and to start doing new things. Clarification of property rights and strengthening of market infrastructure (such as credit information and collateral systems) can contribute to confidence as investors and entrepreneurs look to rebuild.

Until recently, however, there were no globally available indicator sets for monitoring such microeconomic factors and analyzing their relevance. The first efforts, in the 1980s, drew on perceptions data from expert or business surveys. Such surveys are useful gauges of economic and policy conditions. But their reliance on perceptions and their incomplete coverage of poor countries constrain their usefulness for analysis.

The *Doing Business* project, initiated 9 years ago, goes one step further. It looks at domestic small and medium-size companies and measures the regulations applying to them through their life cycle. *Doing Business* and the standard cost model initially developed and applied in the Netherlands are, for the present, the only standard tools used across a broad range of jurisdictions to measure the impact of government rule-making on business activity.[1]

The first *Doing Business* report, published in 2003, covered 5 indicator sets and 133 economies. This year's report covers 11 indicator sets and 183 economies. Nine topics are included in the aggregate ranking on the ease of doing business. The project has benefited from feedback from governments, academics, practitioners and reviewers.[2] The initial goal remains: to provide an objective basis for understanding and improving the regulatory environment for business.

WHAT *DOING BUSINESS IN JUBA 2011* COVERS

Doing Business in Juba 2011 provides a quantitative measure of the national, and local regulations for starting a business, dealing with construction permits, registering property, getting credit, protecting investors, paying taxes, trading across borders, enforcing contracts and closing a business—as they apply to domestic small and medium-size enterprises.

A fundamental premise of *Doing Business* is that economic activity requires good rules. These include rules that establish and clarify property rights and reduce the costs of resolving disputes, rules that increase the predictability of economic interactions and rules that provide contractual partners with core protections against abuse. The objective: regulations designed to be efficient in their implementation, to be accessible to all who need to use them and to be simple in their implementation. Accordingly, some *Doing Business* indicators give a higher score for more regulation, such as stricter disclosure requirements in related-party transactions. Some give a higher score for a simplified way of implementing existing regulation, such as completing business start-up formalities in a one-stop shop.

Doing Business in Juba 2011 encompasses 2 types of data. The first come from readings of laws and regulations. The second are time and motion indicators that measure the efficiency and complexity in achieving a regulatory goal (such as granting the legal identity of a business). Within the time and motion indicators, cost estimates are recorded from official fee schedules where applicable. Here, *Doing Business* builds on Hernando de Soto's pioneering work in applying the time and motion approach first used by Frederick Taylor to revolutionize the production of the Model T Ford. De Soto used the approach in the 1980s to show the obstacles to setting up a garment factory on the outskirts of Lima, Peru.[3]

WHAT *DOING BUSINESS IN JUBA 2011* DOES NOT COVER

Just as important as knowing what *Doing Business in Juba 2011* does is to know what it does not do—to understand what limitations must be kept in mind in interpreting the data.

LIMITED IN SCOPE

Doing Business in Juba 2011 focuses on 9 topics, with the specific aim of measuring the regulation and red tape relevant to the life cycle of a domestic small to medium-size firm.

Accordingly:

- *Doing Business in Juba 2011* does not measure all aspects of the business environment that matter to firms or investors—or all factors that affect competitiveness. It does not, for example, measure security, macroeconomic stability, corruption, the labor

skills of the population, the underlying strength of institutions or the quality of infrastructure. Nor does it focus on regulations specific to foreign investment.

- *Doing Business in Juba 2011* does not assess the strength of the financial system or market regulations, both important factors in understanding some of the underlying causes of the global financial crisis.
- *Doing Business in Juba 2011* does not cover all regulations, or all regulatory goals, in any city. As economies and technology advance, more areas of economic activity are being regulated. For example, the European Union's body of laws (acquis) has now grown to no fewer than 14,500 rule sets.
- *Doing Business in Juba 2011* measures just 9 phases of a company's life cycle, through 9 specific indicators. The indicator sets also do not cover all aspects of regulation in the particular area. For example, the indicators on starting a business do not cover all aspects of commercial legislation.

BASED ON STANDARDIZED CASE SCENARIOS

The indicators analyzed in *Doing Business in Juba 2011* are built on the basis of standardized case scenarios with specific assumptions, such as that the business is located in Juba measured in the report. Economic indicators commonly make limiting assumptions of this kind. Inflation statistics, for example, are often based on prices of consumer goods in a few urban areas. Such assumptions allow global coverage and enhance comparability, but they inevitably come at the expense of generality.

In areas where regulation is complex and highly differentiated, the standardized case used to construct each *Doing Business in Juba 2011* indicator needs to be carefully defined. Where relevant, the standardized case assumes a limited liability company. This choice is in part empirical: private, limited liability companies are the most prevalent business form in most economies around the world. The choice also reflects one focus of *Doing Business:* expanding opportunities for entrepreneurship. Investors are encouraged to venture into business when potential losses are limited to their capital participation.

FOCUSED ON THE FORMAL SECTOR

In constructing the indicators, *Doing Business in Juba 2011* assumes that entrepreneurs are knowledgeable about all regulations in place and comply with them. In practice, entrepreneurs may spend considerable time finding out where to go and what documents to submit. Or they may avoid legally required procedures altogether—by not registering for social security, for example.

Where regulation is particularly onerous, levels of informality are higher. Informality comes at a cost: firms in the informal sector typically grow more slowly, have poorer access to credit and employ fewer workers—and their workers remain outside the protections of labor law.[4] *Doing Business in Juba 2011* measures one set of factors that help explain the occurrence of informality and give policy makers insights into potential areas of reform. Gaining a fuller understanding of the broader business environment, and a broader perspective on policy challenges, requires combining insights from *Doing Business in Juba 2011* with data from other sources, such as the World Bank Enterprise Surveys.[5]

WHY THIS FOCUS

Doing Business in Juba 2011 functions as a kind of cholesterol test for the regulatory environment for domestic businesses. A cholesterol test does not tell us everything about the state of our health. But it does measure something important for our health. And it puts us on watch to change behaviors in ways that will improve not only our cholesterol rating but also our overall health.

One way to test whether *Doing Business* serves as a proxy for the broader business environment and for competitiveness is to look at correlations between the *Doing Business* rankings and other major economic benchmarks. The indicator set closest to *Doing Business* in what it measures is the Organization for Economic Co-operation and Development's indicators of product market regulation; the correlation here is 0.72. The World Economic Forum's Global Competitiveness Index and IMD's World Competitiveness Yearbook are broader in scope, but these too are strongly correlated with *Doing Business* (0.79 and 0.64, respectively).[6]

A bigger question is whether the issues on which *Doing Business* focuses matter for development and poverty reduction. The World Bank study *Voices of the Poor* asked 60,000 poor people around the world how they thought they might escape poverty.[7] The answers were unequivocal: women and men alike pin their hopes above all on income from their own business or wages earned in employment. Enabling growth—and ensuring that poor people can participate in its benefits—requires an environment where new entrants with drive and good ideas, regardless of their gender or ethnic origin, can get started in business and where good firms can invest and grow, generating more jobs.

Small and medium-size enterprises are key drivers of competition, growth and job creation, particularly in developing countries. But in these economies up to 80% of economic activity takes place in the informal sector. Firms may be prevented from entering the formal sector by excessive bureaucracy and regulation.

Where regulation is burdensome and competition limited, success tends to depend more on whom you know than on what you can do. But where regulation is transparent, efficient and

implemented in a simple way, it becomes easier for any aspiring entrepreneurs, regardless of their connections, to operate within the rule of law and to benefit from the opportunities and protections that the law provides.

In this sense *Doing Business* values good rules as a key to social inclusion. It also provides a basis for studying effects of regulations and their application. For example, *Doing Business 2004* found that faster contract enforcement was associated with perceptions of greater judicial fairness—suggesting that justice delayed is justice denied.[8]

In the context of the global crisis policymakers continue to face particular challenges. Both developed and developing economies are seeing the impact of the financial crisis flowing through to the real economy, with rising unemployment and income loss. The foremost challenge for many governments is to create new jobs and economic opportunities. But many have limited fiscal space for publicly funded activities such as infrastructure investment or for the provision of publicly funded safety nets and social services. Reforms aimed at creating a better investment climate, including reforms of business regulation, can be beneficial for several reasons. Flexible regulation and effective institutions, including efficient processes for starting a business and efficient insolvency or bankruptcy systems, can facilitate reallocation of labor and capital. As businesses rebuild and start to create new jobs, this helps to lay the groundwork for countries' economic recovery. And regulatory institutions and processes that are streamlined and accessible can help ensure that, as businesses rebuild, barriers between the informal and formal sectors are lowered, creating more opportunities for the poor.

DOING BUSINESS IN JUBA 2011 AS A BENCHMARKING EXERCISE

Doing Business in Juba 2011, in capturing some key dimensions of regulatory regimes, can be useful for benchmarking. Any benchmarking—for individuals, firms or economies—is necessarily partial: it is valid and useful if it helps sharpen judgment, less so if it substitutes for judgment.

Doing Business in Juba 2011 provides 2 takes on the data it collects: it presents "absolute" indicators for Juba for each of the 9 regulatory topics it addresses, and it provides comparisons between Juba and Khartoum, and between Juba and other economies in the region both by indicator and in aggregate. Judgment is required in interpreting these measures for any city and in determining a sensible and politically feasible path for reform.

Reviewing the *Doing Business* rankings in isolation may show unexpected results. Some cities may rank unexpectedly high on some indicators. And some cities that have had rapid growth or attracted a great deal of investment may rank lower than others that appear to be less dynamic.

But for reform-minded local governments, how much the regulatory environment for local entrepreneurs improves matters more than their relative ranking. As cities develop, they strengthen and add to regulations to protect investor and property rights. Meanwhile, they find more efficient ways to implement existing regulations and cut outdated ones. One finding of *Doing Business:* dynamic and growing economies continually reform and update their regulations and their way of implementing them, while many poor economies still work with regulatory systems dating to the late 1800s.

DOING BUSINESS— A USER'S GUIDE

Quantitative data and benchmarking can be useful in stimulating debate about policy, both by exposing potential challenges and by identifying where policy makers might look for lessons and good practices. These data also provide a basis for analyzing how different policy approaches—and different policy reforms—contribute to desired outcomes such as competitiveness, growth and greater employment and incomes.

Eight years of *Doing Business* data have enabled a growing body of research on how performance on *Doing Business* indicators—and reforms relevant to those indicators—relate to desired social and economic outcomes. Some 656 articles have been published in peer-reviewed academic journals, and about 2,060 working papers are available through Google Scholar.[9] Among the findings:

- Lower barriers to start-up are associated with a smaller informal sector.[10]
- Lower costs of entry encourage entrepreneurship, enhance firm productivity and reduce corruption.[11]
- Simpler start-up translates into greater employment opportunities.[12]

The quality of a country's contracting environment is a source of comparative advantage in trade patterns. Countries with good contract enforcement specialize in industries where relationship-specific investments are most important.[13]

Greater information sharing through credit bureaus is associated with higher bank profitability and lower bank risk.[14]

HOW DO GOVERNMENTS USE *DOING BUSINESS*?

A common first reaction is to doubt the quality and relevance of the *Doing Business* data. Yet the debate typically proceeds to a deeper discussion explor-

ing the relevance of the data to the economy and areas where reform might make sense.

Most reformers start out by seeking examples, and *Doing Business* helps in this (box 1.1). For example, Saudi Arabia used the company law of France as a model for revising its own. Many countries in Africa look to Mauritius—the region's strongest performer on *Doing Business* indicators—as a source of good practices for reform. In the words of Egypt's former Minister of Investment, Dr. Mahmoud Mohieldin:

What I like about Doing Business... *is that it creates a forum for exchanging knowledge. It's no exaggeration to say that we checked the top ten in every indicator and we just asked them, "How did you do it?" If there is any advantage to starting late in anything, it's that you can learn from others.*

Over the past 8 years there has been much activity by governments in reforming the regulatory environment for domestic businesses. Most reforms relating to *Doing Business* topics were nested in broader programs of reform aimed at enhancing economic competitiveness. The same can be said at the subnational level.

In structuring their reform programs, governments use multiple data sources and indicators. And reformers respond to many stakeholders and interest groups, all of whom bring important issues and concerns into the reform debate. World Bank Group dialogue with governments on the investment climate is designed to encourage critical use of the data, sharpening judgment and avoiding a narrow focus on improving *Doing Business* rankings and encouraging broad-based reforms that enhance the investment climate.

METHODOLOGY AND DATA

Doing Business in Juba 2011 covers the city of Juba. The data are based on national and local laws and regulations as well as administrative requirements. (For a detailed explanation of the *Doing Business in Juba 2011* methodology, see Data notes).

BOX 1.1

How economies have used *Doing Business* in regulatory reform programs

To ensure coordination of efforts across agencies, such economies as Colombia, Rwanda and Sierra Leone have formed regulatory reform committees reporting directly to the president that use the *Doing Business* indicators as one input to inform their programs for improving the business environment. More than 20 other economies have formed such committees at the inter-ministerial level. These include India, Malaysia, Taiwan (China) and Vietnam in East and South Asia; the Arab Republic of Egypt, Morocco, Saudi Arabia, the Syrian Arab Republic, the United Arab Emirates and the Republic of Yemen in the Middle East and North Africa; Georgia, Kazakhstan, the Kyrgyz Republic, Moldova and Tajikistan in Eastern Europe and Central Asia; Kenya, Liberia, Malawi and Zambia in Sub-Saharan Africa; and Guatemala, Mexico and Peru in Latin America.

Beyond the level of the economy, the Asia-Pacific Economic Cooperation (APEC) organization uses *Doing Business* to identify potential areas of regulatory reform, to champion economies that can help others improve and to set measurable targets. In 2009 APEC launched the Ease of Doing Business Action Plan with the goal of making it 25% cheaper, faster and easier to do business in the region by 2015. Drawing on a firm survey, planners identified 5 priority areas: starting a business, getting credit, enforcing contracts, trading across borders and dealing with permits. The next 2 steps: the APEC economies setting targets to measure results, and the champion economies selected, such as Japan, New Zealand and the United States, developing programs to build capacity to carry out regulatory reform in these areas.[1]

1. Muhamad Noor (executive director of APEC), speech delivered at ASEAN-NZ Combined Business Council breakfast meeting, Auckland, New Zealand, March 25, 2010, http://www.apec.org.

INFORMATION SOURCES FOR THE DATA

Most of the indicators are based on laws and regulations. In addition, most of the cost indicators are backed by official fee schedules. *Doing Business* respondents both answer surveys and provide references to the relevant laws, regulations and fee schedules, aiding data checking and quality assurance.

For some indicators part of the cost component (where fee schedules are lacking) and the time component are based on actual practice rather than the law on the books. This introduces a degree of subjectivity. The *Doing Business* approach has therefore been to work with legal practitioners or professionals who regularly undertake the transactions involved. Following the standard methodological approach for time and motion studies, *Doing Business* breaks down each process or transaction, such as starting and legally operating a business, into separate steps to ensure a better estimate of time. The time estimate for each step is given by practitioners with significant and routine experience in the transaction.

The *Doing Business* approach to data collection contrasts with that of enterprise or firm surveys, which capture often one-time perceptions and experiences of businesses. A corporate lawyer registering 100–150 businesses a year will be more familiar with the process than an entrepreneur, who will register a business only once or maybe twice. A bankruptcy judge deciding dozens of cases a year will have more insight into bankruptcy than a company that may undergo the process.

DEVELOPMENT OF THE METHODOLOGY

The methodology for calculating each indicator is transparent, objective and easily replicable. Leading academics collaborate in the development of the indicators, ensuring academic rigor. Eight of

the background papers underlying the indicators have been published in leading economic journals.

Doing Business uses a simple averaging approach for weighting sub-indicators and calculating rankings. Other approaches were explored, including using principal components and unobserved components. The principal components and unobserved components approaches turn out to yield results nearly identical to those of simple averaging. The tests show that each set of indicators provide sufficiently broad coverage across topics. Therefore, the simple averaging approach is used.

IMPROVEMENTS TO THE METHODOLOGY AND DATA REVISIONS

The methodology has undergone continual improvement over the years. Changes have been made mainly in response to country suggestions. In accordance with the *Doing Business* methodology, these changes have been incorporated into the *Doing Business in Juba 2011*.

For starting a business, for example, the minimum capital requirement can be an obstacle for potential entrepreneurs. Initially, *Doing Business* measured the required minimum capital regardless of whether it had to be paid up front or not. In many economies only part of the minimum capital has to be paid up front. To reflect the actual potential barrier to entry, the paid-in minimum capital has been used since 2004.

All changes in methodology are explained in the Data notes section of this report as well as on the *Doing Business* website. In addition, data time series for each indicator and city are available on the website. The website also makes available all original data sets used for background papers.

Information on data corrections is provided in the Data notes and on the website. A transparent complaint procedure allows anyone to challenge the data. If errors are confirmed after a data verification process, they are expeditiously corrected.

1. The standard cost model is a quantitative methodology for determining the administrative burdens that regulation imposes on businesses. The method can be used to measure the effect of a single law or of selected areas of legislation or to perform a baseline measurement of all legislation in a country.
2. This has included a review by the World Bank Independent Evaluation Group (2008) as well as ongoing input from the International Tax Dialogue.
3. De Soto, Hernando. 2000. *The Mystery of Capital: Why Capitalism Triumphs in the West and Fails Everywhere Else*. New York: Basic Books.
4. Schneider, Friedrich. 2005. "The Informal Sector in 145 Countries." Department of Economics, University Linz.
5. http://www.enterprisesurveys.org
6. The World Economic Forum's Global Competitiveness Report uses part of the *Doing Business* data sets on starting business, employing workers, protecting investors and getting credit (legal rights).
7. Narayan, Deepa, Robert Chambers, Meer Kaul Shah and Patti Petesh. 2000. *Voices of the Poor: Crying Out for Change*. Washington, D.C.: World Bank.
8. World Bank. 2003. *Doing Business in 2004: Understanding Regulation*. Washington, D.C.: World Bank Group.
9. http://scholar.google.com
10. For example, Masatlioglu, Yusufcan, and Jamele Rigolini. 2008. "Informality Traps." *B.E. Journal of Economic Analysis & Policy* 8 (1); Kaplan, David, Eduardo Piedra and Enrique Seira. 2007. "Entry Regulation and Business Start-Ups: Evidence from Mexico." Policy Research Working Paper 4322, World Bank, Washington, D.C.; Ardagna, Silvia, and Annamaria Lusardi. 2008. "Explaining International Differences in Entrepreneurship: The Role of Individual Characteristics and Regulatory Constraints." NBER Working Paper 14012, National Bureau of Economic Research, Cambridge, MA.
11. For example, Alesina, Alberto, Silvia Ardagna, Giuseppe Nicoletti and Fabio Schiantarelli. 2005. "Regulation and Investment." *Journal of the European Economic Association* 3 (4): 791–825; Perotti, Enrico, and Paolo Volpin. 2004. "Lobbying on Entry." CEPR Discussion Paper 4519, Centre for Economic Policy Research, London; Fisman, Raymond, and Virginia Sarria-Allende. 2004. "Regulation of Entry and the Distortion of Industrial Organization." NBER Working Paper 10929, National Bureau of Economic Research, Cambridge, MA; Antunes, Antonio, and Tiago Cavalcanti. 2007. "Start Up Costs, Limited Enforcement, and the Hidden Economy." *European Economic Review* 51 (1): 203–24; Djankov, Simeon, Caroline Freund and Cong S. Pham. 2010. "Trading on Time." *Review of Economics and Statistics* 92 (1): 166–73.
12. For example, Freund, Caroline, and Bineswaree Bolaky. 2008. "Trade, Regulations and Income." *Journal of Development Economics* 87: 309–21; Chang, Roberto, Linda Kaltani and Norman Loayza. 2009. "Openness Can Be Good for Growth: The Role of Policy Complementarities." *Journal of Development Economics* 90: 33–49; Helpman, Elhanan, Marc Melitz and Yona Rubinstein. 2008. "Estimating Trade Flows: Trading Partners and Trading Volumes." *Quarterly Journal of Economics* 123 (2): 441–87.
13. Nunn, Nathan. 2007. "Relationship-Specificity, Incomplete Contracts, and the Pattern of Trade." *Quarterly Journal of Economics* 122 (2): 569–600.
14. Houston, Joel, Chen Lin, Ping Lin and Yue Ma. 2010. "Creditor Rights, Information Sharing, and Bank Risk Taking." Journal of Financial Economics 96 (3): 485–512.

Executive summary

In January 2011, Southern Sudan voted to secede from Sudan by referendum, and is expected to become independent in July of the same year. De facto, Africa's newest country has been a semi-autonomous region since 2005, when the Government of Sudan and the Sudan People's Liberation Army signed the Comprehensive Peace Agreement that ended the civil war. Following the agreement, the Government of Southern Sudan and the Legislative Assembly of Southern Sudan were established. In December 2005, the Interim Constitution of Southern Sudan was adopted, demarcating the competences of the Government of Southern Sudan, the State and Local Governments (*payam* and *bomas*), the Legislative Assembly, and the Judiciary.

Southern Sudan emerged from the war with substantial economic potential: a territory larger than France, vast oil reserves, and swathes of fertile agricultural land.[1] Yet, it also faced daunting economic challenges. Most of its infrastructure and production capacity had been destroyed in the war, fundamental laws were missing, and key institutions remained to be created.[2]

The World Bank and United Nations' Joint Assessment Mission—carried out in 2005—called for the Government of Southern Sudan to build the foundations of an inclusive and broad-based economic development, in order to bring peace dividends to its people. The government, recognizing early on the importance of the private sector in reaching these goals, provided in the Interim Constitution for free enterprise and the protection of property rights. In its draft Growth Strategy for 2010-2012, the government also declared its commitment to private sector-led growth.[3] For a population recovering from decades of war, stable jobs, steady income, and the security of a business are indeed more important than ever.[4]

Since 2005, 19 laws guiding business registration, operation, and exit have been drafted. Nine of them have been enacted by the Legislative Assembly of Southern Sudan, including the Registration of Business Names Act of 2008, the Partnerships Act of 2008, the Taxation Act of 2009, and the Land Act of 2009.[5] Another 8 are yet to be submitted to the Legislative Assembly—including a new Companies Bill, Labor Bill, and Insolvency Bill.[6] Two provisional orders—the Co-operatives Provisional Order and the Sale of Goods Provisional Order—have been submitted to the Assembly and are awaiting legislative approval. A new Business Registry was created in 2006, which delivered certificates of incorporations to about 9,000 businesses within its first 5 years.[7] In addition, commercial banks have been established. At the same time, basic infrastructures—such as roads and bridges—are being rehabilitated. However, much remains to be done and the reform momentum must be maintained.

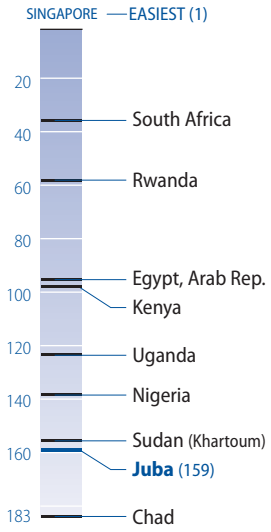
Benchmarking tools that create a baseline of the regulatory framework, identify opportunities for improvement, point out challenges, and disseminate lessons and good practices can assist these reform endeavors. *Doing Business* is one of these tools. *Doing Business* studies business regulations from the perspective of a small to medium-size domestic firm. A fundamental premise of *Doing Business* is that economic activity requires good rules and institutions. This includes rules that establish and clarify property rights, reduce the cost of resolving disputes, increase the predictability of economic outcomes, and provide contractual partners with core protections against abuse. The objective: regulations designed to be efficient, accessible to all, and simple in their implementation. This is especially important for the private sector in Africa, where, some development experts believe, "the most important determinant of performance will be the business environment in which the firm operates."[8]

Until the publication of this study, the city of Khartoum represented Sudan in the *Doing Business* report. *Doing Business in Juba 2011* expands the benchmarking of 9 *Doing Business* topics beyond Khartoum to Juba. This report is a useful tool for the Government of Southern Sudan, the State Government of Central Equatoria (the state where Juba is located), and Juba *Payam*, Munuki *Payam* and Kator *Payam* (Juba's 3 county level governments), in 4 respects. First, it records what has been achieved since the peace agreement was signed in 2005, and establishes a baseline to record future improvements. Second, it identifies which areas offer opportunities for further improvement, where procedures can be streamlined, laws clarified, and fundamental institutions created to support the development of a domestic private sector. Third, it provides observations and recommendations that can potentially be used by other cities in Southern Sudan to improve their own business environment. Fourth, it shows that—on the eve of formal independence—Southern Sudan is open for business.

BENCHMARKING JUBA IN THE REGION AND THE WORLD

The overall ranking of *Doing Business in Juba 2011* is presented below (figure 1.1). Compared to the 183 economies

FIGURE 1.1
How Juba compares globally and with selected African and Middle Eastern economies on the ease of doing business
Global ranking (1–183)



Source: Doing Business database.

measured by *Doing Business*, Juba would rank 159th on the ease of doing business. Although the rankings of Juba and Khartoum (154th) are close, they reflect different realities. Khartoum needs to clarify existing laws, streamline existing procedures, and improve the efficiency of existing institutions. While this is equally true for Juba, its ranking also reveals that several fundamental laws and institutions are still missing. This presents a challenge, but also a window of opportunity for Southern Sudan to build the strong foundation necessary for a vibrant formal private sector to emerge.

Behind the aggregate ranking, variations can be found on a topic-by-topic basis (figure 1.2). On enforcing contracts and paying taxes, for example, Juba would rank 74th and 84th, respectively—ahead of countries like Kenya, Egypt, and Nigeria. Solving a commercial dispute in Juba takes 111 days and costs 26% of the value of the claim—faster but more expensive than in Khartoum where it takes 810 days and costs 19.8% of the value of the claim. This may be partly due to the fact that compliance is low, as many businesses still operate in the informal sector and do not resort to courts to resolve commercial disputes. As for paying taxes, a medium-size company spends 218 hours per year and 25.5% of commercial profits on 46 payments in Juba.

On dealing with construction permits, starting a business and registering property, Juba would rank 49th, 123rd and 124th respectively. In these three areas, cost is a major bottleneck. An entrepreneur in Juba must spend 14.7% of property value to transfer a new plot under his name, 250.2% of income per capita to start his own company and 5,936% of income per capita to obtain all construction permits and utility connections—more costly than most economies measured by *Doing Business*. Why? For starting a business and registering property, entrepreneurs must pay high fees to different state and local authorities. For dealing with construction permits, since few entrepreneurs have access to water pipes and power cuts are still frequent, entrepreneur must drill boreholes and buy expensive generators to secure their water and electricity supply.

It is relatively fast to start a business, deal with construction permits and register property. One of the reasons is low transaction volumes. The relevant authorities simply do not have many applications to process, since enforcement and compliance with regulations are low. But—in the case of starting a business—it is also because of business reforms. The new Business Registry established in 2006 is efficient, well staffed, and governed by clear guidelines.

On the ease of protecting investors, getting credit and closing a business, Juba would rank 173rd, 176th, and 183rd, respectively. These rankings reflect Southern Sudan's lack of a strong legal framework. When it comes to getting credit, since the Companies Act of 2003 only contains a few provisions regulating secured transactions—and there is no public or private credit bureau in the region—Juba scores 2 of 10 on the "strength of legal rights" index and 0 of 6 on the "depth of credit information" index. Investor protections are also weak in Juba. The Companies Act of 2003 requires directors to disclose conflicts of interest and allows shareholders holding at least 10% of a company's share capital to appoint an inspector and seek investigation of related-party transactions. However, by law, no action can be undertaken, no penalties imposed, and no rescission is possible unless the transaction proves fraudulent. As for closing a business, the Insolvency Bill of 2009 has been drafted but not yet enacted, and no bankruptcy case has been reported since the signing of the peace agreement.

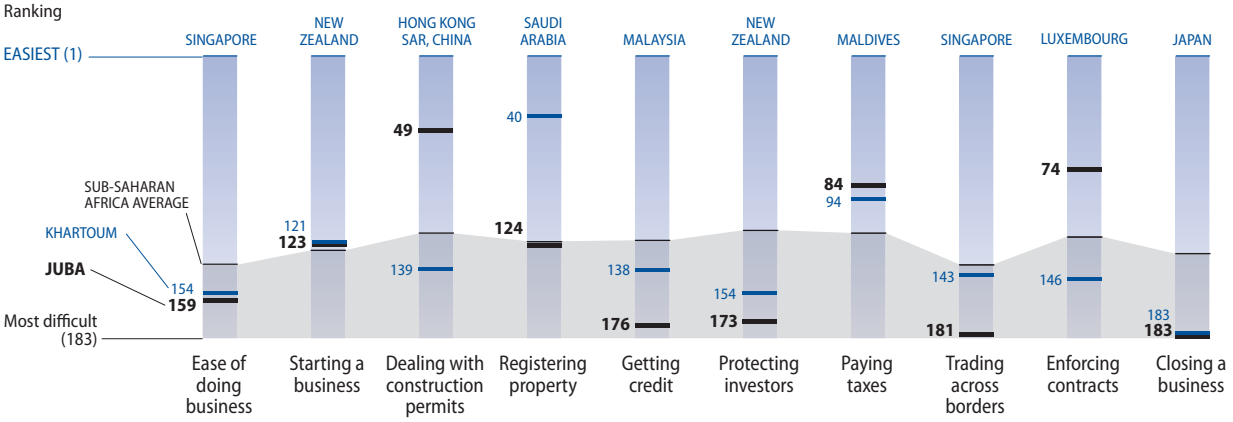
In trading across borders, Juba would rank 181st, just ahead of Afghanistan and the Central African Republic, the indicator's worst performers. Using the port of Mombasa in Kenya, it takes an entrepreneur in Juba 11 documents, 60 days, and US$ 9,420 to import a standardized container cargo, and 9 documents, 52 days, and US$ 5,025 to export it. It is slower and more expensive than the regional average—not only because of distances, but also because of the poor quality of inland transport infrastructure, the presence of multiple checkpoints on the road from Nimule to Juba, and the complexity of the administrative processes. For example, to obtain an import letter of credit, traders must first obtain an approval from the Bank of Southern Sudan to take money out of the country—adding 22 days to the whole process.

IDENTIFYING KEY AREAS FOR IMPROVEMENT

Ranking is not what matters most. It is a starting point for the Government of Southern Sudan, State Government of Central Equatoria, and Juba's *payams* to identify key areas for improvement. *Doing Business in Juba 2011* draws 4 general observations, as outlined below.

FIGURE 1.2

Global ranking on *Doing Business* topics – Juba, Khartoum and Sub-Saharan Africa's average compared



Source: Doing Business database.

First, 5 years after the peace agreement, Southern Sudan's legal and regulatory framework remains incomplete. Several laws important for the private sector—such as the Labor Bill and the new Companies Bill—have been drafted but not enacted yet.

Second, Southern Sudan's existing legal system can be confusing. Southern Sudan operates under 3 distinct and overlapping legal frameworks: 1) the Laws of Sudan, passed by the National Assembly in Khartoum; 2) the Laws of the "New Sudan"—enacted by the Sudan People Liberation Movement before 2005; 3) the Laws of Southern Sudan—enacted by the Legislative Assembly of Southern Sudan after 2005. In 2007, Southern Sudan's Chief Justice established a basic principle intended to clarify which legislation applies in which case. The principle stipulates that the laws of the Legislative Assembly of Southern Sudan and the laws of the "New Sudan" apply if the cause of action arose within territory under control of the Sudan Peoples' Liberation Movement before 2005 or within Southern Sudan afterwards. Otherwise, judges should apply the Laws of Sudan. However, laws are still enforced inconsistently. For example, to solve a commercial dispute, some judges apply Khartoum's Companies Act of 1925 while others apply the "New Sudan" Companies Act of 2003. To add to the confusion, laws and regulations are not sufficiently publicized to the general public—which limits compliance overall. Most Southern Sudanese resort instead to customary law—traditional justice applied by the chiefs and built upon custom and tradition. In fact, customary law was used to solve over 90% of disputes in Southern Sudan in 2004.[9]

Third, some of the institutions that regulate Juba's private sector are either absent or overlapping. Even though key ministries and authorities are starting to take shape, other institutions—such as the new Land Registry—exist "mainly on organization charts".[10] Furthermore, the competences and authorities of the different levels of governments overlap in several cases. There is confusion between federal, state, and *payam* (county) jurisdiction over business licensing, taxes, customs, and land administration. As a result, overlapping authorities do not coordinate, and entrepreneurs need to deal with each level of government separately.

Finally, Juba's institutional capacity and infrastructure remain underdeveloped. Most roads are unpaved, few residents have access to running water, and power cuts are recurrent. Public authorities lack the qualified staff needed to implement regulations—namely, civil engineers to inspect construction sites, auditors to ensure tax compliance, and specialized legal professionals to handle commercial cases. Currently, half of the civil servants do not have primary education.[11] Access to credit is also limited. Without a public credit registry or private credit bureau in Juba, creditors cannot obtain reliable information on debtors. Without a collateral registry, entrepreneurs have a hard time using their assets as guarantees for loans. Although a small private sector has emerged—cell phone booths, motorbike taxis, restaurants and shops selling construction material—almost all bigger companies remain foreign-owned, as many Southern Sudanese still lack the capital to start larger businesses.[12]

WHAT GETS MEASURED GETS DONE

Benchmarking exercises like *Doing Business* identify potential challenges and areas for improvement and inspire governments to reform. National governments can also use *Doing Business* data to monitor how local branches of their agencies implement national regulations and administrative practices. Comparisons among cities within a country or a region can be even stronger drivers for improvement. That was the case in Mexico where a subnational report covered 12 states and the Federal District in 2005. The study generated competition to reform as different local governing bodies had a difficult time explaining why it took longer or cost more to do busi-

ness in their city. The second and third benchmarking exercises expanded the analysis to all 31 states and updated the indicators for the first 12, showing that 9 out of the 12 states had implemented reforms related to *Doing Business* areas in the second round[13] and 28 out of the 31 states measured subsequently had implemented such reforms in the third round of the study.[14]

Similarly, *Doing Business in Nigeria 2010* showed that 8 out of the 11 cities benchmarked for the second time had introduced at least one reform in the areas measured by *Doing Business*. In total, 14 positive reforms were recorded, of which 11 focused on construction permits and property registrations. The city of Kano is one telling example. Kano introduced reforms in 3 areas. Enforcing a statutory time limit halved the time it took to obtain a building permit in Kano to just 14 days. Delegating the governor's power to consent on property transfers to both the Commissioner and the Permanent Secretary for Lands has also reduced waiting times. In addition, efforts have been made to broaden access to justice and speed up proceedings by setting up new Magistrates Courts. The new courts and an increase in the number of magistrates have resulted in a decrease in the time needed to enforce a contract by 3 months.[15] Thanks to this, the city of Kano was the top reformer in *Doing Business in Nigeria 2010*.

Overall, 27 of 46 Sub-Saharan economies implemented reforms according to *Doing Business 2011*. They made 49 reforms in all, 9 of which involved trade facilitation. Rwanda was identified as one of the top 10 improvers globally. Improving its business environment was not a one-time effort. Since 2005 Rwanda has implemented 22 business regulation reforms in the areas measured by *Doing Business*. Other countries in the region have followed suit. Ghana has implemented measures in 6 areas, while Mali reformed its customs, established a one-stop shop for business start up, and strengthened protection of minority shareholders in its civil procedure code.

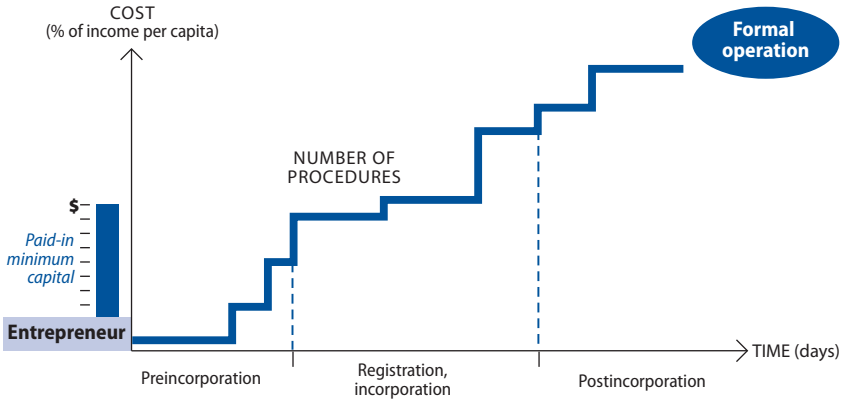
The Government of Southern Sudan, Government of Central Equatoria State, and Juba's 3 *payams* can follow the example of consistent reformers in the region and globally. These committed reformers follow a long-term agenda and continuously push forward. They include all relevant stakeholders in the process, set specific goals, institutionalize the reform effort, and regularly monitor the progress thereafter. The reforms are comprehensive, thus increasing the chances of impact and success.

The payoffs of business reforms can be large. Higher rankings on the ease of doing business are associated with more growth, more jobs, and a smaller informal sector.[16] Business reforms expand the reach of regulation by bringing firms and employees into the formal sector. There, workers can have health insurance and pension benefits. Businesses pay taxes. Products are subject to quality standards. In addition, formal firms have greater access to bank credit to fund expansions and courts to resolve disputes. Business reforms that reduce informality and enforce property rights benefit women especially, because they make up a large share of the informal sector.

1. World Bank. 2009. *Sudan: The Road Toward Sustainable and Broad-Based Growth*. Country Economic Memorandum, Washington, D.C.: The World Bank Group.
2. FIAS. 2006. *Southern Sudan: Mini-Diagnostic Analysis of the Investment Climate*. Washington, D.C.: World Bank Group.
3. The draft Growth Strategy states that one of the principles of the Government of Southern Sudan's approach to growth is that "Economic growth is driven by the private sector, with GOSS (at all levels) limiting its role to: creating an enabling environment, addressing constraints to investment, and providing public goods."
4. World Bank. 2010. *Sudan Investment Climate Assessment*. Washington, D.C.: The World Bank Group.
5. Also enacted are the Investment Promotion Act (2009), the Limited Partnerships Act (2009), the Agency Act (2009), the Contract Act (2009), and the Local Government Act (2009).
6. Also awaiting enactment or promulgation are the Documents Bill, the Standards Bill, the Weights and Measures Bill, the Consumer Protection Bill, and the Regulation of Imports and Exports Bill.
7. Numbers provided by the Business Registry. As of December 2010, 10,746 businesses had been registered, of which 8,983 had obtained a certificate of incorporation.
8. Ramachandran, V., A. Gelb, and M. Shah. 2008. *Africa's Private Sector: What's Wrong With the Business Environment and What to Do About It*. Washington, D.C.: Center for Global Development.
9. Jok, Aleu Akechak, Robert A. Leitch, Carrie Vandewint. "A Study of Customary Law in Contemporary Southern Sudan." World Vision International and South Sudan Secretariat of Legal and Constitutional Affairs. March 2004. Also: Leonardi, Cherry, Leben Nelson Moro, Martina Santschi, and Deborah H. Isser. "Local Justice in Southern Sudan." United States Institute of Peace and Rift Valley Institute: http://www.usip.org/publications/local-justice-in-southern-sudan.
10. *The Economist*. 2011. "Now for the Hard Part." Print edition, February 3, 2011.
11. Ibid.
12. Ibid.
13. World Bank. 2006. *Doing Business in Mexico 2007*. Washington, D.C.: The World Bank Group.
14. World Bank. 2008. *Doing Business in Mexico 2009*. Washington, D.C.: The World Bank Group.
15. World Bank. 2009. *Doing Business in Nigeria 2010*. Washington, D.C.: The World Bank Group.
16. Djankov, Simeon, Caralee McLiesh, and Rita Ramalho. 2006. "Regulation and Growth." *Economics Letters* 92(3): 395-401.

Starting a business

FIGURE 2.1
What are the time, cost, paid-in minimum capital and number of procedures to get a local, limited liability company up and running?



Awut Deng plans to open a hair salon in Juba. When investigating the requirements to do so, she realizes that the cost is exorbitant—more than twice her yearly income.[1] She cannot afford it. Awut Deng's story is common in Southern Sudan, where decades of conflict have limited the development of a formal private sector. Although Sudan's economy grew by 9% on average from 2005 to 2007, the formalization of businesses remains a major challenge.[2] Eighty percent of the workforce in Sudan operates in the informal sector—and the number is deemed to be higher in Southern Sudan.[3] Entrepreneurs mention 2 main reasons for remaining informal: lack of information about the legal requirements and high startup costs.[4]

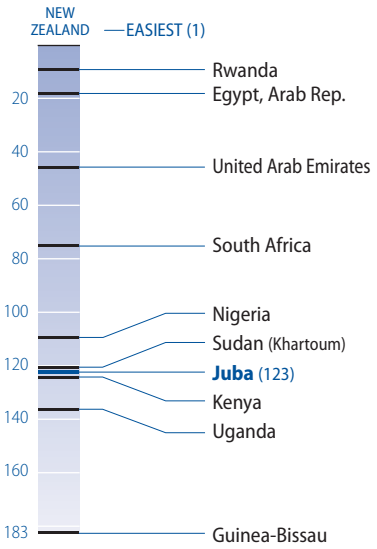
New firms create jobs and foster economic development. Formally registered businesses grow larger and are more productive than informal ones.[5] They have access to credit, insurance, and courts. They can also serve larger customers and avoid harassment from inspectors and the police. Furthermore, formal enterprises pay taxes, adding to government revenues. A recent study finds that higher entry costs are associated with a larger informal sector and a smaller number of legally registered firms.[6] When regulation is too cumbersome, compliance and start-up costs increase, cutting into businesses' profits, discouraging entrepreneurs, and hampering job creation.[7]

Doing Business measures the procedures, time and cost for a small to medium-size enterprise to start up and operate formally (figure 2.1). The number of procedures shows how many separate interactions an entrepreneur is required to have with third parties. Business entry requirements go beyond simple incorporation to include the registration of a business name, tax registration, registration with statistical, social security and pension administrations, and registration with local authorities.

Starting a limited liability company in Juba takes 11 procedures, 15 days, and costs 250.2% of income per capita. No minimum capital is required by law. The process in Juba is faster but more costly than it is in Khartoum, where an entrepreneur spends 36 days and 33.6% of income per capita to start a business. Juba would rank 123rd of 183 economies on the ease of starting a business as measured by *Doing Business 2011*, ahead of Kenya (125th), but behind Rwanda (9th) and South Africa (75th) (figure 2.2).

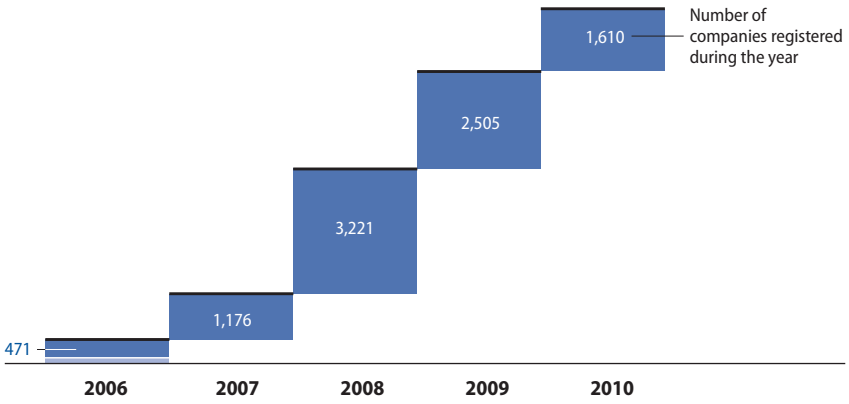
After the peace agreement was signed in 2005, the Government of Southern Sudan no longer recognized business registrations completed at Khartoum's Companies Registrar. Juba had no functioning registry, so no new companies could be registered in Southern Sudan for over a year.[8] But the government set up its new Business Registry in 2006 and reopened registrations: approximately 9,000 businesses have obtained their certificate of incorporation since (figure 2.3).[9] In 2008, registrations boomed as companies prepared to bid for government contracts which, as a result of high

FIGURE 2.2
How Juba compares globally and with selected African and Middle Eastern economies on the ease of starting a business
Global ranking (1–183)



Note: The ease of starting a business is based on a simple average of the economy's percentile ranking on the number of procedures, time, cost and paid in minimum capital required to start a business. See Data notes for details.
Source: Doing Business database.

FIGURE 2.3
New companies registered with the Business Registry since 2006



Source: Business Registry, Ministry of Legal Affairs and Constitutional Development, Government of Southern Sudan. Data as of Dec. 2010.

oil prices, had multiplied. Fewer companies registered in 2009 and 2010, as oil prices fell and uncertainty grew as to the outcome of the national elections and the referendum of January 2011.

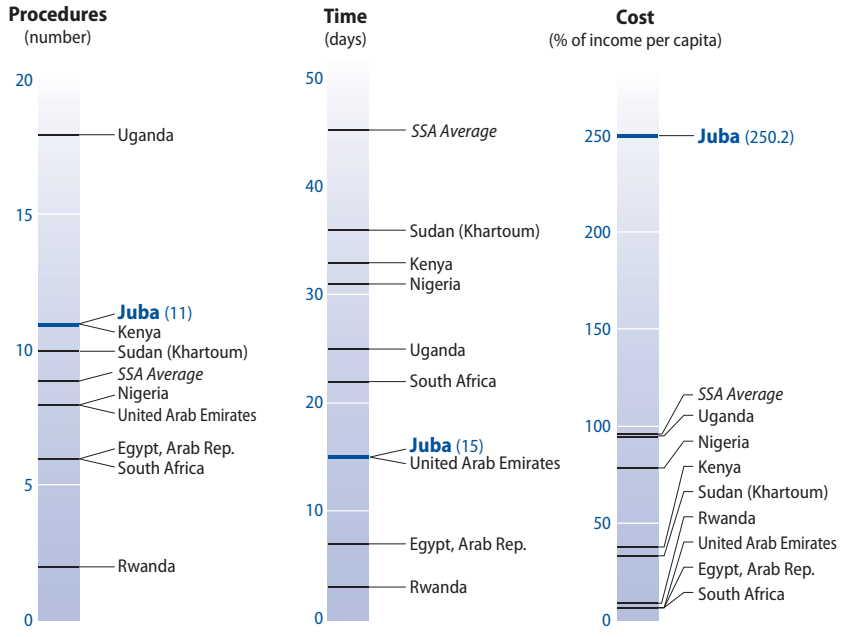
In addition, the Government of Southern Sudan enacted essential new regulations to govern business start-up: the Registration of Business Names Act of 2008, which further develops the operations of the Registry; the Limited Partnerships Act of 2008; and the Partnerships Act of 2008. In 2003, a Companies Act was also enacted, replacing the Companies Act of 1925. However, there is lack of consensus as to whether it should apply, since it was enacted by the Sudan People's Liberation Movement before the 2005 peace agreement. The Chief Justice of Southern Sudan's Supreme Court established in 2007 that it should, yet many judges are reluctant to do so.[10] A new Companies Bill is in draft form and under promulgation, which might resolve the controversy.

Today, an entrepreneur in Juba needs to complete 11 procedures to start a business—close to the average in Sub-Saharan Africa (9 procedures) but more than in Rwanda where only 2 procedures are required (figure 2.4). The first 4 procedures relate to the incorporation and registration with the Business Registry. Entrepreneurs reserve the company name, prepare the articles and memorandum of association with an advocate[11], and apply for registration. After the legal counsel has checked and approved the application, the entrepreneur pays the fees and the Chief Registrar signs the certificate of incorporation. These procedures are straightforward, as they obey a set of clear guidelines established, enforced, and publicized by one single authority: the Business Registry.

The following 5 procedures involve interactions with different government agencies: entrepreneurs obtain an operating license from the State Government of Central Equatoria, obtain a trading license from the *payam*, register to pay taxes with the State Revenue Authority and—since 2009—with the Government of Southern Sudan, and then register with the Ministry of Labor. Additionally, entrepreneurs must open a separate bank account to deposit social security payments for their employees until Southern Sudan establishes a social security fund.[12] Finally, entrepreneurs purchase a company seal. There are many post-registration procedures due to the lack of clear regulations as well as the lack of coordination between county, state, and Government of Southern Sudan authorities (figure 2.5).

At 15 days, starting a business in Juba is almost as fast as the OECD average (14 days) and faster than the Sub-Saharan Africa average of 45 days. One important reason is that the Business Registry is well-staffed, governed by clear guidelines, and has introduced computers in 2008 to search and reserve

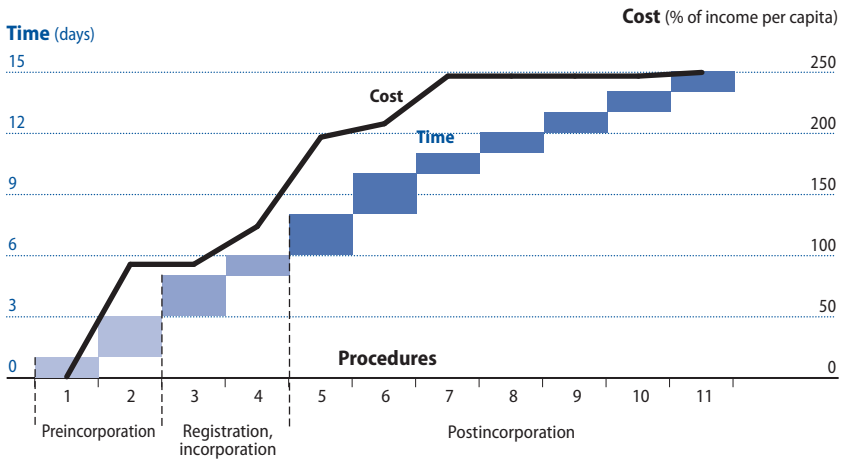
FIGURE 2.4
Starting a business in selected African and Middle Eastern economies: Juba is fast, but expensive



Note: SSA denotes the Sub-Saharan Africa region.
Source: Doing Business database.

FIGURE 2.5

Entrepreneurs need to complete many procedures with different government agencies



Procedures

1. *Reserve the company name at the Business Registry and pay the fee.*
2.* *Prepare the company documents before an advocate.*
3. *Apply for approval of the company registration at the Business Registry and pay the fee.*
4. *Pay the registration fees and obtain the Certificate of Incorporation from the Business Registry.*
5. *Obtain an Operating License from the Directorate of Trade and Supplies of Central Equatoria.*
6. *Obtain a Trading License from the* payam *(county authority).*
7. *Obtain a Tax ID Card and a Tax Clearance Certificate from the Revenue Authority of Central Equatoria.*
8.* *Register with the Ministry of Finance and obtain a Tax Identification Number (TIN).*
9.* *Register with the Ministry of Labor.*
10.* *Open separate bank account for social security payments.*
11.* *Obtain a company seal.*

* Procedure is simultaneous with a previous procedure.

Source: Doing Business database.

business names—while it processes registrations, files and archives manually on paper. However, there are potential risks of delays at the Registry if the volume picks up. Although the Registration of Business Names Act entitles the Chief Registrar to delegate authority to his deputies and assistants, it does not happen in practice. If the Chief Registrar is away, the entrepreneur has to wait. With proper delegation, the Registrar can prevent delays in the future.

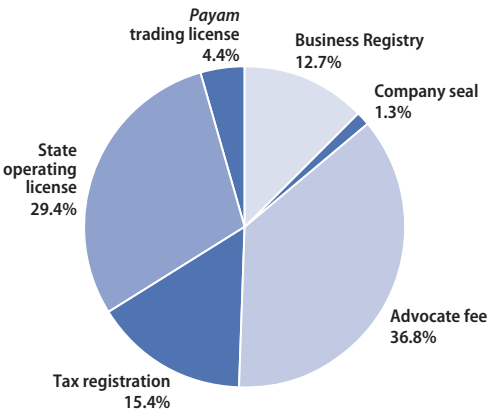
The biggest barrier to business entry in Juba is cost: SDG 6,801 (US$ 3,077), equal to 250.2% of income per capita. Compared to the 183 economies measured by *Doing Business,* Juba is the second most expensive city to start up a business, only ahead of Kinshasa of the Democratic Republic of Congo. Why? First, the Registry requires the use of an advocate—which represents 37% of the total cost—even though the Companies Act does not explicitly mandate it.[13] Second, starting a business in Juba is subject to a number of incorporation and license fees charged by the Government of Southern Sudan, and the state and county governments. An entrepreneur has to pay SDG 861 (US$ 390) for company registration to the Government of Southern Sudan, SDG 2,000 (US$ 905) for the operating license and SDG 1,050 (US$ 475) for tax registration to the State Government of Central Equatoria, and SDG 300 (US$ 136) for the trading license to the *payam* (figure 2.6). In Khartoum, the total cost is less than a fifth of the cost in Juba because no state or county licenses are levied, tax registration only costs SDG 60 (US$ 27), and notaries only charge SDG 350 (US$ 158) .

The Government of Southern Sudan has undertaken important efforts to improve the ease of starting a business. In 2009, the Ministry of Legal Affairs and Constitutional Development established a task-force to coordinate issues pertaining to business entry. The task-force includes the Ministry of Legal Affairs and Constitutional Development, the Ministry of Commerce and Industry, the Ministry of Investment, the Ministry of Finance and Economic Planning, the Central Equatoria State Directorate of Trade, the Southern Sudan Business Forum, and the Southern Sudan Chamber of Commerce, Industry and Agriculture. One outcome of the public-private dialogue of the task-force was that Central Equatoria State Directorate of Trade agreed to stop requiring separate registration—a procedure that previously duplicated registration with the Business Registry.[14] More issues are cur-

FIGURE 2.6

Entrepreneurs spend two thirds of total cost on advocate fee and the State operating license

(% of total cost)



Source: Doing Business database.

rently being addressed by the task force, such as the registration of large firms, the revision of the annual tax return form, the elaboration of a business survey, and the implementation of inspections.

WHAT TO REFORM?

IMPROVE ACCESS TO INFORMATION AND PUBLICIZE REGULATION

Finding out about start up requirements can be a daunting task for entrepreneurs in Juba who may have to figure out the system through trial and error. Most procedures set up in recent years have not been publicized widely to the general public. Except for the Business Registry, fee schedules are not available to the public. The Government of Southern Sudan, together with state and county government agencies, should make information on cost and procedures necessary to start a business available to all potential entrepreneurs.

Fee schedules could be made available not only at government agencies, but also in banks, professional associations, and online. Registration guides, forms, standard memorandum and articles of association, and relevant regulations could be made available in various agencies and through the internet.

REDUCE THE COST OF STARTING A BUSINESS

Entrepreneurs spend more than half of the cost of starting a business on fees to different authorities (155% of income per capita). Although the fees obtained from business permits are a source of revenue for local governments, high fees may hinder formal economic activity. The best practice is for fees to cover the administrative costs of government services. Southern Sudan authorities could consider cutting fees for the certificates and licenses required to start a business.

Advocate fees are the other source of high costs in Juba. The use of an advocate is optional by law, but the Business Registry requires it. This practice should stop. The Business Registry should encourage small and less complex businesses to register without an advocate if they choose to, relying instead on standardized formats for the memorandum and articles of association contained in the law.

STREAMLINE PROCEDURES

The Business Registry works as a single window for business incorporation, but entrepreneurs still have to pay 3 visits to the Business Registry in order to reserve a name, seek pre-approval, and then register. These steps could be further streamlined. The registry could also take responsibility for registering the company with the tax authorities. Jordan and Egypt put tax registration into the hands of the registrar, speeding up the process, and allowing entrepreneurs to focus on their business. Eventually, the government could establish a one-stop shop for all pre- and post-registration procedures.

One-stop shops for business registration serve as a mechanism of coordination between agencies that eliminate the need for entrepreneurs to visit each agency separately. Not surprisingly, it has been a popular reform—over 70 economies established or enhanced one in the past 7 years. They do not necessarily require legal changes and bring relatively quick results.[15]

ENCOURAGE DELEGATION AT THE BUSINESS REGISTRY

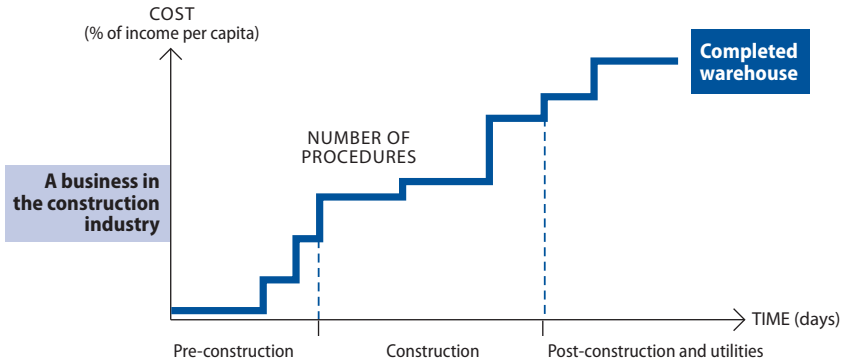
The incorporation process at the Business Registry is fast, but as the volume of registrations increases, delays might occur. It is the mandate of the Chief Registrar to sign incorporation certificates, but the Registration of Business Names Act entitles him to delegate authority to his deputies. Doing so would increase the capacity of the registry to issue certificates on time.

1. Based on the *World Development Indicator* of the World Bank, the GNI per capita for Sudan as of 2010 is estimated as US$ 1,230. No separate GNI is currently available for Southern Sudan.
2. World Bank. 2008. *Revitalizing Sudan's Non-Oil Exports: A Diagnostic Trade Integration Study (DTIS) Prepared for the Integrated Framework Program*. Washington, D.C.: The World Bank Group.
3. World Bank. 2009. *Sudan: The Road Toward Sustainable and Broad-Based Growth*. Country Economic Memorandum. Washington, D.C.: The World Bank Group.; and International Labor Organization country description: http://www.il.org/public/english/region/afpro/cairo/countries/sudan.htm.
4. World Bank. 2010. *Sudan Investment Climate Assessment*. Washington, D.C.: The World Bank Group.
5. Barseghyan, Levon, and Riccardo DiCecio. 2009. "Entry Costs, Industry Structure and Cross-Country Income and TFP Differences." Working Paper 2009-005C, Federal Reserve Bank of St. Louis.
6. Dabla-Norris, Era, and Gabriela Inchauste. 2008. "Informality and Regulations: What Drives the Growth of Firms?" *IMF Staff Papers* 5 (1): 50–82.
7. Fonseca, Raquel, Paloma Lopez-Garcia and Christopher Pissarides. 2001. "Entrepreneurship, Start-Up Costs and Employment." *European Economic Review* 45 (4–6): 692–705.
8. Masinde, Catherine, and Kobina Daniel. 2008. "Building a Business Enabling Environment in Southern Sudan. Securing Business Registration Early in the Transition from War to Peace." IFC Smartlesson, Washington, D.C.: The World Bank Group.
9. Numbers provided by the Business Registry. As of December 2010, 10,746 businesses had been registered, of which 8,983 had obtained a certificate of incorporation.
10. Circular No. 1/2007. Judiciary of Southern Sudan.
11. In *Doing Business in Juba 2011*, the term "advocate" refers to registered lawyers.
12. Circular J/5/21. March 22, 2010. Ministry of Public Labour, Public Service & Human Resource Development, Government of Southern Sudan.

13. The use of an advocate is not mandatory by law. However, Article 17.2 of the Companies Act 2003 requires a statutory declaration regarding the particulars of the company by an advocate or the director or the secretary of the company. The Business Registry in practice requires it to be done by an advocate.
14. Minutes of the meeting of the business registration campaign task-force. Wednesday August 4, 2010. Section 4.c, "Issuing of business certificates by Central Equatoria".
15. Walke, David and Dobromir Christow, *How Many Stops in a One-Stop Shop?*. Global Paper. Washington, D.C.: The World Bank Group.

Dealing with construction permits

FIGURE 3.1
What are the time, cost and number of procedures to comply with formalities to build a warehouse?



Following the signing of the peace agreement, 2 million Southern Sudanese displaced by the war have returned to their homeland.[1] Many settled in Juba, whose population skyrocketed from 163,000 in 2005 to an estimated 250,000 in 2006.[2] Rapid population growth, along with rising public sector demand fueled by oil revenues, has made the construction industry the fastest growing sector in Southern Sudan.[3] But it has also tested Juba's nascent infrastructure by causing traffic congestion, pollution, and informal settlements. Although the government took action by demolishing illegal constructions in 2009, most buildings in Juba continue to be erected without permit.

Building regulations are essential tools to ensure sustainable urban development. However, striking the right balance between safety and efficiency is challenging. Good regulations protect public safety while remaining efficient and affordable—for both the entrepreneur and the regulating authority. Sixty to eighty percent of construction projects in developing economies are undertaken without a permit because the approval process is too complex or the oversight too lax.[4] Juba is no exception. "Nobody bothers with authorizations around here," explains Luka, a construction engineer in Juba.

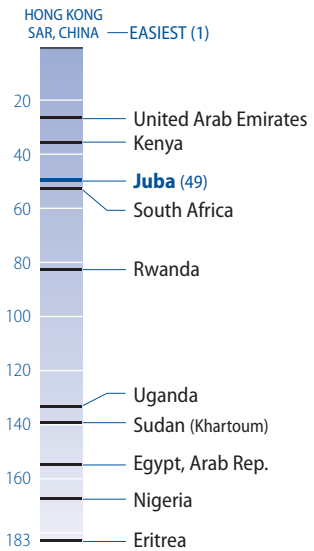
Doing Business measures the procedures, time and cost for a small to medium-size business to obtain all the necessary approvals to build a simple commercial warehouse and connect it to basic utility services (figure 3.1). Such indicators can be telling. A recent competitiveness report by KPMG indicated that construction costs and the permitting process were among the top 20 factors determining the location of a start-up in the United States.[5]

A construction company wishing to build a warehouse in Juba spends 30 days on 10 procedures to obtain building approvals and utility connections, at a cost of 5,936% of income per capita. In Khartoum, the same process is more complex—19 procedures—and takes 9 times longer. On the other hand, it is much cheaper—costing 192% of income per capita. Compared globally, Juba would rank 49th out of 183 economies on the ease of dealing with construction permits as measured by *Doing Business 2011*—behind Kenya (35th) but ahead of South Africa (52nd), Rwanda (82nd), Uganda (133rd), and Egypt (154th). In Hong Kong, the best performer for this indicator, a construction company spends 67 days and 19.4% of income per capita on 7 procedures (figure 3.2).

With just 10 required procedures, Juba requires fewer steps than the global average (18). This is not a sign that the permit process is efficient in Juba, but that basic regulations are missing. Of the 10 procedures recorded, only 4 involve permits and verifications before construction and only 1 involves an inspection during construction. Notably, 4 of these procedures relate to utility connections.

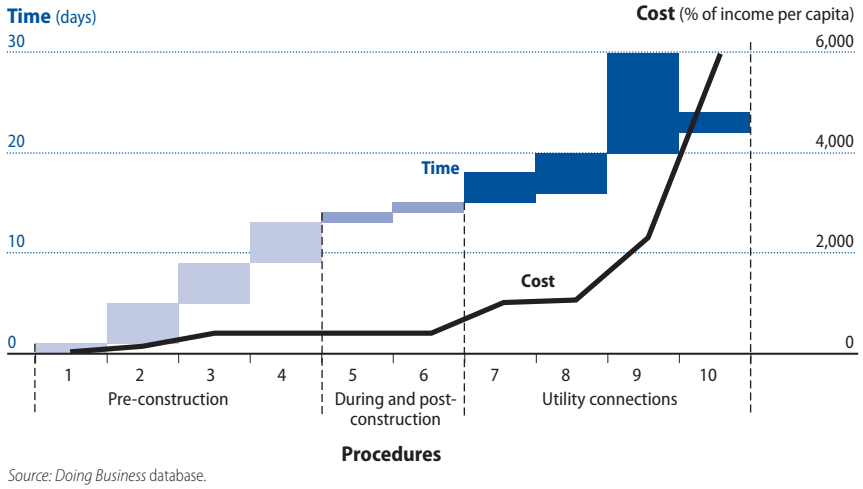
Construction is governed only by a few poorly enforced building regula-

FIGURE 3.2
How Juba compares globally and with selected African and Middle Eastern economies on the ease of dealing with construction permits
Global ranking (1–183)



Note: The ease of dealing with construction permits is based on a simple average of the economy's percentile ranking on the number of procedures, time and cost required to comply with formalities to build a warehouse. See Data notes for details.
Source: Doing Business database.

FIGURE 3.3
Dealing with construction permits in Juba requires few procedures



Procedures

1. *Obtain a croquis (site map) from the Survey Department*
2. *Obtain a plan approval from the Ministry of Physical Infrastructure*
3. *Obtain a construction permit from the* payam
4. *Request a pegging of the plot from the Survey Department*
5. *Receive an inspection during construction by the* payam
6. *Receive a certificate of completion from the* payam
7. *Obtain a permanent satellite phone connection*
8.* *Obtain a borehole permit from the Ministry of Water and Irrigation*
9. *Dig a borehole to obtain water*
10.* *Buy a generator to obtain electricity*

* Procedure is simultaneous with a previous procedure.

Source: Doing Business database.

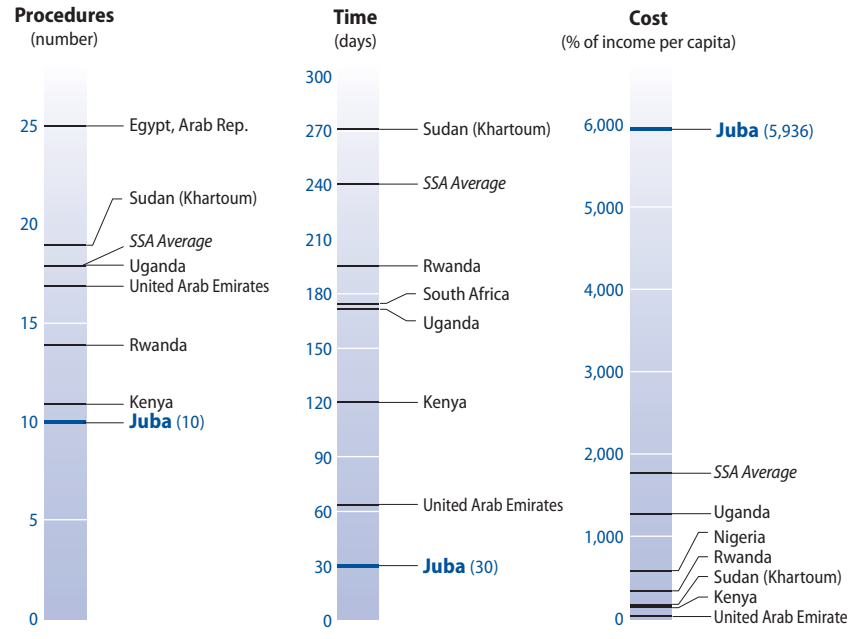
tions issued by the State Government of Central Equatoria and Juba's *payams*. Before construction begins, companies must obtain a site map from the survey department, a building plan approval from the state's Ministry of Physical Infrastructure, and a construction permit from the *payam*. A *payam* engineer may inspect the site once during construction and issue a certificate of completion when the building is finished (figure 3.3), though it rarely happens in practice. Few companies comply with building requirements, for 2 reasons.

First, many entrepreneurs are unaware of the regulations. Illiteracy rates are high in Southern Sudan,[6] and only a few copies of the fee schedules and regulations in place are available to the public. Second, local authorities scarcely enforce the regulations they themselves established, since they have only a few qualified engineers capable of checking the permit applications and conducting inspections of construction sites.[7] "They come only if the ceiling falls on your head," remarks a local property developer. The quality of private construction projects hence depends entirely on the competence of the architects hired by construction companies. By law, all practicing architects and engineers must be licensed by Khartoum's Council of Engineers, but in practice, few of them are. With Juba's real estate boom, the demand for construction experts has exceeded the supply, and many unlicensed "consultants" from neighboring countries are now filling the gap.

Low compliance means that local authorities have few applications to process. In 2010, Juba *Payam* expected no more than 20 applications for construction permits.[8] As a result, state and county governments issue building plan approvals and construction permits fast—4 days for each, a world record. Securing water supply can also be done quickly. Since water is close to the surface, drilling a borehole takes only 4 days.

It is the cost that constitutes the biggest hurdle for local construction companies (figure 3.4). Dealing with construction permits is 30 times more expensive in Juba (5,936% of income per capita)

FIGURE 3.4
Dealing with construction permits in selected African and Middle Eastern economies: Juba is fast, but very expensive



Note: SSA denotes the Sub-Saharan Africa region.
Source: Doing Business database.

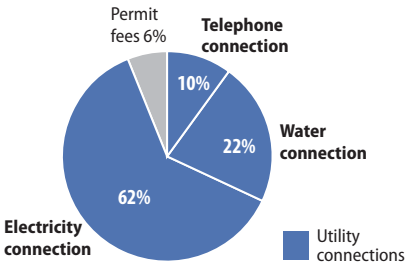
than it is in Khartoum (192% of income per capita). Among the 183 economies measured by *Doing Business*, only Liberia and Afghanistan—2 other war-stricken countries—are more expensive. Only a small portion of the total cost comes from administrative fees, mostly charged by local authorities to issue the building plan approval (SDG 3,000 / US$ 1,357) and the construction permit (SDG 7,100 / US$ 3,213). The rest, 94% of the cost, is spent on connecting the warehouse to utilities (figure 3.5).

Entrepreneurs pay the price for Juba's lack of infrastructure, which was destroyed by war and neglect. Although the city's water treatment plant has been rehabilitated, only about 20,000 of Juba's inhabitants are serviced by water pipes,[9] forcing most companies to drill boreholes. Electricity delivery has improved—thanks to oil-fueled generators installed by the river Nile—but 2 of the 3 power stations are currently out of service, causing frequent power cuts. According to the World Bank's Investment Climate Assessment, 87% of the firms interviewed in Juba identified the lack of electricity as a major impediment for their business, and 93% of power consumption came from generators.[10] Boreholes and generators are particularly expensive in Juba. The construction boom has raised the demand for construction services and equipment which, due to the lack of local supply, must be imported at high costs from neighboring countries. As a result, an entrepreneur in Juba must spend SDG 99,450 (US$ 45,000) to obtain electricity and SDG 33,750 (US$ 15,270) to obtain water. Meanwhile, in Khartoum, where electricity and water can be obtained through public agencies, an entrepreneur would only have to spend SDG 2,500 (US$ 1,130) on electricity and SDG 1,200 (US$ 543) on water and sewerage.

In 2005, the Government of Southern Sudan launched an urban development initiative for the 10 state capitals. The initiative includes infrastructure improvements projects on water, sanitation, roads, and power supply. The construction contracts were awarded in 2006 and are currently in progress.

The Government of Southern Sudan has also recently taken important steps to reinforce and clarify the construction permit process. A Ministry of Housing and Physical Planning at the Government of Southern Sudan has been established, and is currently drafting a Housing Policy. The policy will set a vision for housing and construction in Southern Sudan, and priority areas for improvement: facilitating access to housing, drafting building codes to regulate construction practices and materials, and vetting all construction contractors in activity in Juba. After a round of consultations with the states, the draft is to be presented to the Legislative Assembly of Southern Sudan. However, much remains to be done.

FIGURE 3.5
Connections to utilities account for 94% of the total cost



Source: Doing Business database.

WHAT TO REFORM?

SET THE FOUNDATIONS OF A BUILDING CODE

Although county authorities issue building permits, Juba lacks a comprehensive set of construction regulations. As a result, entrepreneurs do not know which rules to follow. Drafting an entire building code is a daunting task, yet the Government of Southern Sudan can already take the first steps by identifying from well established building codes a checklist of priorities—such as fire safety, sanitation, and quality of construction materials. These priorities can form the core of Southern Sudan's future building regulations, while being more easily understood and enforced by local authorities in the short term. Yemen followed that route, by using the building code of the Arab League to establish, in 2008, a list of essential technical norms.

Private architects and engineers should be involved in the selection of a good practice building code and in the drafting of the checklists. Such participation can increase the relevance of future building standards to the local technical constraints, existing materials and systems used by contractors, and the building traditions that prevail in Southern Sudan. Information about new regulations should then be extensively publicized.

ESTABLISH A SIMPLE AND EFFICIENT CONSTRUCTION PERMIT PROCESS

Strong guidelines do not imply complex procedures. International best practices show that public safety is best protected by simple and efficient building regulations. While local authorities in Mumbai require entrepreneurs to obtain pre-construction permits from 9 different agencies (e.g., a tree authority, sewerage department, and an electricity department), all pre-construction requirements in Auckland have been consolidated into one single procedure. This is not to say that buildings in India are safer than those in New Zealand.

After establishing core construction guidelines, the central and state governments in Southern Sudan should develop a simple-yet-efficient construction permit process focused on ensuring that minimal technical requirements are met. Construction authorities should also lay out and enforce a master plan to steer Juba's urban development according to clearly-defined zones and usage. Con-

structions should abide by the spatial constraints laid out in the master plan, in order to prevent disorganized and informal settlements which could hamper future infrastructure development projects.

In the long term, Juba could follow Auckland's example by establishing a building permit one-stop shop where construction safety, land ownership, zoning requirements, and environmental impacts could be verified jointly by the relevant authorities. This would ensure that the requirements stated in the building code are met, while minimizing the compliance burden on entrepreneurs.

BUILD THE CAPACITY OF LOCAL AUTHORITIES AND ASSOCIATION OF CONSTRUCTION PROFESSIONALS TO ENFORCE CONSTRUCTION REGULATIONS

State and county authorities in Juba do not have an adequate number of qualified engineers to check on building permit applications and conduct inspections. Since enforcement is low, entrepreneurs do not bother to comply with regulations.

The Government of Southern Sudan and state authorities should encourage the training of local engineers and architects. The University of Juba (which had relocated to Khartoum in 1989) recently reopened its College of Engineering and Architecture back in Juba,[11] but it still produces too few graduates to meet the staffing needs of local authorities, or the construction needs of the private sector. Even with the presence of licensed engineers from Khartoum and abroad, many projects are undertaken by unlicensed contractors.

To limit the use of unlicensed contractors, the government should support the creation of an association of engineers in Juba, similar to Khartoum's. The association could set qualification requirements for building professionals and assist the authorities in conducting building inspections.

IMPROVE ELECTRICITY AND WATER INFRASTRUCTURE

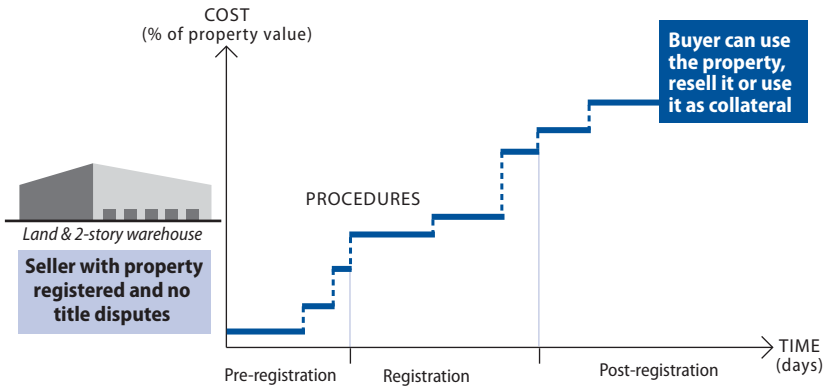
The war destroyed basic infrastructure and disrupted maintenance in Juba. Only a minor portion of the city has access to water pipes and, even though access to the power grid has improved, blackouts are still frequent. As a result, the majority of companies drill boreholes and buy generators for their water and electricity. All construction equipment in Juba is imported, and as transportation is expensive due to the poor quality of roads, the cost of utility connections is high.

The Government of Southern Sudan and State Government of Central Equatoria should invest in Juba's infrastructure development in order to extend the water pipe network, improve the reliability of the electricity delivery system, and build roads so as to reduce transportation costs. Plans have been made to build 2 water treatment facilities (in the south and west of Juba) and to electrify 70 to 80% of Southern Sudan by 2020 by linking isolated diesel power stations to form larger grids.[12] Public Private Partnerships with private water companies could also potentially help the government exploit Juba's low water table and fast-track access to and delivery of water, within the framework of the Nile Basin Initiative.

1. As estimated by Refugees International: http://www.refugeesinternational.org/where-we-work/africa/sudan.
2. As estimated by USAID in 2006. http://www.usaid.gov/locations/sub-saharan_africa/countries/sudan/.
3. World Bank. 2008. *Revitalizing Sudan's Non-Oil Exports: A Diagnostic Trade Integration Study (DTIS) Prepared for the Integrated Framework Program*. Washington, D.C.: The World Bank Group.
4. Moullier, Thomas. 2009. *Reforming Building Permits: Why Is It Important And What Can IFC Really Do?* IFC Advisory Services. Washington, D.C.: The World Bank Group.
5. KPMG. 2009. "Competitive Alternatives: KPMG's Guide to International Business Location." http://www.competitivealternatives.com.
6. Alternative Education Systems Unit in the Ministry of Education, UNESCO 2008.
7. This observation has been corroborated by all private construction companies interviewed, as well as the Ministry of Housing and Physical Planning at the Government of Southern Sudan.
8. Juba *Payam,* Resources Envelope for Fiscal Year 2010 Budget. Internal document.
9. As estimated by the Ministry of Rural Irrigation and Water Resources, Government of Southern Sudan. Information collected during the interviews conducted in October 2010 in Juba with construction authorities.
10. World Bank. 2010. *Sudan Investment Climate Assessment*. Washington, D.C.: The World Bank Group.
11. Management Systems International. 2009. *Government of Southern Sudan: Functional Capacity Prioritization Study*. Washington, D.C.: United States Agency for International Development.
12. Peace Security and Development Network. 2009. *Country report: Southern Sudan*. http://www.psdnetwork.nl/.

Registering property

FIGURE 4.1
What are the time, cost and number of procedures required to transfer a property between 2 local companies?



Nyanath is the owner of a profitable hotel in downtown Juba. He wants to buy the adjoining plot to build a restaurant and use the plot as guarantee for a loan. However, transferring the new property under his name would cost him SDG 19,934 (US$ 9,034) in administrative fees—a sum that Nyanath cannot afford. Consequently, he has no choice but to postpone his plans.

Nyanath is not alone in Juba, where 65% of companies surveyed by the World Bank's Investment Climate Assessment cite access to land as a major constraint.[1] Yet, affordable, efficient and reliable property registration systems foster economic growth. They protect property rights, facilitate land transactions, and enable entrepreneurs to use land as collateral to obtain credit. Indeed, banks prefer land titles as collateral since land is difficult to move or hide. In addition, with a formal title, entrepreneurs have an incentive to invest in and improve their property. Property registration also benefits governments, as more property registered can translate into higher property taxes revenues.

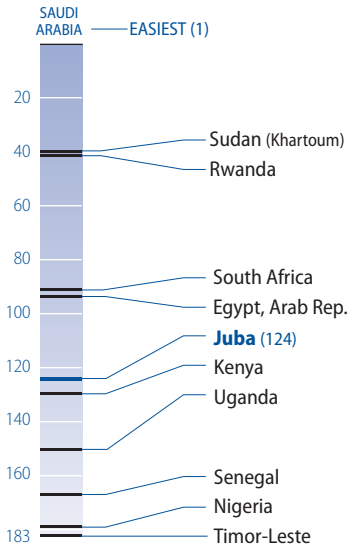
Doing Business records the full sequence of procedures necessary for a business to purchase a property from another business and transfer the title to the buyer's name. The transaction is considered complete when it is opposable to third parties and the purchasing company can use the property as collateral for new loans or, if necessary, sell it to another business (figure 4.1).

To register a property in Juba, an entrepreneur must spend 18 days on 7 procedures that cost 14.7% of property value. The same process in Khartoum requires fewer procedures (6), takes less time (9 days) and is significantly cheaper (3% of property value). Compared globally, Juba would rank 124th of 183 economies on the ease of registering property as measured by *Doing Business 2011*—ahead of Uganda (150th) and Kenya (129th) but behind Rwanda (41st) and Egypt (93rd). In Saudi Arabia, the global best performer, property can be registered in 2 procedures and 2 days at no cost (figure 4.2).

As of November 2010, land registration in Juba is governed by the Land Regulation and Settlement Act of 1925. Although the Act allows for property to be held through both freehold and leasehold, most land in Southern Sudan is leasehold.[2] The reason lays in the Unregistered Land Act of 1970 and Civil Transaction Act of 1984, which decreed that all land unregistered as of 1972 was presumed to be government land and subjected to leasehold only.[3] At that time, Southern Sudan had almost no registered land. Subsequently, in 2005, the Comprehensive Peace Agreement and Interim Constitution provided that all unregistered land belonged to the communities.

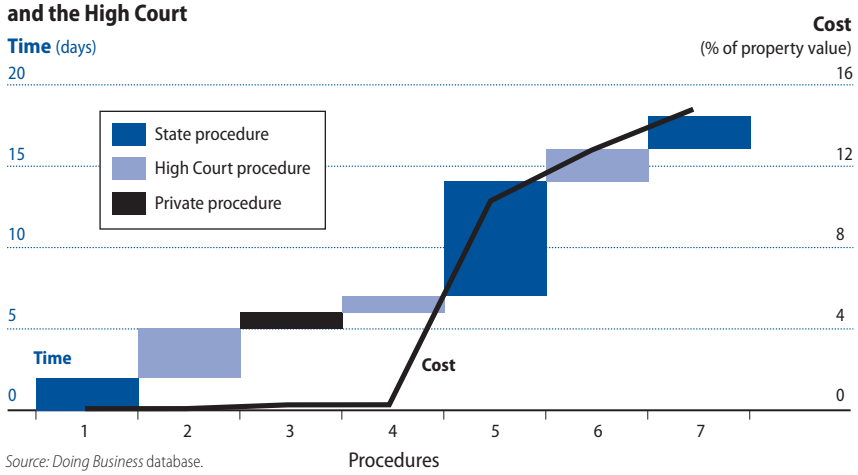
The Land Regulation and Settlement Act divides the lease-transferring process between the state government (the State Government of Central Equatoria for Juba), which is in charge of authorizing the transfer, and the judiciary, which is in

FIGURE 4.2
How Juba compares globally and with selected African and Middle Eastern economies on the ease of registering property
Global ranking (1–183)



Note: The ease of registering property is based on a simple average of the economy's percentile ranking on the number of procedures, time and cost required for a business to transfer property from another business. See the Data notes for details.
Source: Doing Business database.

FIGURE 4.3
Registering property in Juba involves interactions with both the State Government and the High Court



Source: Doing Business database.

Procedures
1. *Visit the plot with the Survey Department*
2. *Obtain Search Certificate for sale from the High Court*
3. *Draft the deed of transfer with a lawyer*
4. *Obtain form 31A from the High Court*
5. *Obtain lease document from the Ministry of Physical Infrastructure*
6. *Register the lease transfer at the High Court*
7. *Obtain a croquis (site map) from the Survey Department*

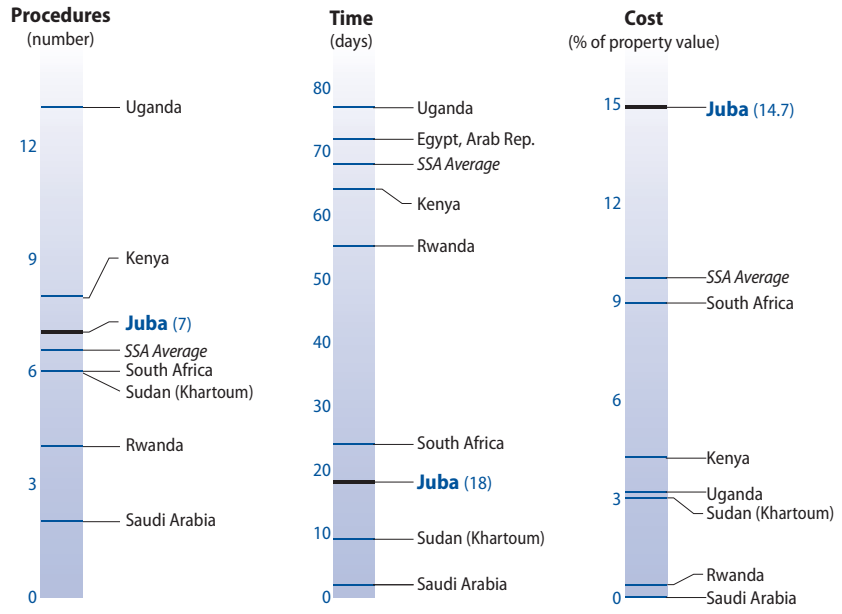
charge of maintaining the land records. This division between the executive and the judiciary aims to provide a system of checks and balances for land ownership. However, it places an additional burden on entrepreneurs in Juba, who must interact several times with both the Ministry of Physical Infrastructure (State Government of Central Equatoria) and the High Court to register property. In Rwanda, where entrepreneurs interact with one single authority (the Registrar of Real Estate), it takes only 4 procedures to transfer property. In Juba, it takes 7 steps to do the same.

The 7 steps are as follows: First, both seller and buyer inspect the land with a representative of the state government's Survey Department. Then, the buyer requests a search certificate from the Land Registry of the High Court to confirm the validity of the seller's ownership. With the certificate, the buyer hires an advocate to draft a deed and then goes back to the High Court to obtain a form to be submitted to the Ministry of Physical Infrastructure in exchange for the new lease document. Finally, the buyer goes back to the High Court to obtain a Search Certificate for Sale and receives an inspection and a *croquis* (site map) from the Survey Department (figure 4.3).

It takes an entrepreneur only 18 days to go through these procedures in Juba—as fast as in Spain and 3 times faster than the regional average of 68 days (figure 4.4). The Ministry of Physical Infrastructure issues the new lease in just 7 days, and the High Court takes only 2 days to register it. However, the quick delivery does not indicate that the process is efficient in Juba— all operations are manual, paper-based and handled by a few staff. The speed better reflects the low volume of land transactions these offices must process annually. The fact remains that few people register land formally in Juba. Most deals involve community-owned land, which is acquired informally by negotiating the lease directly with the tribe elders.[4]

Cost is the major bottleneck for property registration in Juba. Only 8 economies out of the 183 measured by *Doing Business 2011* are more expensive. Entrepreneurs in Juba must pay 3 different fees to 3 different authorities: a survey fee (2% of property value) to the

FIGURE 4.4
Registering property in selected African and Middle Eastern economies: Juba is very fast, but very expensive



Note: SSA denotes the Sub-Saharan Africa region.
Source: Doing Business database.

Survey Department, a lease transfer fee (10% of property value) to the Ministry of Physical Infrastructure, and a registration fee (2.5% of property value) to the Land Registry at the High Court. In Khartoum, where the registration process falls under the sole authority of the Land Registry, entrepreneurs simply pay a registration fee—2.5% of the property value, the same as in Juba—to transfer property. Neither survey fees nor lease transfer fees are levied in Khartoum (figure 4.5).

The Government of Southern Sudan has recently taken steps to define a land policy and improve property registration. In 2006, the Southern Sudan Land Commission was established by presidential decree to define the policies and framework for allocation of land (administration, arbitration, and resolution) in line with the Comprehensive Peace Agreement and the Interim Constitution.

In addition, a Land Act was passed in 2009 that detailed ownership rights to land and established a decentralized system of land registry under the authority of the Ministry of Housing, Physical Planning, and Environment in the Government of Southern Sudan. However, the structures, regulations, and personnel necessary to carry out the registration activities mandated by law have yet to be created. Indeed, disagreements have subsisted between the Government of Southern Sudan, the State Government of Central Equatoria, and the High Court as to which authority should ultimately be responsible for the new Land Registry.[5] As a result, although the judiciary suspended its registration activities following the passage of the Land Act of 2009, no structure had been set to carry out the judiciary's former responsibilities, and so land transactions were *de facto* suspended for several months.

To resolve the issue, the Ministry of Housing, Physical Planning, and Environment (Government of Southern Sudan) and the judiciary gathered in October 2010. It was decided at the meeting that the judiciary would resume its property registration responsibilities for another year, pending the adoption of attending regulations and the transfer of the registry to a new authority.

WHAT TO REFORM?

COMPLETE THE TRANSFER OF THE LAND REGISTRY TO THE EXECUTIVE BRANCH

Currently, an entrepreneur wishing to register property in Juba must interact repeatedly with and pay fees to both executive and judiciary authorities. The Land Act of 2009, which establishes a decentralized property registration system under one authority, has not yet been put into force. The registries and qualified personnel should be transferred as soon as possible under the authority of the Ministry of Housing, Physical Planning, and Environment in the Government of Southern Sudan, in coordination with the State Government of Central Equatoria, as stated in the Land Act.[6] In addition, information about the effective transfer of responsibilities—and the procedural changes it entails—should be communicated to the general public.

REDUCE PROPERTY REGISTRATION FEES OR REPLACE THEM WITH A LOWER FIXED FEE

To transfer property, entrepreneurs in Juba must pay 3 different fees to 3 different authorities: a survey fee, a lease transfer fee, and a registration fee. High property registration fees encourage entrepreneurs to undervalue their property or just evade registration altogether. Transferring the property registration process under one single authority would reduce the number of fees entrepreneurs need to pay to register property.

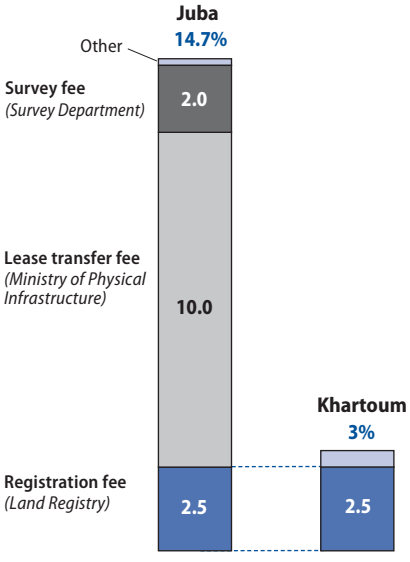
Because reducing fees—or replacing them with a lower fixed fee—encourages entrepreneurs to formally register their property, the higher volume of registrations can compensate the financial loss caused by the tax cut. In the last 6 years, 52 economies have reduced transfer taxes and government fees—among them, 22 countries in Sub-Saharan Africa. Rwanda cut the cost of registering property by 8.8% of property value.[7]

CLARIFY THE PROCESS FOR LAND TRANSACTIONS BETWEEN COMMUNITIES AND ENTREPRENEURS

In Juba, large swathes of land are owned by the communities—both inside and outside the city limits. Legally, community land can be acquired by investors, but the process is governed by community-specific customary laws and the cost is determined by negotiations with community elders. As a result, it can be difficult for entrepreneurs to anticipate the cost of an operation, verify the ownership of the land (since no records are kept), and mortgage land (since no formal title is given).

The Government of Southern Sudan should ensure that land transactions between investors and entrepreneurs follow the Chapter XI of the Land Act of 2009, which provides important guide-

FIGURE 4.5
The lease transfer fee is driving costs
Cost (% of property value)



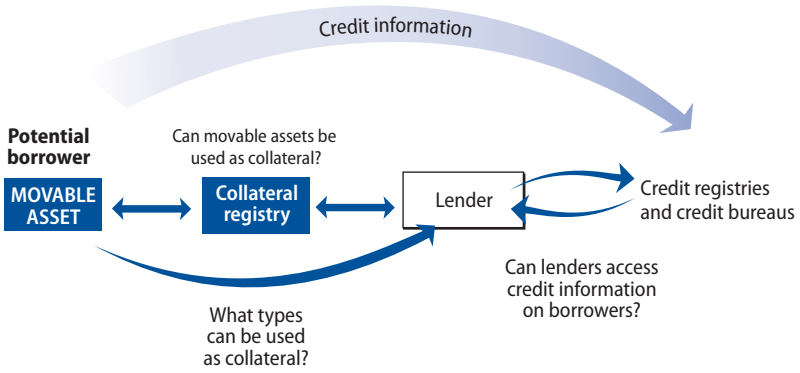
Source: Doing Business database.

lines for the acquisition of community land for investment purposes. The Land Act facilitates transactions of community land, while respecting the customary land rights enshrined in the Interim Constitution of Southern Sudan. It notably guarantees that any land zoning system and acquisition of land must be done in consultation with the community, after compensation, for projects that "shall contribute economically and socially to the development of the local community."[8]

1. World Bank. 2010. Sudan Investment Climate Assessment. Washington, D.C.: The World Bank Group.
2. Land can be leased for a period of up to 99 years.
3. Pantuliano, Sara. 2007. "The Land Question: Sudan's Peace Nemesis". Humanitarian Policy Groups, Overseas Development Institute.
4. The Interim Constitution of Southern Sudan recognizes and protects the customary land rights of the local communities, and the Land Act of 2009 provides important guidelines as to acquisition of community land for investment purposes. The Act notably guarantees that any land zoning system and acquisition of land must be done in consultation with the community, after compensation, and for projects that "shall contribute economically and socially to the development of the local community" (The Land Act, 2009, Art. 62.).
5. Article 54 of the Land Act of 2009 leaves room for interpretation in the matter: "The Land Registry shall be established within the Ministry of Housing, Physical Planning and Environment in the Government of Southern Sudan and shall be decentralized throughout Southern Sudan. At the State Level, the Concerned Ministry shall keep the Land Registry in coordination with the Ministry of Housing, Physical Planning and Environment in the Government of Southern Sudan."
6. Article 54, the Land Act of 2009.
7. World Bank. 2010. *Doing Business 2011: Making a Difference for Entrepreneurs*. Washington, D.C.: The World Bank Group.
8. Article 62, the Land Act of 2009.

Getting credit

FIGURE 5.1
Do lenders have credit information on entrepreneurs seeking credit? Is the law favorable to borrowers and lenders using movable assets as collateral?



Achak recently opened an Italian restaurant and needed a loan to buy a brick oven. Since his business is new and the premises are leased, the loan process involved long negotiations and many references by community members for the bank branch manager to accept the brick oven as guarantee for his loan. Access to credit is very limited in Juba. Businesses cite it as the second biggest obstacle after electricity constraints.[1]

Doing Business measures 2 types of institutions and systems that can facilitate access to finance and improve its allocation: credit information registries or bureaus and the legal rights of borrowers and lenders in secured transactions and bankruptcy laws. The 2 types of institutions are measured by 2 sets of indicators. One describes how well collateral and bankruptcy laws facilitate lending. The other measures the scope and accessibility of credit information available through public credit registries and private credit bureaus and provides information on coverage (figure 5.1)

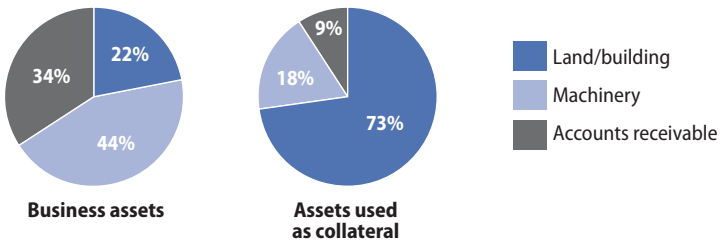
A well functioning secured transactions system—based on collateral and bankruptcy laws that protect the rights of borrowers and lenders—expands access to credit and can reduce its cost. Research shows that in developed economies borrowers with collateral get 9 times as much credit as those without it. They also benefit from repayment periods 11 times as long and interest rates up to 50% lower.[2] Promoting the use of movable assets as loan guarantees is especially important in developing countries where they represent the majority of businesses' assets.[3] However, banks in these countries prefer immovable assets as collateral (figure 5.2). This discrepancy particularly hurts small and medium-size companies, since they are less likely to own land and real estate.

The financial system in Southern Sudan is underdeveloped due to over 2 decades of war. Most lending is short term (3 to 6 months) and interest spreads are high. Only 10% of loans are extended to small and medium-size enterprises. Microfinance institutions cover approximately 5% of clients in Juba and less than 1% of the potential market in Southern Sudan.[4]

With the signing of the peace agreement, a dual banking system was established in Sudan: Islamic in the North, conventional in the South.[5] In 2008, the Bank of Southern Sudan—currently a branch of the Central Bank of Sudan but expected to become autonomous after independence—established conventional banking as the only system for Southern Sudan. At this point, all of the financial institutions that had been operating in the South (all Islamic banks) withdrew. Since then, some foreign and local conventional banks have opened in Juba and a few are expanding to the rest of Southern Sudan.

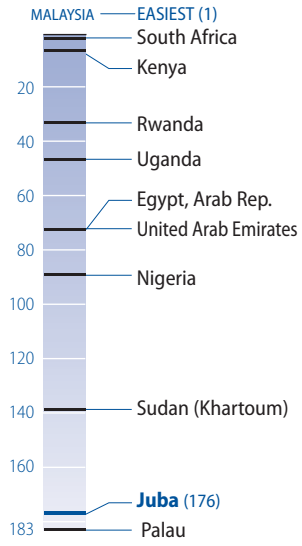
Considering the depth of credit information and the strength of legal

FIGURE 5.2
In developing countries, there is a mismatch between assets owned by businesses and assets accepted by banks as collateral for loans
Share of assets (%)



Source: Safavian, Mehnaz, Heywood Fleisig and Jevgenijs Steinbuks, 2006. "Unlocking Dead Capital: How Reforming Collateral Laws Improves Access to Finance." Private Sector Development Viewpoint, No. 307, World Bank, March 2006.

FIGURE 5.3
How Juba compares globally and with selected African and Middle Eastern economies on the ease of getting credit
Global ranking (1–183)



Note: The ease of getting credit is based on the percentile ranking of the sum of the strength of legal rights index and the depth of credit information index. See Data notes for details.
Source: Doing Business database.

rights indexes, Juba would rank 176th of the 183 economies measured by *Doing Business 2011*—far behind Kenya (6th), Uganda (46th), and Egypt (72nd). Khartoum ranks 138th, scoring 0 out of 6 in terms of depth of credit information and 5 out of 10 on the strength of legal rights. Malaysia is the best performing economy with maximum scores on both indexes (figure 5.3).

Juba scores 0 out of 6 on the depth of credit information index because Southern Sudan has no public credit registry or private credit bureau. The only criterion banks have when it comes to extending a loan in Juba is the "KYC" rule: Know Your Customer. Financial institutions in Juba only give loans to clients that have kept an account with them for at least 6 months. They request all background information, audited accounts, previous bank statements, and often have other requirements. As a managing director of a local bank mentioned, banks rely on other customers who know the community to give information about prospect debtors. Loans are made based on personal connections, not necessarily the likelihood of repayment.

On the strength of legal rights index, Juba scores 2 out of 10. The Companies Act of 2003 regulates the registration of charges. It allows anyone (business or individual) to grant movable assets as collateral while keeping possession of the assets. But the provisions in the Companies Act are insufficient and not enforced in practice. In Khartoum, the secured transactions system is fragmented among different laws and circulars issued by the Central Bank of Sudan. The Bank of Southern Sudan does not have full regulatory capacity yet. Meanwhile, the Central Bank of Sudan, which does have such capacity, has not issued any regulation about the use of collateral as a guarantee in the South.

Registration of charges is mandatory by law, but there is no collateral registry in place. Some banks register debentures at the Business Registry, yet most are unaware of this option. There is also a motor vehicles registry, but it is not fully operational. The Companies Act of 2003 is not clear about whether or not debts and obligations can be described in general terms in collateral agreements. Furthermore, there is no provision clearly defining whether *all* types of assets—including future and after-acquired assets—could be used as collateral, nor does the Act clarify whether a general description of all such assets is sufficient. In addition, the law is not clear about the automatic extension to proceeds of an original asset. The Civil Procedure Act of 2007 does not include out of court enforcement. There are no rules concerning priority of creditors.

WHAT TO REFORM?

ENACT A SINGLE COMPREHENSIVE LAW CONCERNING THE USE OF MOVABLE ASSETS AS COLLATERAL

Southern Sudan could follow the United Nations Commission on International Trade Law (UNCITRAL) recommendations for the scope of a secured transactions law. It should also look to other countries in the region which have recently improved their secured transactions systems. For example, the countries making up the Organization for the Harmonization of Business Law in Africa (OHADA) revised their Uniform Act Organizing Securities in 2010. Rwanda also passed a new law in 2009 which enhanced its score on the *Doing Business* legal rights index from 2 to 8 points (out of a possible 10 points).

Best practice is for one single law to cover all types of movable assets, applicable to physical and legal persons, and allowing for the securing of all types of obligations. The law should set clear rules for the creation of the security agreement, its content, its form, and its enforceability against third parties. It should call for the establishment of a registry that allows for registration and search that is simple and publicly accessible. The law should contain clear priority rules (within *and* outside of bankruptcy procedures) for creditors and it should devise an enforcement mechanism that is clear and efficient.

OVERHAUL THE SYSTEM OF REGISTRATION OF MOVABLE PROPERTY

A centralized collateral registry protects secured creditors' rights by allowing them to see if an asset is already guaranteeing another creditor. It also clarifies priority among creditors. Best international practices suggest that such a registry should contain information on all types of loans and assets, unified in a centralized and electronic database. To make searches

easier, the registry ought to be indexed by the name of the borrower, rather than by the date of the pledge.

Setting up registries—or unifying and improving existing ones—is a common reform that has been implemented across the world. For example, Georgia, Ghana, the Marshall Islands, and the Solomon Islands created unified registries for movable property in 2010. Ghana now requires any secured credit agreement above US$ 350 to be registered with the collateral registry in order to ensure that the security interest is enforceable against third parties.

ALLOW OUT-OF-COURT ENFORCEMENT

For security interests to be cost-effective, enforcement in case of default must be swift.[6] Efficient enforcement procedures are particularly important for movable property because it may depreciate over time. Currently, in Southern Sudan, seizure of assets by creditors must be implemented through court proceedings. The law should allow parties to agree on out-of-court enforcement at the time the security interest is created.

When it comes to the seizure of assets, there are different models of extrajudicial enforcement. Public collection agents are common in former Soviet Union countries. Other countries use private collection agents—such as notaries (Georgia), bailiffs (France), or receivers (United Kingdom)—usually belonging to a regulated and certified body.[7] In all, 105 of the 183 economies covered by *Doing Business* have legal provisions allowing the parties to a security agreement to agree to some form of out-of-court enforcement.

PROMOTE THE ESTABLISHMENT OF A CREDIT BUREAU

Public credit registries and private credit bureaus—institutions that collect and distribute credit information on borrowers—can greatly expand access to credit. By sharing credit information, registries help lenders assess risk. That releases entrepreneurs from the burden of having to rely on personal connections alone when trying to obtain credit. The credit registry or bureau should distribute more than 2 years of historical data; collect both negative and positive data; and collect and distribute data from a broad range of sources—e.g., retailers, trade creditors, utility companies, as well as financial institutions. Borrowers should have the right to access their data since it enhances the quality of the data and protects borrowers' rights.

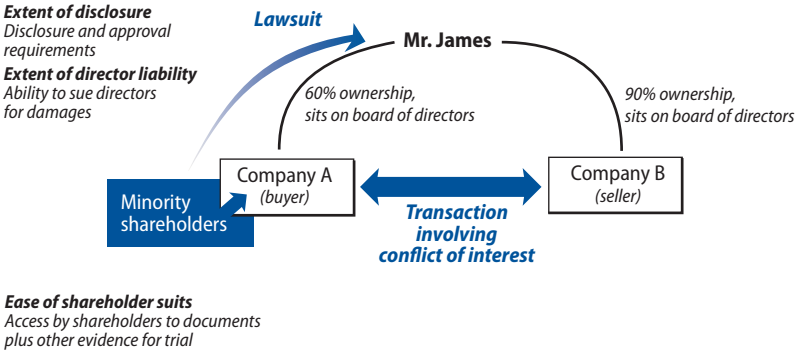
In 2010, Ghana, Iran, Papua New Guinea, and Uganda all created new credit registries or bureaus. Uganda's first private credit bureau covers more than 200,000 individuals. A new biometric data system allows each new loan applicant to be identified and issued a financial identity card.

1. World Bank. 2010. *Sudan Investment Climate Assessment*. Washington, D.C.: The World Bank Group.
2. Álvarez de la Campa, Alejandro, Everett T. Wohlers, Yair Baranes and Sevi Simavi. 2010. *Secured Transactions Systems and Collateral Registries*. Washington, D.C.: International Finance Corporation.
3. Safavian, Mehnaz, Heywood Fleisig and Jevgenijs Steinbuks, 2006. "Unlocking Dead Capital: How Reforming Collateral Laws Improves Access to Finance." Private Sector Development Viewpoint, No. 307, World Bank, March 2006.
4. World Bank. 2010. *Sudan Investment Climate Assessment*. Washington, D.C.: The World Bank Group.
5. Section 201, Chapter VI Dual Banking System. Part 13: Finance and Economic Matters. Interim National Constitution of Sudan.
6. Kozolchyk, Boris, and Dale Furnish. 2006. "The OAS Model Law on Secured Transactions: A Comparative Analysis." Arizona Legal Studies Discussion Paper 06-39, University of Arizona Rogers College of Law, Tucson.
7. Ibid.

Protecting investors

FIGURE 6.1

How well are minority shareholders protected against self-dealing in related-party transactions?



Abit, owner of a thriving company in Juba, is eager to take advantage of Southern Sudan's economic upswing that followed the peace agreement. But even though Abit's business is yielding high returns, he cannot convince his business partners to invest in his company. They feel insufficiently protected by the law.

Companies can grow more quickly by raising capital, which can be achieved through bank loans or by selling shares of the company to equity investors. Selling shares allows companies to expand without providing collateral or repaying bank loans. Investors, however, are concerned with corporate governance and look for legal protection. If investors fear potential expropriation by a company's officers, they tend to invest in fewer companies in which they take majority stakes.[1] A recent study finds that the presence of legal and regulatory protection for investors explains up to 73% of the decision to invest.[2] Because of this, both governments and businesses have an interest in strengthening investor protection.

One of the most important issues in corporate governance—and a particular concern for minority shareholders—is self-dealing, the use of corporate assets by company insiders for personal gain. Related-party transactions are the most common example. High ownership concentration and informal business relations can create an ideal environment for such transactions, which allow controlling shareholders to profit at the expense of the company's financial health—either because company assets are sold at an excessively low price or purchased at an inflated price, or because loans are granted by the company to controlling shareholders on terms far better than the market offers. In countries with a weak legal enforcement, such deals may even be considered fully legal.[3]

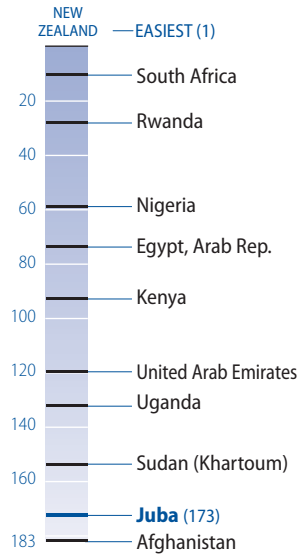
Doing Business measures the transparency of related-party transactions, the liability of company directors for self-dealing and the ability of shareholders to sue directors for misconduct (figure 6.1). A higher ranking on the strength of investor protection index indicates that an economy's regulations offer stronger investor protection against self-dealing in the areas measured. The indicator does not measure all aspects related to the protection of minority investors, such as dilution of share value or insider trading. Nor does it measure the dynamism of capital markets or protection specific to foreign investors.

With a score of 2.7 out of 10 on the overall strength of investor protection index, Juba would rank 173rd out of the 183 economies measured by *Doing Business 2011*.[4] Within the region, minority shareholders are better protected from director's misuse of corporate assets for personal gain in South Africa (10th), Nigeria (59th), Egypt (74th) and Kenya (93rd). New Zealand, the global top performer for this indicator, scores 9.7 on the strength of investor protection index (figure 6.2).

In Juba, and in the whole of Southern Sudan, corporate governance and protection of minority shareholders are regulated by the Companies Act of 2003. This law does not address many issues affecting today's businesses in Southern Sudan and offers limited protection to minority shareholders in case of prejudicial related-party transactions.

Juba scores 3 points out of 10 on the "extent of disclosure" index. The Companies Act of 2003 requires that the board of directors be informed of a potential conflict of interest.[5] This is not the case in Khartoum, which scores 0 of 10 on this sub-indicator. Nevertheless, full disclosure of all material facts on related-party transactions is still not required in Juba. Only the board of directors approves the transaction and no input is required by shareholders. There are no external reviews of the transaction before it takes place and there are no specific rules on disclosure of related-party transactions in annual reports.[6] Global best performers on this sub-indicator, such as

FIGURE 6.2
How Juba compares globally and with selected African and Middle Eastern economies on the ease of protecting investors
Global ranking (1–183)



Note: The ease of protecting investors is based on the percentile ranking of the average of the "extent of disclosure" index, "director liability" index and "ease of shareholder suits" index.
See Data notes for details.
Source: Doing Business database.

Singapore, require shareholder approval of related-party transactions and do not allow interested parties to participate in the approval process. They also require that a director's potential conflict of interest be disclosed immediately and subsequently (in the annual report) while enforcing an external review of the terms of the transaction before it takes place.

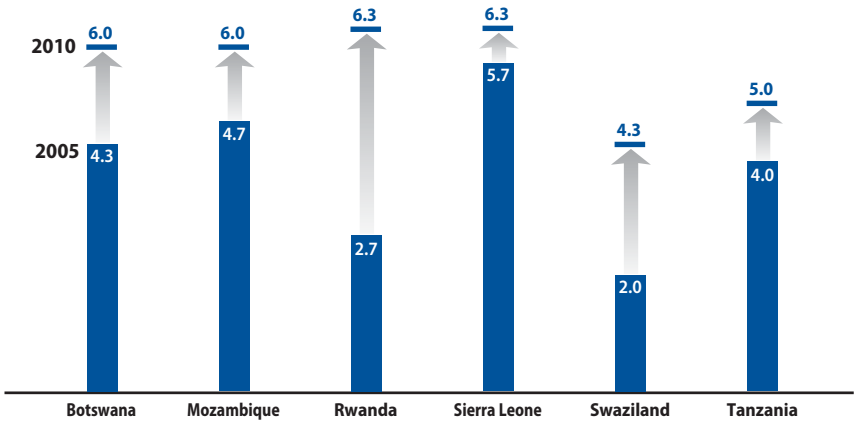
On the "director liability" index, which measures the ability of shareholders to sue officers and directors for misconduct, Juba scores 0 points out of 10. Directors and company officers can only be held liable in case of fraud. In the event of damage from a related-party transaction, unless it is fraudulent, no action can be undertaken, no penalties can be imposed, and there is no possibility of rescission. Broader protection is offered in economies such as South Africa, where minority shareholders are allowed to sue company directors in case of prejudicial related-party transactions.

Juba scores 5 out of 10 on the "ease of shareholder suits" index. Both the Civil Procedure Act of 2007 and the Companies Act of 2003 facilitate the gathering of evidence guaranteed to minority shareholders before and during the trial. Also, any shareholder or group of shareholders holding at least 10% of the shares of the company can request the appointment of a government inspector and the subsequent investigation of related-party transactions.[7] However, shareholders are not entitled to inspect corporate documents before filing a suit. Even though court rules allow shareholder plaintiffs access to some information from defendants and witnesses during the exchange of evidence process, shareholders must identify specific documents related to the transaction in question.[8]

Minority shareholders in Juba need broader and stronger rights to protect themselves from prejudicial behavior of company's officers. Many of Southern Sudan's neighbors can serve as commendable examples of successful reformers in this field. Sub-Saharan Africa implemented some of the most comprehensive investor protection reforms in 2010 (figure 6.3). For example, Tanzania and Mozambique adopted entirely new company laws while new commercial laws are being developed in Burundi, Kenya, Malawi, and Uganda. Moreover, 16 members of countries of the Organization for the Harmonization of Business Law in Africa have started reviewing the Uniform Commercial Act.[9]

Rwanda provides an excellent regional example of strengthening investor rights. This country has steadily reformed its commercial laws and institutions since 2001. In April 2009, Rwanda's parliament adopted a new company law. The new law regulates conflicts of interest by requiring shareholder approvals for related-party transactions involving more than 5% of company assets. The law also introduces extensive requirements for disclosure of related-party transactions—to the board of directors and in the company's annual report. This makes it easier for shareholders to sue directors for prejudicial related-party transactions. And for the first time in Rwanda's legal history, the law sets out a clear catalogue of directors' duties. Mentioned reforms have already started to reap benefits. In 2009 alone, Rwanda attracted some $1.1 billion in investment, 41% more than in the previous year and this in the midst of the global economic crisis.[10]

FIGURE 6.3
Stronger investor protections in Sub-Saharan African economies since 2005
Strength of investor protection index (0–10)



Source: Doing Business database.

WHAT TO REFORM?

The Government of Southern Sudan must be recognized for its efforts in improving the rights of minority shareholders. The government is in the process of adopting a new Companies Bill, currently awaiting enactment, which may improve the legal framework and increase protection for minority shareholders.[11] The Companies Bill of 2010 clearly states the duties of directors, requires directors' disclosure of interests in potential contracts, and demands that directors pay back profits made in violation of their duties to the corporation.[12] The bill, however, does not require an external assessment of related-party transactions before they can take place nor does it require the publication of director's potential conflict of interest in the annual report.

In order to address these inadequacies, it is necessary to implement a comprehensive set of reforms regarding the transparency of related-party transactions and liability in cases of self-dealing. It is also necessary to ascertain shareholders' ability to sue officers and directors for misconduct. The following are some of the major points that should be taken into consideration.

INCREASE DISCLOSURE OBLIGATIONS TO THE BOARD OF DIRECTORS AND IN THE ANNUAL REPORT

The Companies Act of 2003 requires only 2 types of disclosure: directors must comply with general disclosure of potential conflicts of interest and related-party transactions must be approved by the board of directors. However, directors are not obliged to undergo full and immediate disclosure of information on topics such as a director's immediate family's stake in a related-party transaction, their names, and all holdings in personally owned companies or services provided and received. Failure to disclose such information provides opportunities for directors to omit important evidence pertaining to related-party transactions.

France, Singapore, and New Zealand have the world's strictest rules on related-party transactions. Managers and directors in these countries are required to disclose to the board any personal interest they have in the operations of the company. These disclosures should state not only the existence of conflicts of interests, but also reveal the nature of such interests and the extent of any personal gains from company actions. Countries with strong investor protection systems require that annual reports include detailed information about related-party transactions. In order to increase shareholders' access to information about management dealings, the annual report should publish the nature of management interests and the extent to which each party stands to gain personally from company actions.

REQUEST AN ASSESSMENT OF RELATED-PARTY TRANSACTIONS BY AN INDEPENDENT BODY

Currently, no external body—such as an external auditor—is required to review large related-party transactions before they take place. In order to reduce the risk of self-dealing, an independent auditor should review the terms and conditions of a related-party transaction before it is approved. In Malaysia, for example, an auditor's report evaluates the main terms of the transaction and presents an opinion on whether or not the transaction is being concluded at market terms.

INCREASE THE LIABILITY OF MANAGERS AND THE BOARD OF DIRECTORS

In Southern Sudan, neither a company's officers nor its board can be held liable in cases of prejudicial related-party transactions. With almost no incentive to include minority shareholders' interests into the decision-making process, officers could be tempted to abuse their power and company's funds for their own interests. In order to create a legal structure that ensures the protection of investors' rights, future laws should require that directors exercise appropriate diligence, care, and loyalty—and make decisions that are well informed when running the company. They should also avoid conflicts of interests and always put the concerns of the corporation before self interests. For example, in New Zealand, directors and officers must pay damages caused to the company and pay back the profit made in violation of their duties to the corporation in the case of prejudicial related-party transactions.

ALLOW SHAREHOLDERS GREATER ACCESS TO CORPORATE DOCUMENTS BEFORE AND DURING THE TRIAL

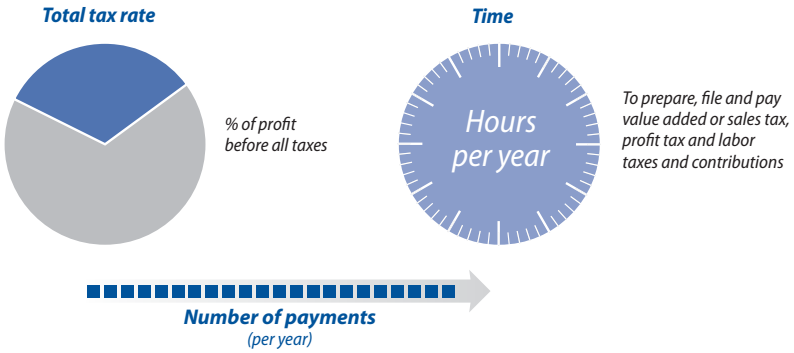
In many ways, Southern Sudanese court rules restrain shareholders' access to a company's documents. For example, when filing a suit, shareholder plaintiffs have to identify specific documents pertaining to a related-party transaction, they cannot question defendants or witnesses directly, and they cannot submit questions beforehand.

In order to protect minority shareholders from self-dealing, regulations should give shareholders the right to inspect a company's documents if they suspect wrongdoings by directors. The law can grant this right with some exceptions—for example, protecting corporate secrets. This could maintain a balance between the needs of managers (to operate without overly burdensome intrusion by shareholders) and the needs of shareholders (to monitor management actions). For example, Mozambique and Rwanda allow shareholders access to any internal documents except corporate secrets. And if the management fails to provide sufficient information, shareholders can ask the court to appoint government inspectors with full powers to access all corporate documents.

1. Dahya, Jay, Orlin Dimitrov and John McConnell, 2008. "Dominant Shareholders, Corporate Boards, and Corporate Value: A Cross-Country Analysis." *Journal of Financial Economics* 87 (1): 73–100.
2. Doidge, Craig, G. Andrew Karolyi and Rene M. Stulz, 2004. "Why Do Countries Matter So Much for Corporate Governance?," *Journal of Financial Economics* 86(1), 1-39.
3. Johnson, Simon, Rafael La Porta, Florencio López-de- Silanes, and Andrei Shleifer, 2000. "Tunnelling." *American Economic Review* 90 (2): 22–27.
4. World Bank. 2011. *Doing Business 2011: Making a Difference for Entrepreneurs*. Washington, D.C.: The World Bank Group.
5. Article 200 of the Southern Sudan Companies Act 2003.
6. Article 147 of the Southern Sudan Companies Act 2003.
7. Article 165 of the Southern Sudan Companies Act 2003.
8. Ibid.
9. World Bank. 2010. *Doing Business in East African Community 2010*. Washington, D.C.: The World Bank Group.
10. Ibid.
11. All observations regarding the Companies Bill of 2010 relate to the draft as of November 2010, and may not necessarily apply to the final version of the law.
12. Articles 238 and 293 of the Companies Bill of 2010.

Paying taxes

FIGURE 7.1
What are the time, total tax rate and number of payments necessary for a local medium-sized company to pay all taxes?



Over 95% of the Government of Southern Sudan's revenues come from oil, whose prices can be subject to abrupt fluctuations.[1] The consequence on government coffers can be dire: Sudan's government oil revenues plummeted by 37% from 2008 to 2009 because of a sudden drop in oil prices.[2] Furthermore, data suggests that oil production in Sudan will peak in the next few years.[3] Juba relies on taxes to help finance its public infrastructure and provide services necessary to support much-needed economic and social development. Southern Sudan enacted a Taxation Act in 2009. However, this new Act has not been fully implemented, and Juba's tax system remains poorly developed.

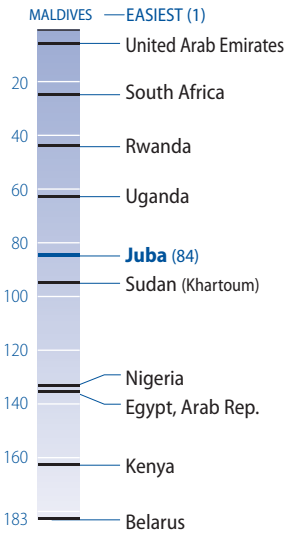
High tax rates and burdensome tax administration are consistently ranked among the main obstacles to doing business by entrepreneurs around the world.[4] Where tax rates are high and taxes difficult to file, many businesses may choose to remain informal. Indeed, a survey found that even among formally registered companies in Juba, underreporting was rampant: companies only reported 31% of employment levels and 35% of revenues.[5] Majok, a local business owner in Juba, is one of them. "I know I have to pay taxes, but I don't know how much and who to pay the taxes to. And there are no accountants in the city who can help me out" he says. One way to help entrepreneurs like Majok comply with tax requirements is to simplify the payment process and clearly inform the taxpayers of their obligations.

Doing Business measures the payments, time and total tax rate borne by a standard firm with 60 employees in a given year. The number of payments indicator measures the frequency with which the company has to file and pay different types of taxes and contributions, adjusted for the way in which those payments are made. The time indicator captures the number of hours it takes to prepare, file and pay 3 major types of taxes: profit taxes, consumption taxes and labor taxes and mandatory contributions. The total tax rate measures the tax cost borne by the standard firm (figure 7.1).

In Juba, a medium-size company spends 218 hours per year making 46 tax payments, and pays 25.5% of its annual commercial profit in taxes. This is more cumbersome but less expensive than in Khartoum, where the same company spends 180 hours every year on 42 payments and 36.1% of its commercial profits. Globally, Juba would rank 84th among 183 economies on the ease of paying taxes as measured by *Doing Business 2011*—ahead of Egypt (136th) but behind Uganda (62nd) and Rwanda (43rd). In the Maldives, where paying taxes is the easiest in the world, a company only needs to make 3 payments a year and pay 9.3% of commercial profits (figure 7.2).

The administrative burden of complying with tax requirements is more cumbersome in Juba than in Sub-Saharan Africa on average, where 37 tax payments are made per year. In fact, of Juba's 46 annual payments, 36 are required

FIGURE 7.2
How Juba compares globally and with selected African and Middle Eastern economies on the ease of paying taxes
Global ranking (1–183)



Note: The ease of paying taxes is based on a simple average of the economy's percentile rankings on the number of payments, time and total tax rate. See data notes for details.

Source: Doing Business database.

because 3 taxes—value added tax (VAT), personal income tax, and social security contributions—must be filed and paid manually each month (12 times per year) (table 7.1).

Companies in Juba spend 56 hours on corporate income taxes, 78 hours on labor-related taxes,[6] and 84 hours on value added taxes (VAT)—218 hours in total. Even though the VAT is collected and administered in the whole of Sudan by the same authority—the Federal Taxation Chamber of the Government of National Unity—paying the VAT takes more than twice as much time in Juba than in Khartoum (where it takes 40 hours). Why? The answer is that certain goods—namely, alcoholic beverages—are allowed in Southern Sudan and not Northern Sudan, so the Government of National Unity cannot collect VAT from these restricted products. All VAT collected on these products is therefore transferred to the Government of Southern Sudan which, to facilitate the revenue transfer, has asked all companies in Juba to clearly itemize all goods sold and purchased. This adds to the tax compliance burden of companies in Juba.

When compared globally, paying taxes in Juba is not time consuming. In fact, the regional average (315 hours) is almost 100 hours higher. The reason it taxes take less time in Juba is that there are no backlogs at the Federal Taxation Chamber of the Government of National Unity or at the Ministry of Finance of the Government of Southern Sudan. That is because only a small number of formal companies pay taxes in the city. Indeed, the tax system in Southern Sudan is complex and lacks transparency, creating confusion for entrepreneurs in Juba. This may encourage small and medium-size companies to evade taxes.

There are 2 main reasons the current tax system potentially discourages compliance: confusion regarding the law and confusion regarding its application. Although Southern Sudan enacted a Taxation Act in 2009, it is an omnibus law that sets broad tax provisions without providing sufficient detail—making it difficult to implement until more detailed regulations are drafted to accompany the Taxation Act. As a consequence, not all components of the law have been enforced yet. For example, although the Act contains provisions for withholdings on wages, interest, dividends, and royalties, currently only taxes on wages are withheld. Meanwhile, no publicly available document specifies which taxes in the Act are currently in effect and which are not. As a result, companies lack clear information on what tax payments are required.

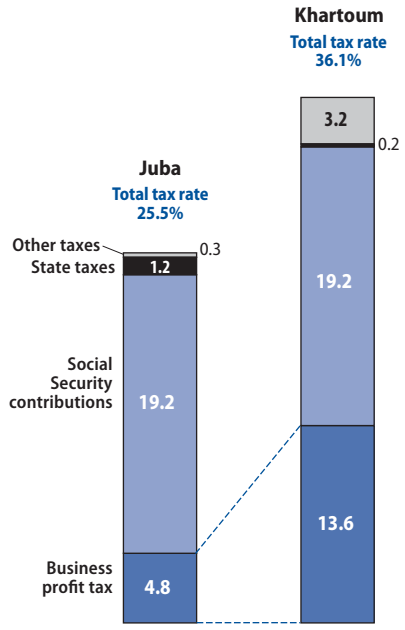
At the same time, there are overlaps and conflicts between levels of government regarding the rights to collect taxes or service fees.[7] The legislation does not provide sufficient clarity—the peace agreement implies that the Government of National Unity should collect business profit taxes of large companies and the Government of South Sudan should collect them of small and medium-size companies, but the 2 governments have not officially clarified such demarcation in tax collection and have allowed different ministries to argue for jurisdiction. As a result, very few companies know where they should file and pay taxes.[8]

Compared to Khartoum, tax rates are low in Juba. In Juba, entrepreneurs pay 25.5% of their commercial profits in taxes every year, while entrepreneurs

TABLE 7.1
How easy is it for companies to pay taxes in Juba?

Tax	Payments (numbers)	Time (hours)	Statutory tax rate	Tax base	Total Tax Rate (% of commercial profit)
Business Profit Tax (corporate income tax)	5 (4 quarterly advance payments + 1 final)	56	10%	taxable income	4.8%
VAT/GST	12	84	15%	value added	not included
Personal Income Tax	12	48	<SDG 300 = zero rate SDG 301–5,000 = 10% >SDG 5,001 = 15%	gross salaries	not included
Social Security Contributions	12	30	17%	gross salaries	19.2%
Tax on interest earned			10%	interest earned on bank account	0.3%
Company license Central Equatoria State	1		SDG 800		0.5%
State Tax Identity Card Central Equatoria State	1		SDG 90		0.1%
State Tax Clearance Certificate Central Equatoria State	1		SDG 50		0.0%
State Retail Trading Licenses Central Equatoria State	1		SDG 200		0.1%
State Fuel Tax Central Equatoria State	1		15%	fuel consumption	0.5%
Fuel Tax Government of Southern Sudan	paid jointly with fuel tax		0.5%	fuel consumption	0.0%
Total	**46**	**218**			**25.5%**

FIGURE 7.3
Companies in Juba and Khartoum face different business profit taxes
Total tax rate (% of commercial profit)



Note: Sudan's VAT is not included in the total tax rate as it does not affect commercial profits. See data notes for details.
Source: Doing Business database.

in Khartoum pay 36.1% (figure 7.3). In Juba, companies with revenues below SDG 10 million (approximately US$ 4 million) are considered small companies and taxed at a statutory rate of 10%, while in Khartoum, the same companies would be considered medium-size companies and be charged 15% of their taxable profits.

Since 2009, the government has implemented several tax reforms in an effort to facilitate paying taxes in Juba. The Taxation Act, enacted in 2009, is a move towards better defining the mandate of the Government of Southern Sudan in terms of tax collection and enforcement. In addition, the government is focusing on improving tax compliance, pushing employers to obtain a Taxpayer Identification Number (TIN) in order to facilitate the proper audit of tax payments. The Government of Southern Sudan has also printed leaflets to raise awareness of the system and obligations related to withholding taxes. To tackle jurisdictional issues (between the Government of National Unity and Government of Southern Sudan) and provide more clarity on social security obligations, the Ministry of Labor of the Government of South Sudan recently issued a circular instructing each company to set aside their monthly contributions internally until a proper system to administer it can be developed.

WHAT TO REFORM?

CLARIFY AMBIGUITIES IN TAX OBLIGATIONS

A complex tax administration is costly—both for entrepreneurs who spend valuable time filing their tax and for the government who administers it. Since June 2009, 25 economies around the world have made tax compliance easier.[9]

The tax system in Juba appears complex to entrepreneurs because there is little clarity on what taxes must be paid to which level of government. The current system is ad-hoc, where the largest companies are administered at the federal government level, medium-size companies at the Government of Southern Sudan level and smaller ones by the State Government of Central Equatoria—and legislations do not provide clarity on the mandates of the different level of government. The Government of National Unity, the Government of Southern Sudan, and the State Government of Central Equatoria should clarify which taxes are paid to whom. In addition, the Government of Southern Sudan should either implement the Taxation Act in full by also enacting relevant regulations or clarify exactly which sections of the Taxation Act are mandatory.

EDUCATE ENTREPRENEURS ON THE TAXATION SYSTEM

Few entrepreneurs in Juba know what their tax obligations are. As a result, the bulk of Southern Sudan's tax revenue comes from a limited number of large international companies. In order to develop a broad-based tax system to reduce the country's dependence on oil revenues, the Government of Southern Sudan should improve tax compliance.

As a first step, the public needs to be informed of the tax requirements in place as well as how to file and process payments. The Government of Southern Sudan has started distributing leaflets to entrepreneurs in Juba to explain how to register with tax authorities and pay the personal income tax. This is a good start. Now this initiative must be expanded to all taxes and taxpayers and be repeated whenever a new tax is introduced or modified. The government could also deepen its communication efforts by reaching out to businesses via local chambers of commerce, organize training workshops, and develop partnerships with the press to engage the public through simple messages in local languages.[10] For example, in 2010, Sierra Leone established a customer service center to provide public information on goods and services tax and other taxes, launched a national revenue authority website, and ran regular public awareness campaigns. The efforts there are helping businesses better understand the tax system.

In order for these efforts to be successful, the tax authorities staff in Juba also needs to be fully trained to understand the tax system.

SIMPLIFY TAXES WHERE POSSIBLE

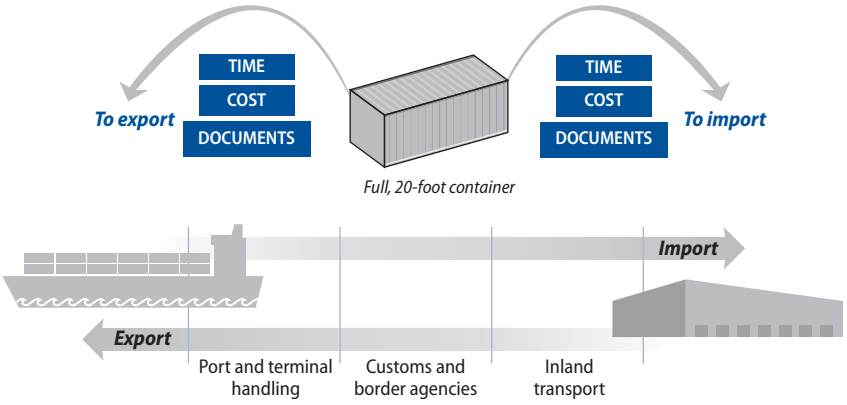
In the future, the Government of Southern Sudan should examine ways to simplify taxes by consolidating processes where it can. Subjecting the same tax base to more than one tax increases firm's cost of doing business as well as the government's cost of revenue administration by requiring numerous calculations, filings, and payments. In Juba, personal income taxes and social security contributions are paid monthly and are administered by different offices, but are taxed

on the same tax base. If the filing and payment could be consolidated on one form submitted at one single window, the administrative burden on taxpayers would be reduced. This requires designing a system where one of the relevant agencies serves as the receiving agency for all labor-related taxes, remitting the relevant shares of the pooled tax collection to other agencies.

1. World Bank. 2010. *Southern Sudan - Enabling the State: Estimating the Non Oil Revenue Potential of State and Local Governments*. Washington, D.C.: The World Bank Group.
2. Government of Southern Sudan, Ministry of Finance and Economic Policy, Draft 2011 Budget.
3. World Bank. 2008. *Revitalising Sudan's Non-Oil Exports: A Diagnostic Trade Integration Study (DTIS) prepared for the Integrated Framework Program*. Washington, D.C.: The World Bank Group.
4. According to World Bank Enterprise Surveys, firms in 90% of countries surveyed rank tax compliance among the top 5 obstacles to doing business. World Bank (2006) "Enterprise Surveys: Regulations and Tax" (http://www.enterprisesurveys.org/)
5. World Bank. 2010. *Sudan Investment Climate Assessment*. Washington, D.C.: The World Bank Group.
6. Labor-related taxes include personal income taxes withheld by employers as well as social security taxes and contributions.
7. World Bank. 2010. *Southern Sudan - Enabling the State: Estimating the Non Oil Revenue Potential of State and Local Governments*. Washington, D.C.: The World Bank Group.
8. The Government of Southern Sudan does not currently have the capacity to administer the business profit taxes, and has simplified request that all companies that are not registered with the Government of National Unity to be registered with the Government of Southern Sudan.
9. World Bank. 2010. *Doing Business 2011: Making a Difference for Entrepreneurs*. Washington, D.C.: The World Bank Group.
10. Rahman, Shaela. 2009. *Changing the Minds of Skeptics: How Strategic Communications Can Build Momentum for Tax Reform.* IFC Smartlessons. Washington, D.C.: The World Bank Group

Trading across borders

FIGURE 8.1
How much time, how many documents and what cost to export and import across borders by ocean transport?



Juba's economy relies on cross-border trade. The end of the war has allowed businesses to flourish, but decades of conflict have wiped out basic infrastructure and destroyed production capacities. As a result, most goods—such as food, construction materials, and basic inputs—are imported. Conversely, Southern Sudan exports virtually nothing apart from oil—which accounts for 97% of the revenue of the Government of Southern Sudan.[1] Yet, the region is endowed with fertile land for agricultural production—grains, coffee, fruit, gum arabic, and vegetables—that could be exported to international markets in the future.[2]

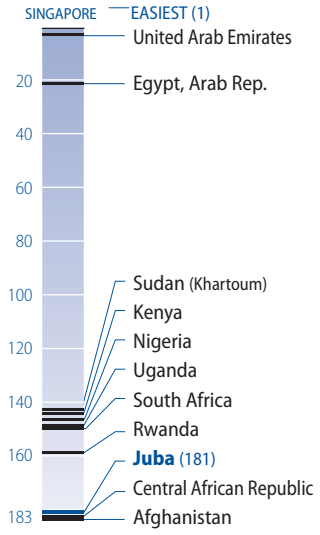
The more time-consuming the export or import process, the less likely it is that traded goods will be able to reach international markets in a timely fashion. Recent research shows that each additional day a product is delayed prior to being shipped reduces total exports by more than 1%. For perishable agricultural products, a 10% increase in delays decreases exports by about 3.5%.[3] Making it easier to trade—by reducing the time and cost spent on paperwork, simplifying clearance procedures, and investing in inland transportation—would facilitate the flow of goods to and from Juba. It would also decrease input costs for local industries and encourage entrepreneurs to look for export opportunities.

Doing Business measures the time and cost (excluding tariffs) associated with exporting and importing by ocean transport, and the number of documents necessary to complete the transaction (figure 8.1). The indicators cover procedural requirements such as documentation requirements and procedures at customs and other regulatory agencies as well as at the port. They also cover trade logistics, including the time and cost of inland transport to the largest business city.

Juba is an inland city. The primary port used by its local traders is the port of Mombasa in Kenya, situated 1,400 kilometers away. Even though Sudan is home to Port Sudan—a deep-water port in the northwestern part of the country—geography and conflict have constrained Sudan's north-south infrastructure linkages. In order to trade overseas, cargos to and from Juba go through 2 customs border posts—at Nimule/Bibia border between Sudan and Uganda and at Malaba between Uganda and Kenya.

An entrepreneur in Juba needs to submit 11 documents, wait 60 days, and spend US$ 9,420 to import a standardized container of cargo through the port of Mombasa. To export[4] through the same port, an entrepreneur needs to submit 9 documents, wait 52 days, and spend US$ 5,025. This is slower and more expensive than from Khartoum where, via Port Sudan, importing takes 46 days and costs US$ 2,900, while exporting takes 32 days and costs US$ 2,050. In other parts of Sub-Saharan Africa, the process is quicker and cheaper: importing takes, on average, 38 days and costs US$ 2,492 while exporting takes 32 days

FIGURE 8.2
How Juba compares globally and with selected African and Middle Eastern economies on the ease of trading across borders
Global ranking (1–183)



Note: The ease of trading across borders is based on a simple average of the economy's percentile rankings on the number of documents, time and cost required to export and import.
See data notes for details.
Source: Doing Business database.

TABLE 8.1
To import a standard shipment to Juba, traders must obtain many documents from different authorities

Requirements of the Government of National Unity	Requirements of the Government of Southern Sudan*	Requirement of the Kenyan or Ugandan authorities*
• Bill of Lading • Certificate of Origin • Commercial Invoice • Customs import declaration • Packing List • Technical standard and health certificate	• Exit Pass (Gate Pass) • Import (IM) Form and Letter from commercial bank • Letter of approval to import from the Ministry of Commerce and Industry • Pre-shipment inspection clean report of findings	• Transit documents

* Documents required by Sudan Government of National Unity that are also required by other governments (governments of Southern Sudan, Kenya or Uganda) are not repeated.

Source: Doing Business database.

and costs US$ 1,962. Compared globally to 183 economies, Juba would rank 181st on the ease of trading across borders as measured by *Doing Business*—just ahead of Afghanistan (183rd) and the Central African Republic (182nd).

As in many landlocked economies around the world, distance makes trading costly and time consuming for entrepreneurs in Juba. Inland transportation between Mombasa and Juba takes 17 days and costs US$ 8,075 for importing, and 14 days and US$ 4,000 for exporting. But geography does not explain everything. A burdensome administrative process, multiple checkpoints, and transport infrastructure constraints also make trading in Juba difficult (figure 8.3). Each of these 3 problems is described below.

First, the administrative process for importing and exporting is cumbersome. Traders in Juba spend, on average, 34 days to obtain the 11 documents required for importing, and 28 days for the 9 documents required for exporting. This is in contrast with the requirements in Khartoum, where only 6 documents are needed for exporting and importing. Unlike in Khartoum, traders in Juba need to submit a commercial invoice, an import approval letter from the Ministry of Commerce and Industry, a pre-shipment inspection clean report of findings, and a technical standard or health certificate—all of which are required by the Government of Southern Sudan. In addition, a transit document is required by the customs authorities of Kenya and Uganda (table 8.1).

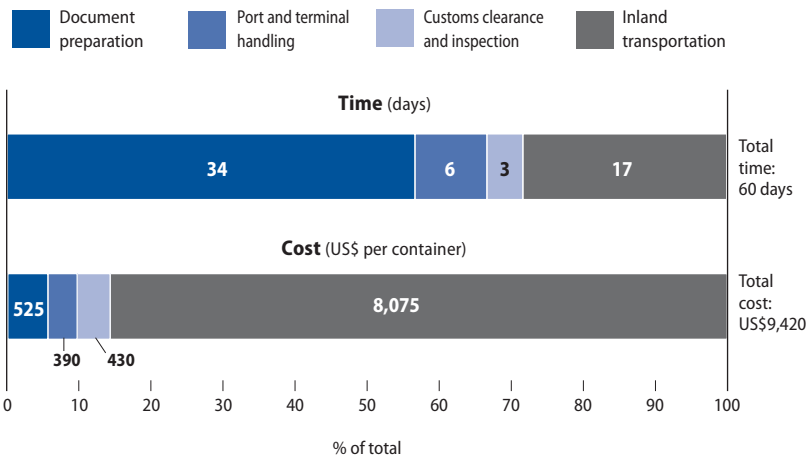
The main cause of document delays is the letter of credit, which must be approved by the Bank of Southern Sudan. Each time a trader wishes to import or export, she must first prepare and submit 6 documents to the Bank of Southern Sudan—including an import/export approval letter from the Ministry of Commerce and Industry (certifying that the goods being imported/exported will be allowed to move into/outside the country) and an import (IM) form or export (EX) form filled out by both the trader and the trader's bank.

Second, importers in Juba must pass through at least 6 checkpoints along the road from Nimule to Juba—a distance of less than 200 kilometers. These checkpoints, some of which are placed for security reasons, unnecessarily repeat some procedures already conducted at the Nimule border. The biggest bottleneck is located at the Juba Bridge checkpoint, at Juba's doorsteps. There, the immigration office checks drivers' visas and the police office checks driving and vehicle licenses, as done previously at the Nimule border. In addition, the Central Equatoria State Revenue Authority and Sudan Standard and Metrological Organisation—in charge of regulating technical and health standards of goods in Sudan—check the relevant documentation and the goods. As a result, the import cargo spends, on average, an extra 2 days at the Juba Bridge checkpoint (figure 8.4).

Finally, poor road infrastructure remains a challenge in Southern Sudan. It is estimated that at the time of the signing of the peace agreement in 2005, there were just 4 kilometers of tarred roads in all of Southern Sudan.[5] Since 2009, transport between Juba and Nimule has improved, thanks to road rehabilitation projects, but the work is slow because landmines buried on and around the main roads must be cleared first.[6]

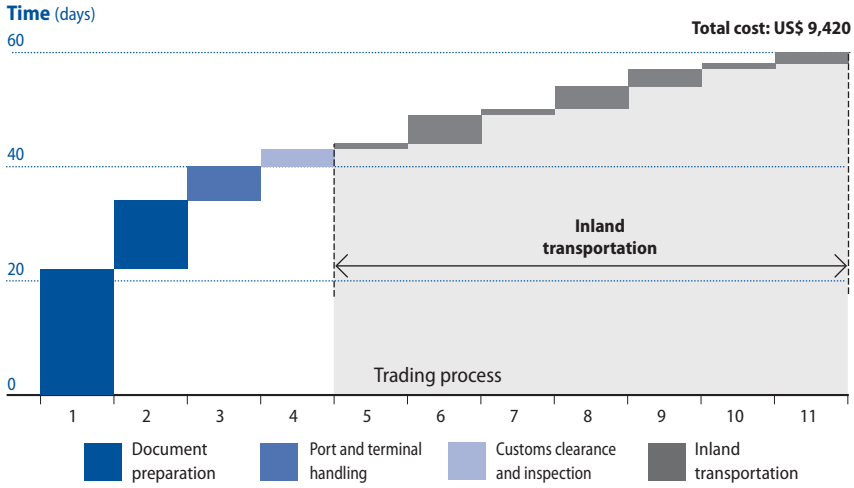
The Juba-Nimule road is not the

FIGURE 8.3
Importers in Juba spend over half of total time on paperwork



Source: Doing Business database.

FIGURE 8.4
Inland transportation is hampered by numerous checkpoints



Procedures

1. *Import letter of credit*
2. *Other documents: customs declaration forms, etc*
3. *Port and terminal handling at Mombasa port*
4. *Customs clearance and inspection at Mombasa port*
5. *Arrange for inland transportation*
6. *Transport from Mombasa port to Malaba (via Nairobi)*
7. *Customs clearance at Malaba border (Kenya-Uganda)*
8. *Transport from Malaba to Nimule*
9. *Customs clearance at Nimule border (Uganda-Sudan)*
10. *Transport from Nimule to Juba bridge checkpoint*
11. *Clearance and inspection at Juba bridge checkpoint*

Source: Doing Business database.

only route to sea, but alternate routes are rarely used because of infrastructure failings. The road through Kenya using the Lokichoggio border crossing is the closest route to Mombasa, but traders rarely use this route due to poor road conditions and instability around the border. There used to be 2 main routes linking Southern Sudan with the North—through a combination of road, rail, and inland water transportation using the river Nile—but they were disrupted during the war. Services have restarted, but many problems remain—for example, navigation channels need to be dredged and there's a lack of handling equipment for containers.[7]

The Government of Southern Sudan and the Government of National Unity have recently undertaken several initiatives to improve the ease of trading across borders in Juba with the assistance of donors. Since the end of the war, the rehabilitation of destroyed roads and bridges has been a priority, and transportation infrastructure is improving. The paving of the Nimule-Juba road started in 2010—it is to be the first paved road outside of Juba in Southern Sudan. By 2015, the Government of Southern Sudan plans to build 3,000 kilometers of paved and 3,000 kilometers of gravel roads in Southern Sudan. The Government of National Unity has started addressing some of the issues of vessel rehabilitation and container handling to facilitate transportation along the river Nile.[8]

WHAT TO REFORM?

STREAMLINE DOCUMENTATION REQUIREMENTS AND CUSTOMS CLEARANCE PROCEDURES

Traders in Juba are spending over half of their time to trade complying with paperwork. Authorities involved—including the Bank of Southern Sudan, customs officials from the Government of National Unity and the Government of Southern Sudan, the Ministry of Commerce and Industry of the Government of Southern Sudan, and the Sudan Standard and Metrological Organisation—should reexamine procedural requirements and reassess the need for certain documents. They should also work together on how best to integrate the required information.

For example, to control the movement of the currency, the Bank of Southern Sudan insists on pre-approving letters of credit, and requires 2 additional documents: the letter of approval from the Ministry of Commerce and Industry and the import (IM) form with its accompanying letter from the commercial bank. The Bank of Southern Sudan should consider simplifying this process, for example by allowing a copy of the annual import license to replace an approval letter by the Ministry of Commerce and Industry.

But complying with paperwork is only one aspect of the lengthy trading process that entrepreneurs in Juba face. A careful mapping out of the processes of customs clearance at Nimule and the requirements by the authorities in Juba is needed to identify further effective ways to make importing and exporting easier in Juba.

REDUCE CHECKPOINTS TO A MINIMUM

Checkpoints along the Nimule and Juba road should be reduced as much as possible. While the delays at each checkpoint are generally short, they can extend to several days in the case of the Juba Bridge checkpoint—adding time, cost, and unpredictability to road transportation. Inspection and control procedures at these checkpoints should be simplified, and redundant or duplicative procedures must be removed.

The wealth-sharing agreement of the Comprehensive Peace Agreement of 2005 allows for each state to levy border-trade charges or levies. As a result, goods imported to Juba are currently taxed twice—by the Eastern Equatoria State at the Nimule border and by the Central Equatoria State at the Juba Bridge checkpoint. To streamline this process, the 2 states could sign a cooperation agreement whereby the Central Equatoria State revenue authority would be housed and levied from the Nimule border post. Southern Sudan could go further and establish a revenue authority that collects taxes for all states. If appropriately designed, this could solve the issue of tax collection upon entry into each state.

CONTINUE TO IMPROVE INLAND TRANSPORTATION

While infrastructure in Southern Sudan is improving, there are still sections along the Juba-Nimule road where a small amount of rainfall will flood the road so that trucks cannot go through. Long lines of trucks along different sections of the road are common during the rainy season. Raising the road in sections near rivers and creating ditches where rain water can flow should be a priority as the government continues to work with donors to improve roads connecting to Mombasa.

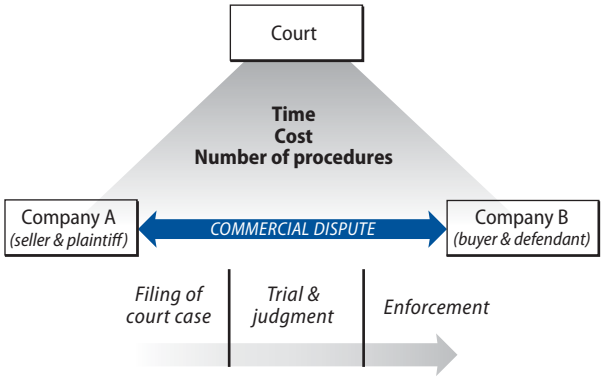
In the longer term, rehabilitating the transport infrastructure network should remain a priority. Rehabilitating the major roads within Southern Sudan and improving water transportation along the river Nile will not only facilitate trading within Southern Sudan, but may also open up trade routes via the Port of Sudan for entrepreneurs in Juba.

1. World Bank. 2010. *Sudan Investment Climate Assessment*. Washington, D.C.: The World Bank Group.
2. World Bank. 2008. *Revitalizing Sudan's Non-Oil Exports: A Diagnostic Trade Integration Study (DTIS) Prepared for the Integrated Framework Program*. Washington, D.C.: The World Bank Group.
3. Djankov, Simeon, Caroline Freund, and Cong S. Pham. 2006. "Trading on Time". World Bank Policy Research Working Paper 3909. Washington, D.C.: The World Bank Group.
4. *Doing Business* assumes a standardized cargo of general goods transported in a 20-foot container. The time, cost, and number of documents required for exporting are best estimates of what a trader will face if exporting occurred. For importing, cements were assumed as the traded product, consistent with the assumptions of the *Doing Business* methodology.
5. Brenthurst Foundation. 2010. "Everything is at Zero – Beyond the Referendum – Drivers and Choices for Development in Southern Sudan". *Discussion Paper* 2010/05.
6. http://www.usaid.gov/locations/sub-saharan_africa/countries/sudan/economic_growth.html
7. World Bank. 2008. *Revitalizing Sudan's Non-Oil Exports: A Diagnostic Trade Integration Study (DTIS) Prepared for the Integrated Framework Program*. Washington, D.C.: The World Bank Group.
8. Ibid.

Enforcing contracts

FIGURE 9.1

What are the time, cost and number of procedures to resolve a commercial dispute through the courts?



Rebuilding the judiciary in post-conflict countries can take many years.[1] The Comprehensive Peace Agreement of 2005 vested legislative authority in the Legislative Assembly of Southern Sudan which enacted several fundamental laws governing commercial regulations and property rights. However, Southern Sudan's legal system is still in transition, relying on 3 different—and sometimes overlapping—legal frameworks: the national laws enacted by the Sudan Legislative Assembly in Khartoum, the laws of the "New Sudan" enacted by the Sudan People's Liberation Movement before 2005, and the laws enacted by the Legislative Assembly of Southern Sudan since 2005. In addition, there are not enough legal professionals in Juba and the courts lack resources.

A functional dispute resolution system is essential for sustaining a healthy, stable economy. A recent study found that efficient contract enforcement is associated with greater access to credit for firms.[2] Well-functioning courts help businesses expand their networks and markets. Where enforcing contracts is easier, entrepreneurs may be less reluctant to undertake risky investments and may be more likely to do business outside a limited circle of family, friends, and partners with whom they have already established relationships.

Doing Business measures the time, cost and number of procedures to resolve a commercial lawsuit between 2 domestic businesses. The dispute involves the breach of a sales contract worth twice the income per capita of the economy. The case is disputed on the merits and the court hears an expert on the quality of the goods sold (figure 9.1).

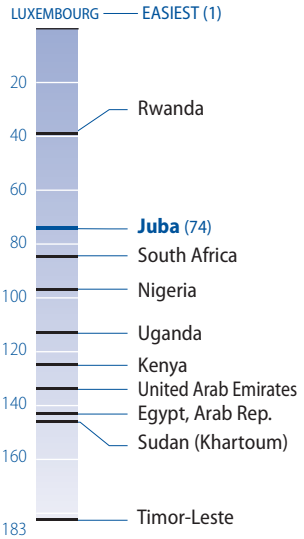
Enforcing a contract in Juba requires 46 procedures over 111 days and costs 26% of the value of the claim—faster and cheaper than the Sub-Saharan average (which requires 639 days and costs 50% of the value of the claim). Compared globally, Juba would rank 74th of 183 economies measured by *Doing Business 2011*—behind Rwanda (39th) but ahead of Khartoum (146th), Kenya (125th), and Uganda (113th). Enforcing a contract in Luxembourg, the best performer on this indicator, requires 26 procedures over 321 days and costs 9.7% of income per capita (figure 9.2).

According to the Civil Procedure Act, the judicial process in Southern Sudan would consist of 46 procedures—above the Sub-Saharan Africa average of 39 procedures (figure 9.3). The same process takes only 20 steps in Ireland and 31 in the OECD economies, on average. Since 2005, the Legislative Assembly of Southern Sudan has enacted a number of laws setting up the legal framework for the judiciary, including the Civil Procedure Act of 2007, the Criminal Procedure Act of 2008, and the Judiciary Act of 2008. The Civil Procedure Act determines jurisdiction by monetary thresholds—without distinction of the subject matter, be it civil or criminal. If the value of the claim is higher than SDG 1,000 (US$ 453), the dispute falls under the jurisdiction of a first grade judge at

FIGURE 9.2

How Juba compares globally and with selected African and Middle Eastern economies on the ease of enforcing contracts

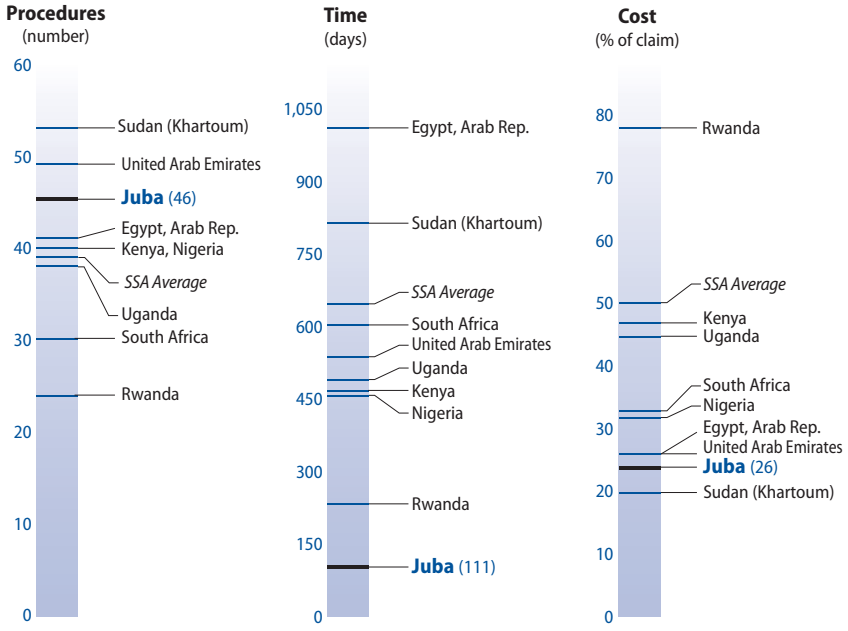
Global ranking (1–183)



Note: The ease of enforcing contracts is based on a simple average of the economy's percentile rankings on the procedures, time, and cost to resolve a commercial dispute through the courts.
See Data notes for details.

Source: Doing Business database.

FIGURE 9.3
Enforcing contracts in selected African and Middle Eastern countries: Juba is faster than anywhere else in the world



Note: SSA denotes the Sub-Saharan Africa region.
Source: Doing Business database.

the county court.[3]

Enforcing a contract in Juba takes 111 days—faster than any of the 183 economies measured by *Doing Business*. The indicator tracks the time needed to resolve a commercial dispute through the 3 stages of litigation: filing and service; trial and judgment; and, finally, enforcement. In Juba, the filing and service period takes 21 days. The judgment period, from the beginning of the trial until the judgment is pronounced, is the most time consuming (60 days). The enforcement period, from the end of the appeal until the plaintiff receives his money, takes 30 days (figure 9.4). Enforcing a contract in Juba is fast, not because the judicial system is efficient and well functioning, but because few commercial cases are resolved in court. Two main factors may explain why: legal uncertainty and understaffing.

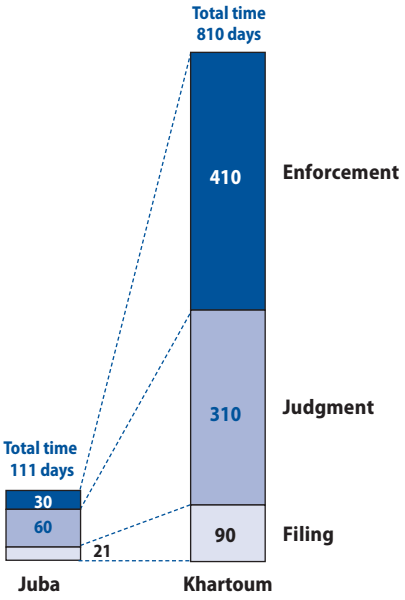
First, legal uncertainty can discourage entrepreneurs from going to court, as Southern Sudan's legal system relies on 3 different—and competing—frameworks. Some judges use different sources of law to resolve commercial disputes. The Chief Justice tried to solve the issue by establishing a clear principle as to which laws apply in each case.[4] The laws of the Legislative Assembly of Southern Sudan and laws of the "New Sudan" apply if the cause of action arose within territory under control of the Sudan Peoples' Liberation Movement before 2005 or within Southern Sudan afterwards. Otherwise, judges should apply the national laws. Still, some judges refuse to apply the laws of the New Sudan. Additionally, customary law—traditional justice applied by the chiefs and built upon custom and tradition—is a predominant source of law in Southern Sudan. In 2004 customary law was used to solve over 90% of disputes.[5]

Second, there is a shortage of legal professionals in Southern Sudan, especially advocates and judges specializing in commercial disputes. In 2005, there were only 22 judges to cover 202 available positions.[6] Most had been trained in Khartoum in the Sharia (Islamic) and continental law systems. They were, therefore, unfamiliar with the common law system and not all spoke English—the language in which Southern Sudan laws are written. The situation has not improved much, given that Juba University just reopened its doors in Juba in 2007. Courts lack bailiffs and support staff and therefore resort to the police for enforcement purposes.

Enforcing a contract in Juba costs 26% of the claim value—the same as in the United Arab Emirates but more than in Tanzania (14%). High advocates' fees—which account for approximately 14% of the value of the claim—make up more than half of the total cost in Juba. Court costs add another 7.1% of the claim value—including 5.1% for court fees and 2% for an expert witness. Enforcement costs add up to 5% of the value of the claim, as set in the fee schedule of the Civil Procedure Act. Enforcing a contract in Khartoum is cheaper (at 19.8% of the claim value) due to its lower court and enforcement costs (5% and 2.5%, respectively) (figure 9.5).

Southern Sudan's judicial system improved during the past 5 years through the enactment of fundamental laws and

FIGURE 9.4
Enforcing contracts in Juba is about 8 times faster than in Khartoum



Source: Doing Business database.

the resumption of training programs. Additionally, Southern Sudan's Chamber of Commerce, Industry and Agriculture was created, which provides an alternative dispute resolution mechanism. However, alternative dispute resolution is conducted by the chamber informally without a legal framework or training for the arbitrators.

WHAT TO REFORM?

KEEP STATISTICS AND MEASURE THE IMPACT OF REFORMS

Statistical information helps assess court performance. The court should produce an annual report—as a (printed) hard copy or (digital) soft copy—with all the cases they received and disposed of, including details about the judges and finances, the number of cases handled and disposed of by type, average time to disposition, and annual clearance and appeals rates.

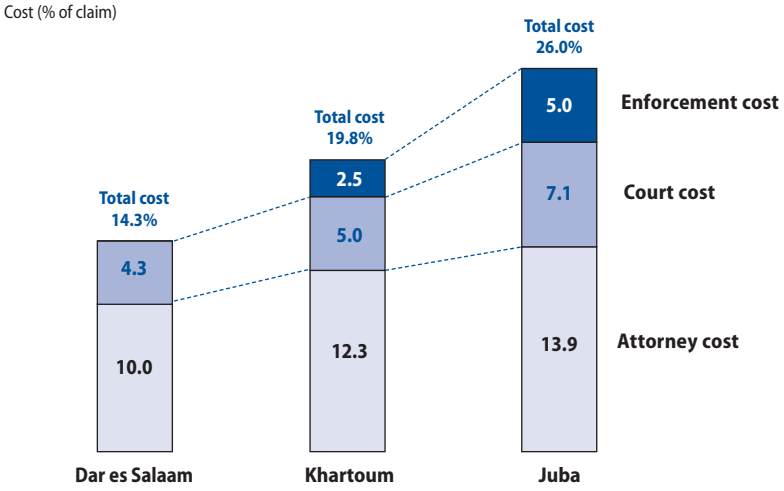
Measuring the performance of courts and individual judges can increase efficiency. Assessments of a court's performance can help its personnel set concrete targets. Assessments can also aid in evaluating the court's progress toward its goals—in setting budgets and in motivating staff to improve performance.[7] What gets measured can range from user satisfaction to costs, timeliness and clearance rates.[8] Economies such as Australia, Singapore, and the United States have been using tools to measure performance in the judicial sector since the late 1990s.[9]

CLARIFY THE LEGAL FRAMEWORK, ENACT MISSING REGULATION, AND PUBLICIZE APPLICABLE LEGISLATION

When it is unclear which laws apply, judges apply different sources and principles. Entrepreneurs can be discouraged from bringing a case to court when the outcome is so unpredictable. In Southern Sudan, although some laws have been enacted and a circular was issued establishing a rule for applicability, there is no consensus among judges as to which laws to apply. The Government, the Legislative Assembly, and the Judiciary of Southern Sudan should work together to clarify the legal commercial framework. To do so, judges could be convened to identify why previous attempts at clarifying the legal framework have remained ineffective and what measures can be adopted. Enacting missing laws and regulations—namely the new Companies Act—could solve some of the existing controversies. Communicating the concrete steps the government is taking to improve legal certainty could build confidence in the judicial system.

Informing the public about applicable legislation is also critical. A well informed public is encouraged to bring their cases to court. By 2010, 104 economies around the globe made legal texts and recent court judgments available to the general public, while 30 economies—most of them in Sub-Saharan Africa—did not provide access to such information.[10] In Southern Sudan, hard copies could be made available at the Ministry of Legal Affairs and Constitutional Development and at the Legislative Assembly. Electronic copies should be published online.

FIGURE 9.5
Enforcing contracts in Juba is more expensive than in Khartoum and Dar es Salaam



Source: Doing Business database.

INCREASE THE NUMBER OF LEGAL PROFESSIONALS

Legal professionals, such as advocates and judges, are in short supply in Southern Sudan. This is a common situation in post-conflict countries. Chad has about 150 practicing lawyers, and in 2009 it had only 6 new law graduates. Liberia has only about 300 practicing lawyers for a population of 3.4 million, and many lack legal training.[11] While training takes a long time, other countries have found short-term solutions. Rwanda had to change its law to allow the hiring of non-Rwandese expatriate judges—in May 2008, 2 Mauritian judges were sworn in to help local judges run the courts during the first 3 years of operation.[12] These solutions have to be assessed on a case-by-case basis since they are not exempt from difficulties.

Judges should be trained, courts equipped with new resources, and legal academies given the support they need. The capacity of administrative and support staff (such as clerks and bailiffs) ought to be strengthened. Training programs should target practicing judges and advocates as well as law students at Juba University. The curriculum at the Faculty of Law in Juba University should be carefully reviewed to make sure that the new laws are studied and that professional training is included.

ESTABLISH SPECIALIZED JUDGES OR SPECIALIZED COMMERCIAL SECTIONS WITHIN EXISTING COURTS

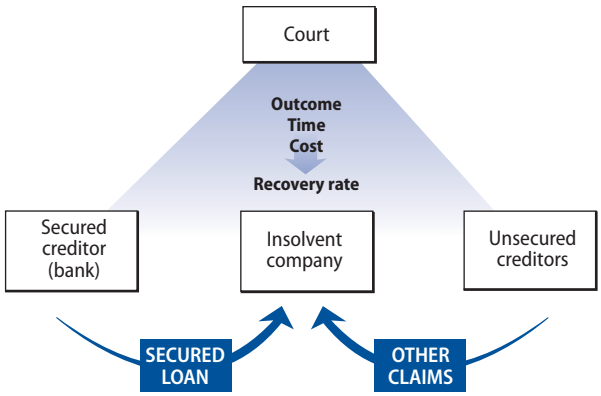
Currently, judges in Southern Sudan are competent to hear all cases without regard of the subject matter. Even though the volume of commercial cases is low, having specialized commercial judges within existing courts would help ensure that commercial disputes are resolved more quickly and efficiently. It would allow judges to acquire more knowledge on commercial cases through practice and through specific training. Jordan introduced specialized commercial judges sitting at its Conciliation Courts—these judges are either practicing lawyers with commercial experience or those graduating from a special training program at the Judicial Institute of Jordan.

In the long term, a commercial section could be established within Southern Sudan's existing courts, allowing for further specialization. Economies with commercial divisions within high courts include Ireland, Kenya, Nigeria, Uganda, and the United Kingdom. Within Sub-Saharan Africa, 24 economies already have some kind of specialized court, including Khartoum.

1. Samuels, Kristi. "Rule of Law Reform in Post-Conflict Countries: Operational Initiatives and Lessons Learnt." Social Development Paper No. 37. October 2006. Washington, D.C.: The World Bank Group.
2. Bae, Kee-Hong, and Vidhan K. Goyal. 2009. "Creditor Rights, Enforcement, and Bank Loans." *Journal of Finance* 64 (2): 823–60.
3. The value of the claim, according to the *Doing Business* case study, amounts to 200% of gross national income per capita, SDG 5,437 (US$ 2,460).
4. Circular No. 1/2007. Judiciary of Southern Sudan.
5. Jok, Aleu Akechak, Robert A Leitch, Carrie Vandewint. "A Study of Customary Law in Contemporary Southern Sudan." World Vision International and South Sudan Secretariat of Legal and Constitutional Affairs. March 2004. Also: Leonardi, Cherry and Leben Nelson Moro, Martina Santschi, Deborah H. Isser. "Local Justice in Southern Sudan." United States Institute of Peace and Rift Valley Institute. http://www.usip.org/publications/local-justice-southern-sudan.
6. World Bank and United Nations. *Joint Assessment Mission*. 2005. Also: UNDP. Institutional Support to Southern Sudan Judiciary. 2007.
7. National Center for State Courts (2005a). "CourTools: Giving Courts the Tools to Measure Success." Williamsburg, VA. http://www.ncsconline.org/.
8. National Center for State Courts (2005a, 2005b). 2005b. "CourTools: Trial Court Performance Measures." Williamsburg, VA. http://www.ncsconline.org/.
9. For the United States, see the official website of the National Center for State Courts (http://www.ncsconline.org/) and North Carolina Court System, "Court Performance Management System."
10. World Bank. 2009. *Doing Business 2010: Reforming through Difficult Times*. Washington, D.C.: The World Bank Group.
11. World Bank. 2010. *Doing Business 2011: Making a Difference for Entrepreneurs*. Washington, D.C.: The World Bank Group.
12. Hertveldt, Sabine. 2008. "Pragmatism Leads the Way in Setting Up Specialized Commercial Courts." *Doing Business* case study: Rwanda. Washington, D.C.: World Bank Group.

Closing a business

FIGURE 10.1
What are the time, cost and outcome of the insolvency proceedings against a local company?



Perhaps no other area of business regulation has been tested more by the recent global financial and economic crisis than insolvency. As crisis-affected businesses filed for bankruptcy, governments around the world saw their insolvency regimes bending under difficult economic conditions. History shows that financial crises can provide good opportunities for bankruptcy reforms.[1] The Great Depression prompted the first comprehensive reform of U.S. bankruptcy law in 50 years. The Chandler Act of 1938, the predecessor of today's Chapter 11, established the authority of bankruptcy administrators vesting them with powers to help effective reorganizations. Similarly, the 1997 Asian financial crisis spurred efforts across East Asia to restructure national bankruptcy procedures. When illiquidity spread across the region in 1997–98, the entire financial sector was dragged down and liquidations became widespread. Korea and Thailand modified their laws to favor the rehabilitation of distressed firms.

Good bankruptcy regimes achieve 3 goals. First, they maximize the total proceeds received by creditors, shareholders, employees, and other stakeholders. Second, they rehabilitate viable businesses and close unviable ones. Third, they establish a clear priority ranking of creditors for repayment. Countries with laws meeting these 3 objectives achieve higher recovery rates than countries without such laws.

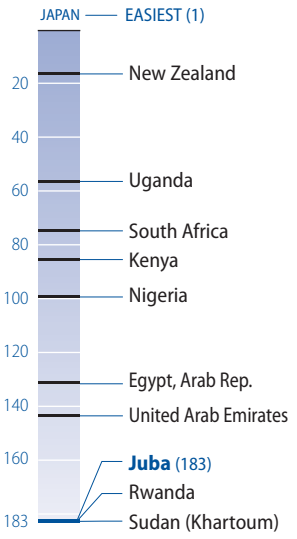
Doing Business studies the time, cost and outcome of insolvency proceedings involving domestic entities (figure 10.1).[2] Speed, low costs and continuation of viable businesses characterize the top-performing economies. *Doing Business* does not measure insolvency proceedings of individuals and financial institutions.[3]

Juba is among the world's poorest performers in the area of closing a business. Globally, Juba would rank among the bottom 26 economies on this indicator. Although closing a business is regulated by the Companies Act of 2003—and the new Insolvency Bill of 2009 is awaiting enactment—there are very few records of formal bankruptcy procedures being used. As such, Juba is classified as a "no practice" economy in the area of closing a business according to the *Doing Business* methodology (figure 10.2).

This does not put Juba far behind other countries in the region. Sub-Saharan Africa has the largest share of economies with little or no insolvency practice. In fact, 12 of the region's 46 economies have had fewer than 5 insolvency cases annually in recent years. In these economies, the law still contemplates imprisonment (contrainte par corps) as a method of debt enforcement, judges have little or no experience in handling bankruptcy cases, and costs are prohibitive.[4] To close a business in Sub-Saharan Africa costs, on average, 20.7% of the value of the debtor's estate and takes 3.4 years.

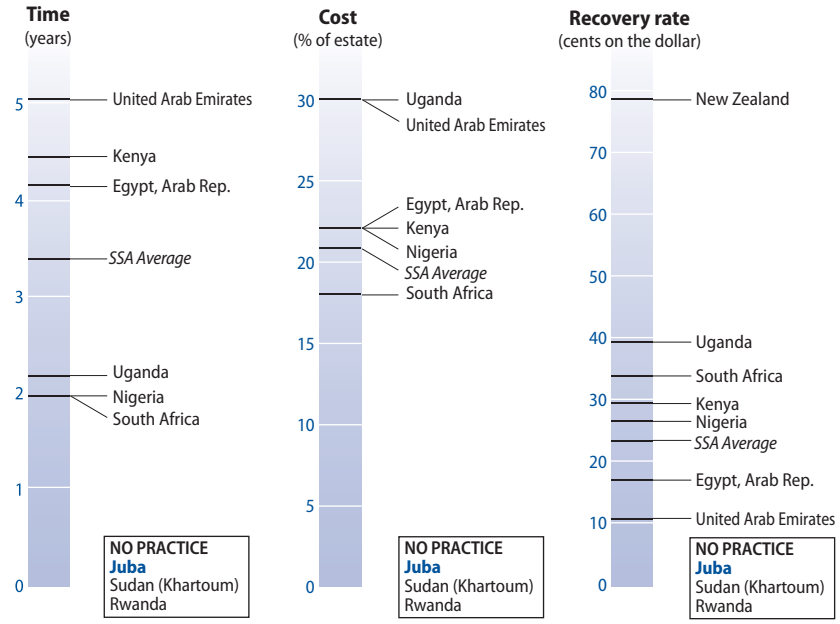
In spite of its relevance to securing sustainable economic growth, there

FIGURE 10.2
How Juba compares globally and with selected African and Middle Eastern economies on the ease of closing a business
Global ranking (1–183)



Note: The ease of closing a business is based on the economy's percentile ranking on the recovery rate: how many cents on the dollar claimants (creditors, tax authorities, and employees) recover from the insolvent firm. See Data notes for details.
Source: Doing Business database.

FIGURE 10.3
Closing a business: no practice in bankruptcy in Juba



Note: SSA denotes the Sub-Saharan Africa region.
Source: Doing Business database.

were very few economies in the world improving their insolvency systems in recent years. There are 2 reasons that help explain this. First, bankruptcy reforms are complex: they usually involve making changes not only to the bankruptcy rules, but also in the rules of civil procedure and the administration of the judiciary. In some countries, it might even involve establishing the first bankruptcy law. That may take years. Second, in many countries, a large number of businesses operate in the informal sector or are family-owned and so bankruptcy is not a priority reform.

Nevertheless, some reformers in Sub-Saharan Africa provide useful insights regarding how to go about reforming insolvency proceedings in Southern Sudan. Rwanda improved its process of dealing with distressed companies through a new law designed to streamline reorganization procedures. The law allows viable but distressed firms to continue operating while setting clear time limits on insolvency procedures and regulating the profession of bankruptcy administrators. Malawi enacted its Companies Regulation of 2009 and set a cap on liquidators' fees: 5% of the value of the estate. Previously, under older regulations, Malawi's liquidators were allowed to set their own fees, often amounting to around 10% of the value of the estate.[5] Mauritius passed a new insolvency law which established a rehabilitation procedure for companies as an alternative to winding up. The law also sets clear time limits, defines the rights and obligations of creditors and debtors, and outlines sanctions for those who abuse the system.

Efficient bankruptcy regimes help entrepreneurs get access to credit, which allows them to start new businesses. Easier exit means easier entry. In addition, a functioning bankruptcy system reassures creditors that if things go wrong they have a secured mechanism to get their money back. As a result of this reassurance, they are more likely to lend and to require less collateral than they would otherwise—stimulating the flow of credit to small and medium-size firms. A good regional example of such regulatory environment is Botswana, where insolvency proceedings take less than 2 years and cost 15% of the estate value. Creditors are expected to recover 63.7% of the estate in the end—which is slightly short of the OECD's average of 69.1% but significantly better than Sub-Saharan Africa's average of 23.2%.

WHAT TO REFORM?

Nonviable businesses need to be able to make orderly exits. However, overburdened courts, unqualified liquidators, and rigid laws are obstacles to surmount. Governments can help in 3 basic ways: by encouraging firms to seek pre-insolvency solutions, by improving the efficiency of courts, and by training receivers and liquidators to do a good job in administering distressed companies and selling their assets efficiently. Implementing these reforms could also help distressed businesses to successfully reorganize—an important factor in achieving sustainable economic growth and preserving jobs. Southern Sudan's new Insolvency Bill of 2009 and Companies Bill of 2010—both awaiting enactment—represent big moves in the right direction. In addition, below are some of the lessons learned from the world's best reformers in insolvency proceedings.

UNDERTAKE A REVIEW OF THE INSOLVENCY SYSTEM TO UNDERSTAND WHY THERE ARE SO FEW INSOLVENCY PROCEEDINGS

In any vibrant market economy, businesses fail and need a mechanism for orderly exit. If an analysis of business exits in Juba illustrates that the current insolvency system does not respond to the needs of debtors or creditors on the ground, it is important to identify what alternative methods are preferred and why. It is likely that these mechanisms do not provide the predictability, transparency, and efficiency of a sound insolvency system. Until such problems are

clearly identified, it is difficult to design reforms that will affect practice on the ground. It is therefore recommended that a review is undertaken in order to try to answer 3 questions: 1) why the current insolvency system is not being used; 2) what alternatives are being used in its place by both debtors and creditors; and 3) what mechanisms can be implemented to address these problems.

REVISE INSOLVENCY LEGISLATION TO CONFORM TO INTERNATIONAL LEADING PRACTICES, INCLUDING THE INTRODUCTION OF UP-TO-DATE REORGANIZATION PROVISIONS

A comprehensive evaluation of current legislation is recommended to identify measures that could bring Southern Sudan's insolvency laws into line with international leading practices. For example, provisions for the efficient reorganization (or restructuring) of distressed companies that would allow the business to continue operating are working well elsewhere. Many jurisdictions—including the United Kingdom, Rwanda, Singapore, and South Africa—have reformed their insolvency legislation in recent years to improve such procedures.

DEVELOP AND IMPLEMENT AN INSOLVENCY PRACTITIONER REGULATORY FRAMEWORK

One of the main prerequisites to creating a fully functioning insolvency system is the development of the insolvency practitioner profession. Insolvency practitioners play a key role in reorganization and liquidation proceedings, as they often supervise or take over the management of companies undergoing bankruptcy. It is important to establish and enforce professional standards for insolvency practitioners—for example, through licensing, training, ethical guidelines, and national standards of professional conduct. Mechanisms to monitor insolvency practitioners and to investigate any violations should also be introduced.

INCREASE THE CAPACITY OF INSTITUTIONS THAT IMPLEMENT THE INSOLVENCY FRAMEWORK

The institutions that implement insolvency frameworks should include both courts and regulatory agencies. The scarcity of insolvency cases in Juba suggests that enterprises facing difficulties do not resort to the judicial system, preferring instead to deal with insolvency through unofficial channels. Even though Southern Sudan has legislation in place to govern judicial proceedings for companies experiencing financial difficulties—such as the Companies Act of 2003—the law is rarely applied in practice. The development of court practice would increase creditor and debtor confidence in Juba's formal bankruptcy proceedings.

TRAIN DESIGNATED JUDGES TO HANDLE INSOLVENCY CASES

The efficient processing of insolvency cases is extremely important because prolonged delays can cause business assets to lose their value and reduce firms' chances to continue functioning as viable enterprises. Within a commercial court, 1 or 2 judges could be designated to handle insolvency cases, allowing them to develop specialized expertise in this area. Also, in order to prevent the overburdening of the courts, new laws could limit the court's involvement to cases where parties cannot agree on their own. According to *Doing Business 2011*, only about 45 economies in a sample of 149 have a framework for out-of-court workouts that allows creditors and debtors to bring to a court a prenegotiated reorganization plan.[6]

ADOPT GUIDELINES THAT FACILITATE OUT-OF-COURT WORKOUTS

In light of the previous recommendation, out-of-court guidelines have been introduced in many countries—including the United Kingdom, Indonesia, and Turkey. These guidelines enable debtors and creditors to undertake the informal restructuring process by negotiating options that can later be approved in court. This helps ease the burden on courts while increasing the likelihood that companies will restructure their debt if there is still a chance of rescuing the business.

CONSIDER WHETHER PROVISIONS SHOULD BE IMPLEMENTED TO SPECIFICALLY ADDRESS THE NEEDS OF MICRO, SMALL, AND MEDIUM-SIZE ENTERPRISES THAT HAVE FALLEN INTO BANKRUPTCY

Few insolvency regimes provide mechanisms that assist in flexible and cheap restructuring of debt or bankruptcies for small business entities, even though they often comprise the majority of businesses and contribute to an economy through their innovations, employment, and entrepreneurship. It might be useful to examine different insolvency mechanisms that are used elsewhere for micro, small and medium-size enterprises—although a tailored approach would most likely be required to address the specific needs of enterprises in Juba.

1. Gine, Xavier and Inessa Love. "Do Reorganization Costs Matter for Efficiency? Evidence from a Bankruptcy Reform in Colombia," *World Bank Policy Research Working Paper* 3970, revised May 2009.
2. Outcome refers to whether the hotel business in the *Doing Business* case study emerges from the proceedings as a going concern or whether the company's assets are sold piecemeal (see Data notes).
3. Djankov, Simeon. 2009. "Bankruptcy Regimes during Financial Distress." Washington, D.C.: The World Bank Group.
4. World Bank. 2010. *Doing Business in the East African Community 2010*. Washington, D.C.: The World Bank Group.
5. Ibid.
6. World Bank. 2011. *Doing Business 2011: Making a Difference for Entrepreneurs*. Washington, D.C.: The World Bank Group.

Data notes

ECONOMY CHARACTERISTICS

GROSS NATIONAL INCOME (GNI) PER CAPITA

Doing Business in Juba 2011 reports 2009 income per capita for Sudan as published in the World Bank's World Development Indicators 2009. Income is calculated using the Atlas method (current US$). For cost indicators expressed as a percentage of income per capita, 2009 GNI in local currency units is used as the denominator. Sudan's GNI per capita in 2009 = US$1,230.

EXCHANGE RATE

The exchange rate used in this report is: 1 USD = 2.21 SDG *(Sudanese Pounds)*

REGION AND INCOME GROUP

Doing Business uses the World Bank regional and income group classifications available at http://www.worldbank.org/data/countryclass.

The indicators presented and analyzed in *Doing Business in Juba 2011* measure business regulation and the protection of property rights—and their effect on businesses, especially small and medium-size domestic firms. First, the indicators document the degree of regulation, such as the number of procedures to start a business or to register and transfer commercial property. Second, they gauge regulatory outcomes, such as the time and cost to enforce a contract, go through bankruptcy or trade across borders. Third, they measure the extent of legal protections of property, for example, the protections of investors against looting by company directors or the range of assets that can be used as collateral according to secured transactions laws. Fourth, a set of indicators documents the tax burden on businesses. Finally, a set of indicators measures different aspects of employment regulation.

The data for all sets of indicators in *Doing Business in Juba 2011* are as of November 2010. The data for paying taxes refer to January – December 2009.

METHODOLOGY

The *Doing Business in Juba 2011* data are collected in a standardized way. To start, the *Doing Business* team, with academic advisers, designs a survey. The survey uses a simple business case to ensure comparability across countries and over time—with assumptions about the legal form of the business, its size, its location and the nature of its operations. Then the survey is customized to the particular case of Juba. Surveys are administered through 94 local experts, including lawyers, business consultants, construction firms, engineers, freight forwarders, local and national-level government officials and other professionals routinely administering or advising on legal and regulatory requirements. These experts have several rounds of interaction with the *Doing Business in Juba 2011* team, through face-to-face interviews, conference calls and written correspondence. The data from surveys are subjected to numerous tests for robustness, which lead to revisions or expansions of the information collected. For example, the preliminary findings are presented through right of reply sessions conducted with the Government of Southern Sudan and state-level government officials. Following the right of reply sessions experts are contacted to validate findings and clarify issues from the right of reply sessions.

The *Doing Business* methodology offers several advantages. It is transparent, using factual information about what laws and regulations say and allowing multiple interactions with local respondents to clarify potential misinterpretations of questions. Having representative samples of respondents is not an issue, as the texts of the relevant laws and regulations are collected and answers checked for accuracy. The methodology is inexpensive and easily replicable, so data can be collected in a large sample of economies. Because standard assumptions are used in the data collection, comparisons and benchmarks are valid across economies. Finally, the data not only highlight the extent of specific regulatory obstacles to doing business but also identify their source and point to what might be reformed.

LIMITS TO WHAT IS MEASURED

The *Doing Business* methodology applied to *Doing Business in Juba 2011* has 4 limitations that should be considered when interpreting the data. First, the data often focus on a specific business form—a limited liability company of a specified size—and may not be representative of the regulation on other businesses, for example, sole proprietorships. Second, transactions described in a standardized case study refer to a specific set of issues and may not represent the full set of issues a business encounters. Third, the measures of time involve an element of judgment by the expert respondents. When sources indicate different estimates, the time indicators reported in *Doing Business* represent the median values of several responses given under the assumptions of the standardized case.

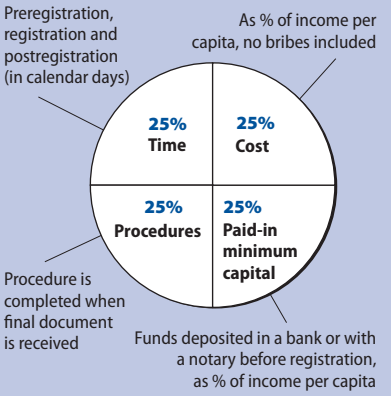
Finally, the methodology assumes that a business has full information on what is required and does not waste time when completing procedures. In practice, completing a procedure may take longer if the business lacks information or is unable to follow up promptly. Alternatively, the business may choose to disregard some burdensome procedures. For both reasons the time delays reported in *Doing Business in Juba 2011* would differ from the perceptions of entrepreneurs reported in the World Bank Enterprise Surveys or other perception surveys.

STARTING A BUSINESS

Doing Business records all procedures that are officially required for an entrepreneur to start up and formally operate a commercial business. These include obtaining all necessary licenses and permits and completing any required notifications, verifications or inscriptions for the company and employees with relevant authorities. The ranking on the ease of starting a business is the simple average of the percentile rankings on its component indicators (figure 11.1).

After a study of laws, regulations and publicly available information on business entry, a detailed list of procedures is developed, along with the time and cost of complying with each procedure under nor-

FIGURE 11.1
Starting a business: getting a local limited liability company up and running
Rankings are based on 4 subindicators



mal circumstances and the paid-in minimum capital requirements. Subsequently, local incorporation lawyers and government officials complete and verify the data.

Information is also collected on the sequence in which procedures are to be completed and whether procedures may be carried out simultaneously. It is assumed that any required information is readily available and that all agencies involved in the start-up process function without corruption. If answers by local experts differ, inquiries continue until the data are reconciled.

To make the data comparable across countries, several assumptions about the business and the procedures are used.

ASSUMPTIONS ABOUT THE BUSINESS

The business:

- Is a limited liability company. If there is more than one type of limited liability company in the country, the limited liability form most popular among domestic firms is chosen. Information on the most popular form is obtained from incorporation lawyers or the statistical office.
- Operates in the commercial district of the selected cities.
- Is 100% domestically owned and has 5 owners, none of whom is a legal entity.
- Has start-up capital of 10 times income per capita at the end of 2009, paid in cash.
- Performs general commercial activities, such as the production or sale of products or services to the public. The business does not perform foreign trade activities and does not handle products subject to a special tax regime, for example, liquor or tobacco. It is not using heavily polluting production processes.
- Leases the commercial plant and offices and is not a proprietor of real estate.
- Does not qualify for investment incentives or any special benefits.
- Has at least 10 and up to 50 employees 1 month after the commencement of operations, all of them nationals.
- Has a turnover of at least 100 times income per capita.
- Has a company deed 10 pages long.

PROCEDURES

A procedure is defined as any interaction of the company founder with external parties (for example, government agencies, lawyers, auditors or notaries). Interactions between company founders or company officers and employees are not counted as procedures. Procedures that must be completed in the same building but in different offices are counted as separate procedures. If founders have to visit the same office several times for different sequential procedures, each is counted separately. The founders are assumed to complete all procedures themselves, without middlemen, facilitators, accountants or lawyers, unless the use of such a third party is mandated by law. If the services of professionals are required, procedures conducted by such professionals on behalf of the company are counted separately. Each electronic procedure is counted separately. If 2 procedures can be completed through the same website but require separate filings, they are counted as 2 procedures.

Both pre- and post- incorporation procedures that are officially required for an entrepreneur to formally operate a business are recorded (table 11.1).

Procedures required for official correspondence or transactions with public agencies are also included. For example, if a company seal or stamp is required on official documents, such as tax declarations, obtaining the seal or stamp is counted. Similarly, if a company must open a bank account before registering for sales tax or value added tax, this transaction is included as a procedure. Shortcuts are counted only if they fulfill 4 criteria: they are legal, they are available to the general public, they are used by the majority of companies, and avoiding them causes substantial delays.

Only procedures required of all businesses are covered. Industry-specific procedures are excluded. For example, procedures to comply with environmental regulations are included only when they apply to all businesses conducting general commercial or industrial activities. Procedures that the company undergoes to connect to electricity, water, gas and waste disposal services are not included.

TIME

Time is recorded in calendar days. The measure captures the median duration that incorporation lawyers indicate is necessary to complete a procedure with minimum follow-up with government agencies and no extra payments. It is assumed that the minimum time required for each procedure is 1 day. Although procedures may take place simultaneously, they cannot start on the same day (that is, simultaneous procedures start on consecutive

TABLE 11.1
What do the starting a business indicators measure?

Procedures to legally start and operate a company *(number)*
• Preregistration (for example, name verification or reservation, notarization)
• Registration in the economy's largest business city
• Postregistration (for example, social security registration, company seal)
Time required to complete each procedure *(calendar days)*
• Does not include time spent gathering information
• Each procedure starts on a separate day
• Procedure completed once final document is received
• No prior contact with officials
Cost required to complete each procedure *(% of income per capita)*
• Official costs only, no bribes
• No professional fees unless services required by law
Paid-in minimum capital *(% of income per capita)*
• Deposited in a bank or with a notary before registration begins

Source: Doing Business database.

days). A procedure is considered completed once the company has received the final document, such as the company registration certificate or tax number. If a procedure can be accelerated for an additional cost, the fastest procedure is chosen. It is assumed that the entrepreneur does not waste time and commits to completing each remaining procedure without delay. The time that the entrepreneur spends on gathering information is ignored. It is assumed that the entrepreneur is aware of all entry regulations and their sequence from the beginning but has had no prior contact with any of the officials.

COST

Cost is recorded as a percentage of the country's income per capita. It includes all official fees and fees for legal or professional services if such services are required by law. Fees for purchasing and legalizing company books are included if these transactions are required by law. The company law, the commercial code and specific regulations and fee schedules are used as sources for calculating costs. In the absence of fee schedules, a government officer's estimate is taken as an official source. In the absence of a government officer's estimate, estimates of incorporation lawyers are used. If several incorporation lawyers provide different estimates, the median reported value is applied. In all cases the cost excludes bribes.

PAID-IN MINIMUM CAPITAL

The paid-in minimum capital requirement reflects the amount that the entrepreneur needs to deposit in a bank or with a notary before registration and up to 3 months following incorporation and is recorded as a percentage of the country's income per capita. The amount is typically specified in the commercial code or the company law. Many countries have a minimum capital requirement but allow businesses to pay only a part of it before registration, with the rest to be paid after the first year of operation. In Italy in June 2009 the minimum capital requirement for limited liability companies was €10,000, of which at least €2,500 was payable before registration. The paid-in minimum capital recorded for Italy is therefore €2,500, or 10.1% of income per capita. In Mexico the minimum capital requirement was 50,000 pesos, of which one-fifth needed to be paid before registration. The paid-in minimum capital recorded for Mexico is therefore 10,000 pesos, or 9.2% of income per capita.

The data details on starting a business can be found for each economy at http://www.doingbusiness.org by selecting the economy in the drop-down list. This methodology was developed in Djankov, Simeon, Rafael la Porta, Florencio López-de-Silanes and Andrei Schleifer. 2002. "The Regulation of Entry." Quarterly Journal of Economics 117(1):1-37, and is adopted here with minor changes.

DEALING WITH CONSTRUCTION PERMITS

Doing Business records all procedures required for a business in the construction industry to build a standardized warehouse. These procedures include submitting all relevant project-specific documents (for example, building plans and site maps) to the authorities; obtaining all necessary clearances, licenses, permits and certificates; completing all required notifications; and receiving all necessary inspections. *Doing Business in Juba 2011* also records procedures for obtaining connections for electricity, water, sewerage, and a fixed land line. Procedures necessary to register the property so that it can be used as collateral or transferred to another entity are also counted. The survey divides the process of building a warehouse into distinct procedures and calculates the time and cost of completing each procedure in practice under normal circumstances. The ranking on the ease of dealing with construction permits is the simple average of the percentile rankings on its component indicators (figure 11.2).

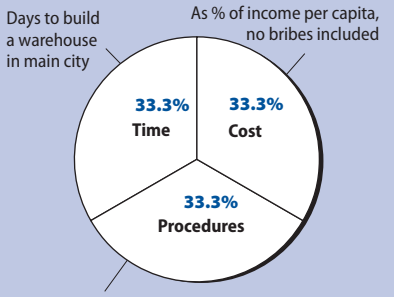
Information is collected from experts in construction permitting, including architects, construction lawyers, construction firms, utility service providers and public officials who deal with building regulations, including approvals and inspections. To make the data comparable across economies, several assumptions about the business, the warehouse project and the utility connections are used.

ASSUMPTIONS ABOUT THE CONSTRUCTION COMPANY

The business (BuildCo):

- Is a limited liability company.
- Operates in the selected cities.
- Is 100% domestically and privately owned.
- Has 5 owners, none of whom is a legal entity.
- Is fully licensed and insured to carry out construction projects, such as building warehouses.
- Has 60 builders and other employees, all of them nationals with the technical expertise and professional experience necessary to obtain construction permits and approvals.
- Has at least 1 employee who is a licensed architect and registered with the local association of architects.
- Has paid all taxes and taken out all necessary insurance applicable to its general business activity (for example, accidental insurance for construction workers and third-person liability insurance).
- Owns the land on which the warehouse is built.

FIGURE 11.2
Dealing with construction permits: building a warehouse
Rankings are based on 3 subindicators



Procedure is completed when final document is received; construction permits, inspections and utility connections included

ASSUMPTIONS ABOUT THE WAREHOUSE

The warehouse:

- Will be used for general storage activities, such as storage of books or stationery. The warehouse will not be used for any goods requiring special conditions, such as food, chemicals or pharmaceuticals.
- Has 2 stories, both above ground, with a total surface of approximately 14,000 square feet (1,300.6 square meters). Each floor is 9 feet, 10 inches (3 meters) high.
- Has road access and is located in the periurban area of Juba (that is, on the fringes of the city but still within its official limits).
- It is not located in a special economic or industrial zone. The zoning requirements for warehouses are met by building in an area where similar warehouses can be found.
- Is located on a land plot of 10,000 square feet (929 square meters) that is 100% owned by BuildCo and is registered in the cadastre and land registry.
- Is a new construction (there was no

TABLE 11.2

What do the dealing with construction permits indicators measure?

Procedures to legally build a warehouse *(number)*
• Submitting all relevant documents and obtaining all necessary clearances, licenses, permits and certificates • Completing all required notifications and receiving all necessary inspections • Obtaining utility connections for electricity, water, sewerage and a land telephone line • Registering the warehouse after its completion (if required for use as collateral or for transfer of warehouse)
Time required to complete each procedure *(calendar days)*
• Does not include time spent gathering information • Each procedure starts on a separate day • Procedure completed once final document is received • No prior contact with officials
Cost required to complete each procedure *(% of income per capita)*
Official costs only, no bribes

Source: Doing Business database.

previous construction on the land).
- Has complete architectural and technical plans prepared by a licensed architect.
- Will include all technical equipment required to make the warehouse fully operational.
- Will take 30 weeks to construct (excluding all delays due to administrative and regulatory requirements).

ASSUMPTIONS ABOUT THE UTILITY CONNECTIONS

The electricity connection:
- Is 10 meters (32 feet, 10 inches) from the main electricity network.
- Is a medium-tension, 3-phase, 4-wire Y, 140-kilovolt-ampere (kVA) connection. Three-phase service is available in the construction area.
- Will be delivered by an overhead service, unless overhead service is not available in the periurban area.
- Consists of a simple hookup unless installation of a private substation (transformer) or extension of network is required.
- Requires the installation of only one electricity meter.
- BuildCo is assumed to have a licensed electrician on its team to complete the internal wiring for the warehouse.

The water and sewerage connection:
- Is 10 meters (32 feet, 10 inches) from the existing water source and sewer tap.
- Does not require water for fire protection reasons; a fire extinguishing system (dry system) will be used instead. If a wet fire protection system is required by law, it is assumed that the water demand specified below also covers the water needed for fire protection.
- Has an average water use of 662 liters (175 gallons) a day and an average wastewater flow of 568 liters (150 gallons) a day.
- Has a peak water use of 1,325 liters (350 gallons) a day and a peak wastewater flow of 1,136 liters (300 gallons) a day.
- Will have a constant level of water demand and wastewater flow throughout the year.

The telephone connection:
- Is 10 meters (32 feet, 10 inches) from the main telephone network.
- Is a fixed land line.

PROCEDURES

A procedure is any interaction of the company's employees or managers with external parties, including government agencies, notaries, the land registry, the cadastre, utility companies, public and private inspectors and technical experts apart from in-house architects and engineers. Interactions between company employees, such as development of the warehouse plans and inspections conducted by employees, are not counted as procedures. Procedures that the company undergoes to connect to electricity, water, sewerage and telephone services are included. All procedures that are legally or in practice required for building a warehouse are counted, even if they may be avoided in exceptional cases (table 11.2).

TIME

Time is recorded in calendar days. The measure captures the median duration that local experts indicate is necessary to complete the procedure in practice. It is assumed that the minimum time required for each procedure is 1 day. Although procedures may take place simultaneously, they cannot start on the same day (that is, simultaneous procedures start on consecutive days). If a procedure can be accelerated legally for an additional cost, the fastest procedure is chosen. It is assumed that BuildCo does not waste time and commits to completing each remaining procedure without delay. The time that BuildCo spends on gathering information is ignored. It is assumed that BuildCo is aware of all building requirements and their sequence from the beginning.

COST

Cost is recorded as a percentage of the economy's income per capita. Only official costs are recorded. All the fees associated with completing the procedures to legally build a warehouse are recorded, including those associated with obtaining land use approvals and preconstruction design clearances; receiving inspection before, during and after construction; getting utility connections; and registering the warehouse property. Nonrecurring taxes required for the completion of the warehouse project are also recorded. The building code, information from local experts and specific regulations and fee schedules are used as sources for costs. If several local partners provide different estimates, the median reported value is used.

The data details on dealing with construction permits can be found for each economy at http://www.doingbusiness.org by selecting the economy in the drop-down list.

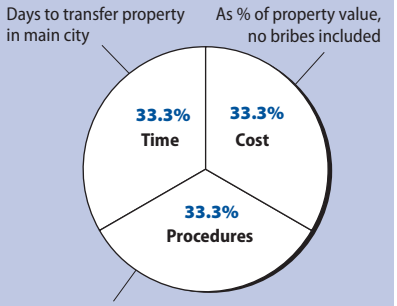
REGISTERING PROPERTY

Doing Business records the full sequence of procedures necessary for a business (buyer) to purchase a property from another business (seller) and to transfer the property title to the buyer's name so that the buyer can use the property for expanding its business, as collateral in taking new loans or, if necessary, sell to another business. The process starts with obtaining the necessary documents, such as a copy of the seller's title if necessary, and conducting due diligence if required. The transaction is considered complete when it is opposable to third parties and when the buyer can use the property, use it as collateral for a bank loan or resell it. The ranking on

FIGURE 11.3

Registering property: transfer of property between 2 local companies

Rankings are based on 3 subindicators



the ease of registering property is the simple average of the percentile rankings on its component indicators (figure 11.3).

Every procedure required by law or necessary in practice is included, whether it is the responsibility of the seller or the buyer or must be completed by a third party on their behalf. Local property lawyers, notaries and property registries provide information on procedures as well as the time and cost to complete each of them.

ASSUMPTIONS ABOUT THE PARTIES

The parties (buyer and seller):

- Are limited liability companies.
- Are located in the periurban area of the selected cities.
- Are 100% domestically and privately owned.
- Have 50 employees each, all of whom are nationals.
- Perform general commercial activities.

ASSUMPTIONS ABOUT THE PROPERTY

The property:

- Has a value of 50 times income per capita. The sale price equals the value.
- Is fully owned by the seller.
- Has no mortgages attached and has been under the same ownership for the past 10 years.
- Is registered in the land registry or cadastre, or both, and is free of title disputes.
- Is located in a periurban commercial zone, and no rezoning is required.
- Consists of land and a building. The land area is 6,000 square feet (557.4 square meters). A 2-story warehouse of 10,000 square feet (929 square meters) is located on the land. The warehouse is 10 years old, is in good condition and complies with all safety standards, building codes and other legal requirements. The property of land and building will be transferred in its entirety.
- Will not be subject to renovations or additional building following the purchase.
- Has no trees, natural water sources, natural reserves or historical monuments of any kind.
- Will not be used for special purposes, and no special permits, such as for residential use, industrial plants, waste storage or certain types of agricultural activities, are required.
- Has no occupants (legal or illegal), and no other party holds a legal interest in it.

PROCEDURES

A procedure is defined as any interaction of the buyer or the seller, their agents (if an agent is legally or in practice required) or the property with external parties, including government agencies, inspectors, notaries and lawyers. Interactions between company officers and employees are not considered. All procedures that are legally or in practice required for registering property are recorded, even if they may be avoided in exceptional cases (table 11.3). It is assumed that the buyer follows the fastest legal option available and used by the majority of property owners. Although the buyer may use lawyers or other professionals where necessary in the registration process, it is assumed that it does not employ an outside facilitator in the registration process unless legally or in practice required to do so.

TIME

Time is recorded in calendar days. The measure captures the median duration that property lawyers, notaries or registry officials indicate is necessary to complete a procedure. It is assumed that the minimum time required for each procedure is 1 day. Although procedures may take place simultaneously, they cannot start on the same day (that is, simultaneous procedures start on consecutive days). It is assumed that the buyer does not waste time and commits to completing each remaining procedure without delay. If a procedure can be accelerated for an additional cost, the fastest legal procedure available and used by the majority of property owners is chosen. If procedures can be undertaken simultaneously, it is assumed that they are. It is assumed that the parties involved are aware of all regulations and their sequence from the beginning. Time spent on gathering information is not considered.

COST

Cost is recorded as a percentage of the property value, assumed to be equivalent to 50 times income per capita. Only official costs required by law are recorded, including fees, transfer taxes, stamp duties and any other payment to the property registry, notaries, public agencies or lawyers. Other taxes, such as capital gains tax or value added tax, are excluded from the cost measure. Both costs borne by the buyer and those borne by the seller are included. If cost estimates differ among sources, the median reported value is used.

The data details on registering property can be found for each economy at http://www.doingbusiness.org by selecting the economy in the drop-down list.

TABLE 11.3

What do the registering property indicators measure?

Procedures to legally transfer title on immovable property *(number)*
• Preregistration (for example, checking for liens, notarizing sales agreement, paying property transfer taxes)
• Registration in the economy's largest business city
• Postregistration (for example, transactions with the local authority, tax authority or cadastre)
Time required to complete each procedure *(calendar days)*
• Does not include time spent gathering information
• Each procedure starts on a separate day
• Procedure completed once final document is received
• No prior contact with officials
Cost required to complete each procedure *(% of property value)*
• Official costs only, no bribes
• No value added or capital gains taxes included

Source: Doing Business database.

GETTING CREDIT

Doing Business measures the legal rights of borrowers and lenders with respect to secured transactions through one set of indicators and the sharing of credit information through another. The first set of indicators describes how well collateral and bankruptcy laws facilitate lending. The second set measures the coverage, scope and accessibility of credit information available through public credit registries and private credit bureaus. The ranking on the ease of getting credit is the simple average of the percentile rankings on its component indicators (figure 11.4).

The data on the legal rights of borrowers and lenders are gathered through a survey of financial lawyers and verified through analysis of laws and regulations as well as public sources of information on collateral and bankruptcy laws. The data on credit information sharing are built in 2 stages. First, banking supervision authorities and public information sources are surveyed to confirm the presence of a public credit registry or private credit bureau. Second, when applicable, a detailed survey on the public credit registry's or private credit bureau's structure, laws and associated rules is administered to the entity itself. Survey responses are verified through several rounds of follow-up communication with respondents as well as by contacting third parties and consulting public sources. The survey data are confirmed through teleconference calls or on-site visits in all economies.

STRENGTH OF LEGAL RIGHTS INDEX

The strength of legal rights index measures the degree to which collateral and bankruptcy laws protect the rights of borrowers and lenders and thus facilitate lending (table 11.4). Two case scenarios, case A and case B, are used to determine the scope of the secured transactions system, involving a secured borrower, the company ABC, and a secured lender, BizBank. In certain economies the legal framework on secured transactions means that only case A or case B can apply (not both). Both cases examine the same set of legal restrictions on the use of movable collateral.

Several assumptions about the secured borrower and lender are used:

- ABC is a domestic, limited liability company.
- ABC has its headquarters and only base of operations in Juba.
- To fund its business expansion plans, ABC obtains a loan from BizBank for an amount up to 10 times income per capita in local currency.
- Both ABC and BizBank are 100% domestically owned.

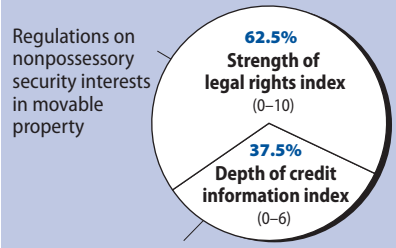
The case scenarios also involve assumptions. In case A, as collateral for the loan, ABC grants BizBank a nonpossessory security interest in one category of movable assets, for example, its accounts receivable or its inventory. ABC wants to keep both possession and ownership of the collateral. In economies in which the law does not allow nonpossessory security interests in movable property, ABC and BizBank use a fiduciary transfer-of-title arrangement (or a similar substitute for nonpossessory security interests).

In case B, ABC grants BizBank a business charge, enterprise charge, floating charge or any charge that gives BizBank a security interest over ABC's combined movable assets (or as much of ABC's movable assets as possible). ABC keeps ownership and possession of the assets.

The strength of legal rights index includes 8 aspects related to legal rights in collateral law and 2 aspects in bankruptcy law. A score of 1 is assigned for each of the following features of the laws:

- Any business may use movable assets as collateral while keeping possession of the assets, and any financial institution may accept such assets as collateral.
- The law allows a business to grant a nonpossessory security right in a single category of movable assets (such as accounts receivable or inventory), without requiring a specific description of the collateral.
- The law allows a business to grant a nonpossessory security right in substantially all its movable assets, without requiring a specific description of the collateral.
- A security right may extend to future or after-acquired assets and may extend automatically to the products, proceeds or replacements of the original assets.
- A general description of debts and obligations is permitted in the collateral agreements and in registration documents: all types of debts and obligations can be secured between the parties, and the collateral agreement can include a maximum amount for which the assets are encumbered.
- A collateral registry or registration institution is in operation, unified geographically and by asset type, with an electronic database indexed by debtors' names.
- Secured creditors are paid first (for example, before general tax claims and employee claims) when a debtor defaults outside an insolvency procedure.
- Secured creditors are paid first (for example, before general tax claims and employee claims) when a business is liquidated.
- Secured creditors are not subject to an automatic stay or moratorium on enforcement procedures when a debtor enters a court-supervised reorganization procedure.
- The law allows parties to agree in a collateral agreement that the lender may enforce its security right out of court.
- The index ranges from 0 to 10, with higher scores indicating that collateral and bankruptcy laws are better designed to expand access to credit.

FIGURE 11.4
Getting credit: collateral rules and credit information
Rankings are based on 2 subindicators



Note: Private bureau coverage and public registry coverage are measured but do not count for the rankings.

TABLE 11.4
What do the getting credit indicators measure?

Strength of legal rights index *(0–10)*
• Protection of rights of borrowers and lenders through collateral laws • Protection of secured creditors' rights through bankruptcy laws
Depth of credit information index *(0–6)*
• Scope and accessibility of credit information distributed by public credit registries and private credit bureaus
Public credit registry coverage *(% of adults)*
• Number of individuals and firms listed in public credit registry as percentage of adult population
Private credit bureau coverage *(% of adults)*
• Number of individuals and firms listed in largest private credit bureau as percentage of adult population

Source: Doing Business database.

DEPTH OF CREDIT INFORMATION INDEX

The depth of credit information index measures rules and practices affecting the coverage, scope and accessibility of credit information available through either a public credit registry or a private credit bureau. A score of 1 is assigned for each of the following 6 features of the public credit registry or private credit bureau (or both):

- Both positive credit information (for example, outstanding loan amounts and pattern of on-time repayments) and negative information (for example, late payments, number and amount of defaults and bankruptcies) are distributed.
- Data on both firms and individuals are distributed.
- Data from retailers and utility companies as well as financial institutions are distributed.
- More than 2 years of historical data are distributed. Credit registries and bureaus that erase data on defaults as soon as they are repaid obtain a score of 0 for this indicator.
- Data on loan amounts below 1% of income per capita are distributed. Note that a credit registry or bureau must have a minimum coverage of 1% of the adult population to score a 1 on this indicator.
- By law, borrowers have the right to access their data in the largest credit registry or bureau in the economy.

The index ranges from 0 to 6, with higher values indicating the availability of more credit information, from either a public credit registry or a private credit bureau, to facilitate lending decisions. If the credit registry or bureau is not operational or has a coverage of less than 0.1% of the adult population, the score on the depth of credit information index is 0.

In Lithuania, for example, both a public credit registry and a private credit bureau operate. Both distribute positive and negative information (a score of 1). Both distribute data on firms and individuals (a score of 1). Although the public credit registry does not distribute data from retailers or utilities, the private credit bureau does do so (a score of 1). Although the private credit bureau does not distribute more than 2 years of historical data, the public credit registry does do so (a score of 1). Although the public credit registry has a threshold of 50,000 litai, the private credit bureau distributes data on loans of any value (a score of 1). Borrowers have the right to access their data in both the public credit registry and the private credit bureau (a score of 1). Summing across the indicators gives Lithuania a total score of 6.

PUBLIC CREDIT REGISTRY COVERAGE

The public credit registry coverage indicator reports the number of individuals and firms listed in a public credit registry with information on their borrowing history from the past 5 years. The number is expressed as a percentage of the adult population (the population age 15 and above in 2009 according to the World Bank's *World Development Indicators*).

A public credit registry is defined as a database managed by the public sector, usually by the central bank or the superintendent of banks, that collects information on the creditworthiness of borrowers (individuals or firms) in the financial system and facilitates the exchange of credit information among banks and financial institutions. If no public registry operates, the coverage value is 0.

PRIVATE CREDIT BUREAU COVERAGE

The private credit bureau coverage indicator reports the number of individuals and firms listed by a private credit bureau with information on their borrowing history from the past 5 years. The number is expressed as a percentage of the adult population (the population age 15 and above in 2009 according to the World Bank's *World Development Indicators*).

A private credit bureau is defined as a private firm or nonprofit organization that maintains a database on the creditworthiness of borrowers (individuals or firms) in the financial system and facilitates the exchange of credit information among banks and financial institutions.

Credit investigative bureaus and credit reporting firms that do not directly facilitate information exchange among banks and other financial institutions are not considered. If no private bureau operates, the coverage value is 0.

The data details on getting credit can be found for each economy at http://www.doingbusiness.org by selecting the economy in the drop-down list. This methodology was developed in Djankov, McLiesh and Shleifer (2007) and is adopted here with minor changes.

PROTECTING INVESTORS

Doing Business measures the strength of minority shareholder protections against directors' misuse of corporate assets for personal gain. The indicators distinguish 3 dimensions of investor protections: transparency of related-party transactions (extent of disclosure index), liability for self-dealing (extent of director liability index) and shareholders' ability to sue officers and directors for misconduct (ease of shareholder suits index). The data come from a survey of corporate and securities lawyers and are based on securities regulations, company laws and court rules of evidence. The ranking on the strength of investor protection index is the simple average of the percentile rankings on its component indicators (figure 11.5).

To make the data comparable across economies, several assumptions about the business and the transaction are used.

ASSUMPTIONS ABOUT THE BUSINESS

The business (Buyer):

- Is a publicly traded corporation listed on the economy's most important stock exchange. If the number of publicly traded companies listed on that exchange is less than 10, or if there is no stock exchange in the economy, it is assumed that Buyer is a large private company with multiple shareholders.
- Has a board of directors and a chief executive officer (CEO) who may legally act on behalf of Buyer where permitted, even if this is not specifically required by law.
- Is a food manufacturer.
- Has its own distribution network.

FIGURE 11.5

Protecting investors: minority shareholder rights in related-party transactions

Rankings are based on 3 subindicators

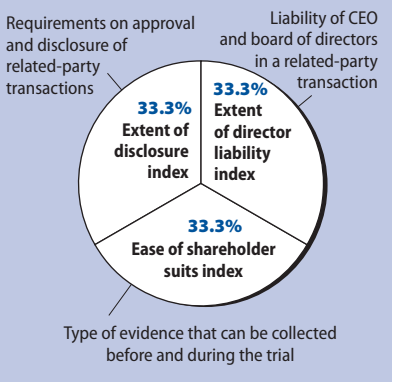


TABLE 11.5

What do the protecting investors indicators measure?

***Extent of disclosure index** (0–10)*
• Who can approve related-party transactions
• Requirements for external and internal disclosure in case of related-party transactions
***Extent of director liability index** (0–10)*
• Ability of shareholders to hold the interested party and the approving body liable in case of a prejudicial related-party transaction
• Available legal remedies (damages, repayment of profits, fines, imprisonment and rescission of the transaction)
• Ability of shareholders to sue directly or derivatively
***Ease of shareholder suits index** (0–10)*
• Documents and information available during trial
• Access to internal corporate documents (directly and/or through a government inspector)
***Strength of investor protection index** (0–10)*
• Simple average of the extent of disclosure, extent of director liability and ease of shareholder suits indices

Source: Doing Business database.

ASSUMPTION ABOUT THE TRANSACTION

- Mr. James is Buyer's controlling shareholder and a member of Buyer's board of directors. He owns 60% of Buyer and elected 2 directors to Buyer's 5-member board.
- Mr. James also owns 90% of Seller, a company that operates a chain of retail hardware stores. Seller recently closed a large number of its stores.
- Mr. James proposes that Buyer purchase Seller's unused fleet of trucks to expand Buyer's distribution of its food products, a proposal to which Buyer agrees. The price is equal to 10% of Buyer's assets and is higher than the market value.
- The proposed transaction is part of the company's ordinary course of business and is not outside the authority of the company.
- Buyer enters into the transaction. All required approvals are obtained, and all required disclosures made (that is, the transaction is not fraudulent).
- The transaction causes damages to Buyer. Shareholders sue Mr. James and the other parties that approved the transaction.

EXTENT OF DISCLOSURE INDEX

The extent of disclosure index has 5 components (table 11.5):

- What corporate body can provide legally sufficient approval for the transaction. A score of 0 is assigned if it is the CEO or the managing director alone; 1 if the board of directors or shareholders must vote and Mr. James is permitted to vote; 2 if the board of directors must vote and Mr. James is not permitted to vote; 3 if shareholders must vote and Mr. James is not permitted to vote.
- Whether immediate disclosure of the transaction to the public, the regulator or the shareholders is required.[1] A score of 0 is assigned if no disclosure is required; 1 if disclosure on the terms of the transaction is required but not on Mr. James's conflict of interest; 2 if disclosure on both the terms and Mr. James's conflict of interest is required.
- Whether disclosure in the annual report is required. A score of 0 is assigned if no disclosure on the transaction is required; 1 if disclosure on the terms of the transaction is required but not on Mr. James's conflict of interest; 2 if disclosure on both the terms and Mr. James's conflict of interest is required.
- Whether disclosure by Mr. James to the board of directors is required. A score of 0 is assigned if no disclosure is required; 1 if a general disclosure of the existence of a conflict of interest is required without any specifics; 2 if full disclosure of all material facts relating to Mr. James's interest in the Buyer-Seller transaction is required.
- Whether it is required that an external body, for example, an external auditor, review the transaction before it takes place. A score of 0 is assigned if no; 1 if yes. The index ranges from 0 to 10, with higher values indicating greater disclosure. In Poland, for example, the board of directors must approve the transaction and Mr. James is not allowed to vote (a score of 2). Buyer is required to disclose immediately all information affecting the stock price, including the conflict of interest (a score of 2). In its annual report Buyer must also disclose the terms of the transaction and Mr. James's ownership in Buyer and Seller (a score of 2). Before the transaction Mr. James must disclose his conflict of interest to the other directors, but he is not required to provide specific information about it (a score of 1). Poland does not require an external body to review the transaction (a score of 0). Adding these numbers gives Poland a score of 7 on the extent of disclosure index.

EXTENT OF DIRECTOR LIABILITY INDEX

The extent of director liability index has 7 components:[2]

- Whether a shareholder plaintiff is able to hold Mr. James liable for damage the Buyer-Seller transaction causes to the company. A score of 0 is assigned if Mr. James cannot be held liable or can be held liable only for fraud or bad faith; 1 if Mr. James can be held liable only if he influenced the approval of the transaction or was negligent; 2 if Mr. James can be held liable when the transaction is unfair or prejudicial to the other shareholders.
- Whether a shareholder plaintiff is able to hold the approving body (the CEO or board of directors) liable for the damage the transaction causes to the company. A score of 0 is assigned if the approving body cannot be held liable or can be held liable only for fraud or bad faith; 1 if the approving body can be held liable for negligence; 2 if the approving body can be held liable when the transaction is unfair or prejudicial to the other shareholders.
- Whether a court can void the transaction upon a successful claim by a shareholder plaintiff. A score of 0 is assigned if rescission is unavailable or is available only in case of fraud or bad faith; 1 if rescission is available when the transaction is oppressive or prejudicial to the other shareholders; 2 if rescission is available when the transaction is unfair or entails a conflict of interest.
- Whether Mr. James pays damages for the harm caused to the company upon a successful claim by the shareholder plaintiff. A score of 0 is assigned if no; 1 if yes.
- Whether Mr. James repays profits made from the transaction upon a successful claim by the shareholder plaintiff. A score of 0 is assigned if no; 1 if yes.
- Whether both fines and imprisonment

can be applied against Mr. James. A score of 0 is assigned if no; 1 if yes.

- Whether shareholder plaintiffs are able to sue directly or derivatively for the damage the transaction causes to the company. A score of 0 is assigned if suits are unavailable or are available only for shareholders holding more than 10% of the company's share are available for shareholders holding 10% or less of share capital.

The index ranges from 0 to 10, with higher values indicating greater liability of directors. Assuming that the prejudicial transaction was duly approved and disclosed, in order to hold Mr. James liable in Panama, for example, a plaintiff must prove that Mr. James influenced the approving body or acted negligently (a score of 1). To hold the other directors liable, a plaintiff must prove that they acted negligently (a score of 1). The prejudicial transaction cannot be voided (a score of 0). If Mr. James is found liable, he must pay damages (a score of 1) but he is not required to disgorge his profits (a score of 0). Mr. James cannot be fined and imprisoned (a score of 0). Direct or derivative suits are available for shareholders holding 10% or less of share capital (a score of 1). Adding these numbers gives Panama a score of 4 on the extent of director liability index.

EASE OF SHAREHOLDER SUITS INDEX

The ease of shareholder suits index has 6 components:

- What range of documents is available to the shareholder plaintiff from the defendant and witnesses during trial. A score of 1 is assigned for each of the following types of documents available: information that the defendant has indicated he intends to rely on for his defense; information that directly proves specific facts in the plaintiff's claim; any information relevant to the subject matter of the claim; and any information that may lead to the discovery of relevant information.
- Whether the plaintiff can directly examine the defendant and witnesses during trial. A score of 0 is assigned if no; 1 if yes, with prior approval of the questions by the judge; 2 if yes, without prior approval.
- Whether the plaintiff can obtain categories of relevant documents from the defendant without identifying each document specifically. A score of 0 is assigned if no; 1 if yes.
- Whether shareholders owning 10% or less of the company's share capital can request that a government inspector investigate the Buyer-Seller transaction without filing suit in court. A score of 0 is assigned if no; 1 if yes.
- Whether shareholders owning 10% or less of the company's share capital have the right to inspect the transaction documents before filing suit. A score of 0 is assigned if no; 1 if yes.
- Whether the standard of proof for civil suits is lower than that for a criminal case. A score of 0 is assigned if no; 1 if yes.

The index ranges from 0 to 10, with higher values indicating greater powers of shareholders to challenge the transaction. In Greece, for example, the plaintiff can access documents that the defendant intends to rely on for his defense and that directly prove facts in the plaintiff 's claim (a score of 2). The plaintiff can examine the defendant and witnesses during trial, though only with prior approval of the questions by the court (a score of 1). The plaintiff must specifically identify the documents being sought (for example, the Buyer-Seller purchase agreement of July 15, 2006) and cannot just request categories (for example, all documents related to the transaction) (a score of 0). A shareholder holding 5% of Buyer's shares can request that a government inspector review suspected mismanagement by Mr. James and the CEO without filing suit in court (a score of 1). Any shareholder can inspect the transaction documents before deciding whether to sue (a score of 1). The standard of proof for civil suits is the same as that for a criminal case (a score of 0). Adding these numbers gives Greece a score of 5 on the ease of shareholder suits index.

STRENGTH OF INVESTOR PROTECTOR INDEX

The strength of investor protection index is the average of the extent of disclosure index, the extent of director liability index and the ease of shareholder suits index. The index ranges from 0 to 10, with higher values indicating more investor protection.

The data details on protecting investors can be found for each economy at http://www.doingbusiness.org by selecting the economy in the drop-down list. This methodology was developed in Djankov, La Porta, López-de-Silanes and Shleifer (2008).

PAYING TAXES

Doing Business records the taxes and mandatory contributions that a mediumsize company must pay in a given year as well as measures of the administrative burden of paying taxes and contributions. The project was developed and implemented in cooperation with PricewaterhouseCoopers. Taxes and contributions measured include the profit or corporate income tax, social contributions and labor taxes paid by the employer, property taxes, property transfer taxes, dividend tax, capital gains tax, financial transactions tax, waste collection taxes, vehicle and road taxes and any other small taxes or fees. The ranking on the ease of paying taxes is the simple average of the percentile rankings on its component indicators (figure 11.6).

Doing Business measures all taxes and contributions that are government mandated (at any level—federal, state or local) and that apply to the standardized business and have an impact in its financial statements. In doing so, *Doing Business* goes beyond the traditional definition of a tax. As defined for the purposes of government national accounts, taxes include only compulsory, unrequited payments to general government. *Doing Business* departs from this definition because it measures imposed charges that affect business accounts, not government accounts. The main differences relate to labor contributions. The *Doing Business* measure includes government-mandated contributions paid by the employer to a requited private pension fund or workers' insurance fund. The indicator includes, for example, Australia's compulsory superannuation guarantee and workers' compensation insurance. For the purpose of calculating the total tax rate (defined below), only taxes borne are included. For example, value added taxes are

FIGURE 11.6
Paying taxes: tax compliance for a local manufacturing company
Rankings are based on 3 subindicators

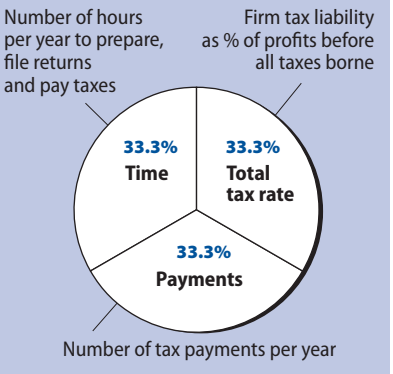


TABLE 11.6

What do the paying taxes indicators measure?

Tax payments for a manufacturing company in 2009 *(number per year adjusted for electronic or joint filing and payment)*
• Total number of taxes and contributions paid, including consumption taxes (value added tax, sales tax or goods and service tax)
• Method and frequency of filing and payment
Time required to comply with 3 major taxes *(hours per year)*
• Collecting information and computing the tax payable
• Completing tax return forms, filing with proper agencies
• Arranging payment or withholding
• Preparing separate tax accounting books, if required
Total tax rate *(% of profit)*
• Profit or corporate income tax
• Social contributions and labor taxes paid by the employer
• Property and property transfer taxes
• Dividend, capital gains and financial transactions taxes
• Waste collection, vehicle, road and other taxes

Source: Doing Business database.

generally excluded (provided they are not irrecoverable) because they do not affect the accounting profits of the business—that is, they are not reflected in the income statement. They are, however, included for the purpose of the compliance measures (time and payments), as they add to the burden of complying with the tax system.

Doing Business uses a case scenario to measure the taxes and contributions paid by a standardized business and the complexity of an economy's tax compliance system. This case scenario uses a set of financial statements and assumptions about transactions made over the year. In each economy tax experts from a number of different firms (in many economies these include PricewaterhouseCoopers) compute the taxes and mandatory contributions due in their jurisdiction based on the standardized case study facts. Information is also compiled on the frequency of filing and payments as well as time taken to comply with tax laws in an economy. To make the data comparable across economies, several assumptions about the business and the taxes and contributions are used.

ASSUMPTIONS ABOUT THE BUSINESS

The business:

- Is a limited liability, taxable company. If there is more than one type of limited liability company in the economy, the limited liability form most popular among domestic firms is chosen. The most popular form is reported by incorporation lawyers or the statistical office.
- Started operations on January 1, 2008. At that time the company purchased all the assets shown in its balance sheet and hired all its workers.
- Operates in the economy's largest business city.
- Is 100% domestically owned and has 5 owners, all of whom are natural persons.
- At the end of 2008, has a start-up capital of 102 times income per capita.
- Performs general industrial or commercial activities. Specifically, it produces ceramic flowerpots and sells them at retail. It does not participate in foreign trade (no import or export) and does not handle products subject to a special tax regime, for example, liquor or tobacco.
- At the beginning of 2009, owns 2 plots of land, 1 building, machinery, office equipment, computers and 1 truck and leases 1 truck.
- Does not qualify for investment incentives or any benefits apart from those related to the age or size of the company.
- Has 60 employees—4 managers, 8 assistants and 48 workers. All are nationals, and 1 manager is also an owner. The company pays for additional medical insurance for employees (not mandated by any law) as an additional benefit. In addition, in some economies reimbursable business travel and client entertainment expenses are considered fringe benefits. When applicable, it is assumed that the company pays the fringe benefit tax on this expense or that the benefit becomes taxable income for the employee. The case study assumes no additional salary additions for meals, transportation, education or others. Therefore, even when such benefits are frequent, they are not added to or removed from the taxable gross salaries to arrive at the labor tax or contribution calculation.
- Has a turnover of 1,050 times income per capita.
- Makes a loss in the first year of operation.
- Has a gross margin (pretax) of 20% (that is, sales are 120% of the cost of goods sold).
- Distributes 50% of its net profits as dividends to the owners at the end of the second year.
- Sells one of its plots of land at a profit at the beginning of the second year.
- Has annual fuel costs for its trucks equal to twice income per capita.
- Is subject to a series of detailed assumptions on expenses and transactions to further standardize the case. All financial statement variables are proportional to 2005 income per capita. For example, the owner who is also a manager spends 10% of income per capita on traveling for the company (20% of this owner's expenses are purely private, 20% are for entertaining customers and 60% for business travel).

ASSUMPTIONS ABOUT TAXES AND CONTRIBUTIONS

All the taxes and contributions recorded are those paid in the second year of operation (calendar year 2009). A tax or contribution is considered distinct if it has a different name or is collected by a different agency. Taxes and contributions with the same name and agency, but charged at different rates depending on the business, are counted as the same tax or contribution.

The number of times the company pays taxes and contributions in a year is the number of different taxes or contributions multiplied by the frequency of payment (or withholding) for each tax. The frequency of payment includes advance payments (or withholding) as well as regular payments (or withholding).

TAX PAYMENTS

The tax payments indicator reflects the total number of taxes and contributions paid, the method of payment, the frequency of payment, the frequency of filing and the number of agencies involved for this standardized case study company during the second year of operation (table 11.6). It includes consumption

taxes paid by the company, such as sales tax or value added tax. These taxes are traditionally collected from the consumer on behalf of the tax agencies. Although they do not affect the income statements of the company, they add to the administrative burden of complying with the tax system and so are included in the tax payments measure.

The number of payments takes into account electronic filing. Where full electronic filing and payment is allowed and it is used by the majority of medium-size businesses, the tax is counted as paid once a year even if filings and payments are more frequent. For payments made through third parties, such as tax on interest paid by a financial institution or fuel tax paid by a fuel distributor, only one payment is included even if payments are more frequent.

Where 2 or more taxes or contributions are filed for and paid jointly using the same form, each of these joint payments is counted once. For example, if mandatory health insurance contributions and mandatory pension contributions are filed for and paid together, only one of these contributions would be included in the number of payments.

TIME

Time is recorded in hours per year. The indicator measures the time taken to prepare, file and pay 3 major types of taxes and contributions: the corporate income tax, value added or sales tax and labor taxes, including payroll taxes and social contributions. Preparation time includes the time to collect all information necessary to compute the tax payable and to calculate the amount payable. If separate accounting books must be kept for tax purposes—or separate calculations made—the time associated with these processes is included. This extra time is included only if the regular accounting work is not enough to fulfill the tax accounting requirements. Filing time includes the time to complete all necessary tax return forms and file the relevant returns at the tax authority. Payment time considers the hours needed to make the payment online or at the tax authorities. Where taxes and contributions are paid in person, the time includes delays while waiting.

TOTAL TAX RATE

The total tax rate measures the amount of taxes and mandatory contributions borne by the business in the second year of operation, expressed as a share of commercial profit. *Doing Business in Juba 2011* reports the total tax rate for calendar year 2009. The total amount of taxes borne is the sum of all the different taxes and contributions payable after accounting for allowable deductions and exemptions. The taxes withheld (such as personal income tax) or collected by the company and remitted to the tax authorities (such as value added tax, sales tax or goods and service tax) but not borne by the company are excluded. The taxes included can be divided into 5 categories: profit or corporate income tax, social contributions and labor taxes paid by the employer (in respect of which all mandatory contributions are included, even if paid to a private entity such as a requited pension fund), property taxes, turnover taxes and other taxes (such as municipal fees and vehicle and fuel taxes).

The total tax rate is designed to provide a comprehensive measure of the cost of all the taxes a business bears. It differs from the statutory tax rate, which merely provides the factor to be applied to the tax base. In computing the total tax rate, the actual tax payable is divided by commercial profit.

Commercial profit is essentially net profit before all taxes borne. It differs from the conventional profit before tax, reported in financial statements. In computing profit before tax, many of the taxes borne by a firm are deductible. In computing commercial profit, these taxes are not deductible. Commercial profit therefore presents a clear picture of the actual profit of a business before any of the taxes it bears in the course of the fiscal year.

Commercial profit is computed as sales minus cost of goods sold, minus gross salaries, minus administrative expenses, minus other expenses, minus provisions, plus capital gains (from the property sale) minus interest expense, plus interest income and minus commercial depreciation. To compute the commercial depreciation, a straight-line depreciation method is applied, with the following rates: 0% for the land, 5% for the building, 10% for the machinery, 33% for the computers, 20% for the office equipment, 20% for the truck and 10% for business development expenses. Commercial profit amounts to 59.4 times income per capita.

The methodology for calculating the total tax rate is broadly consistent with the Total Tax Contribution framework developed by PricewaterhouseCoopers and the calculation within this framework for taxes borne. But while the work undertaken by PricewaterhouseCoopers is usually based on data received from the largest companies in the economy, *Doing Business* focuses on a case study for standardized medium-size company.

The methodology for the paying taxes indicators has further benefited from discussion with members of the International Tax Dialogue, which led to a refinement of the questions on the time to pay taxes indicator in the survey instrument and the collection of pilot data on the labor tax wedge for further research.

The data details on paying taxes can be found for each economy at http://www.doingbusiness.org by selecting the economy in the drop-down list. This methodology was developed in Djankov and others (2010).

TRADING ACROSS BORDERS

Doing Business compiles procedural requirements for exporting and importing a standardized cargo of goods by ocean transport. Every official procedure for exporting and importing the goods is recorded— from the contractual agreement between the 2 parties to the delivery of goods—along with the time and cost necessary for completion. All documents needed by the trader to export or import the goods across the border are also recorded. For exporting goods, procedures range from packing the goods at the warehouse to their departure from the port of exit. For importing goods, procedures range from the vessel's arrival at the port of entry to the cargo's delivery at the warehouse. The time and cost for ocean transport are not included. Payment is made by letter of credit, and the time, cost and documents required for the issuance or advising of a letter of credit are taken into account. The ranking on the ease of trading across borders is the simple average of the percentile rankings on its component indicators (figure 11.7).

Local freight forwarders, shipping lines, customs brokers, port officials and banks pro-

FIGURE 11.7
Trading across borders: exporting and importing by ocean transport
Rankings are based on 3 subindicators

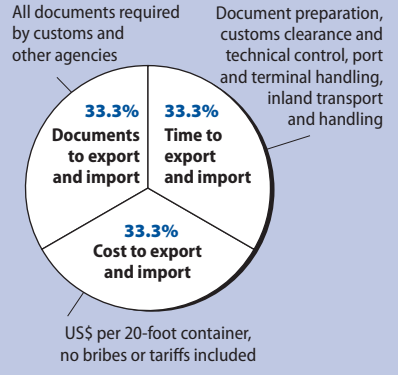


TABLE 11.7
What do the trading across borders indicators measure?

Documents required to export and import *(number)*
• Bank documents
• Customs clearance documents
• Port and terminal handling documents
• Transport documents
Time required to export and import *(days)*
• Obtaining all the documents
• Inland transport and handling
• Customs clearance and inspections
• Port and terminal handling
• Does not include ocean transport time
Cost required to export and import *(US$ per container)*
• All documentation
• Inland transport and handling
• Customs clearance and inspections
• Port and terminal handling
• Official costs only, no bribes

Source: Doing Business database.

vide information on required documents and cost as well as the time to complete each procedure. To make the data comparable across economies, several assumptions about the business and the traded goods are used.

ASSUMPTIONS ABOUT THE BUSINESS

The business:

- Has at least 60 employees.
- Is located in the economy's largest business city.
- Is a private, limited liability company. It does not operate in an export processing zone or an industrial estate with special export or import privileges.
- Is domestically owned with no foreign ownership.
- Exports more than 10% of its sales.

ASSUMPTIONS ABOUT THE TRADED GOODS

The traded product travels in a dry-cargo, 20-foot, full container load. It weighs 10 tons and is valued at $20,000. The product:

- Is not hazardous nor does it include military items.
- Does not require refrigeration or any other special environment.
- Does not require any special phytosanitary or environmental safety standards other than accepted international standards.
- Is one of the economy's leading export or import products.

DOCUMENTS

All documents required per shipment to export and import the goods are recorded (table 11.7). It is assumed that the contract has already been agreed upon and signed by both parties. Documents required for clearance by government ministries, customs authorities, port and container terminal authorities, health and technical control agencies and banks are taken into account. Since payment is by letter of credit, all documents required by banks for the issuance or securing of a letter of credit are also taken into account. Documents that are renewed annually and that do not require renewal per shipment (for example, an annual tax clearance certificate) are not included.

TIME

The time for exporting and importing is recorded in calendar days. The time calculation for a procedure starts from the moment it is initiated and runs until it is completed. If a procedure can be accelerated for an additional cost and is available to all trading companies, the fastest legal procedure is chosen. Fast-track procedures applying to firms located in an export processing zone are not taken into account because they are not available to all trading companies. Ocean transport time is not included. It is assumed that neither the exporter nor the importer wastes time and that each commits to completing each remaining procedure without delay. Procedures that can be completed in parallel are measured as simultaneous. The waiting time between procedures—for example, during unloading of the cargo—is included in the measure.

COST

Cost measures the fees levied on a 20-foot container in U.S. dollars. All the fees associated with completing the procedures to export or import the goods are included. These include costs for documents, administrative fees for customs clearance and technical control, customs broker fees, terminal handling charges and inland transport. The cost does not include customs tariffs and duties or costs related to ocean transport. Only official costs are recorded.

The data details on trading across borders can be found for each economy at http://www.doingbusiness.org by selecting the economy in the drop-down list. This methodology was developed in Djankov, Freund and Pham (2010) and is adopted here with minor changes.

ENFORCING CONTRACTS

Doing Business measures the efficiency of the judicial system in resolving a commercial dispute. The data are built by following the step-by-step evolution of a commercial sale dispute before local courts. The data are collected through study of the codes of civil procedure and other court regulations as well as surveys completed by local litigation lawyers and by judges. The ranking on the ease of enforcing contracts is the simple average of the percentile rankings on its component indicators (figure 11.8).

The name of the relevant court in each economy—the court in the largest business city with jurisdiction over commercial cases worth 200% of income per capita—is published at http://www.doingbusiness.org/ExploreTopics/EnforcingContracts/.

ASSUMPTIONS ABOUT THE CASE

- The value of the claim equals 200% of the economy's income per capita.
- The dispute concerns a lawful transaction between 2 businesses (Seller and Buyer), located in the economy's largest business city. Seller sells goods worth 200% of the economy's income per capita to Buyer. After Seller delivers the goods to Buyer, Buyer refuses to pay for the goods on the grounds that the delivered goods were not of adequate quality.
- Seller (the plaintiff) sues Buyer (the defendant) to recover the amount under the sales agreement (that is, 200% of the economy's income per capita). Buyer opposes Seller's claim, saying that the quality of the goods is not adequate. The claim is disputed on the merits.
- A court in the economy's largest business city with jurisdiction over commercial cases worth 200% of income

FIGURE 11.8
Enforcing contracts: resolving a commercial dispute through the courts
Rankings are based on 3 subindicators

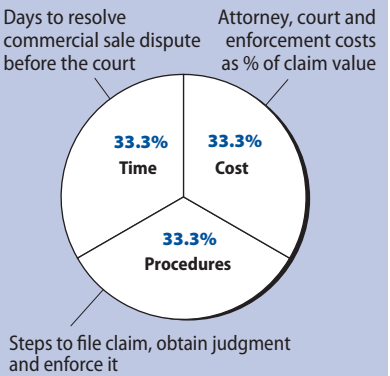


TABLE 11.8
What do the enforcing contracts indicators measure?

Procedures to enforce a contract *(number)*

- Any interaction between the parties in a commercial dispute, or between them and the judge or court officer
- Steps to file the case
- Steps for trial and judgment
- Steps to enforce the judgment

Time required to complete procedures *(calendar days)*

- Time to file and serve the case
- Time for trial and obtaining judgment
- Time to enforce the judgment

Cost required to complete procedures *(% of claim)*

- No bribes
- Average attorney fees
- Court costs, including expert fees
- Enforcement costs

Source: Doing Business database.

per capita decides the dispute.

- Seller attaches Buyer's movable assets (for example, office equipment and vehicles) before obtaining a judgment because Seller fears that Buyer may become insolvent.
- An expert opinion is given on the quality of the delivered goods. If it is standard practice in the economy for each party to call its own expert witness, the parties each call one expert witness. If it is standard practice for the judge to appoint an independent expert, the judge does so. In this case the judge does not allow opposing expert testimony.
- The judgment is 100% in favor of Seller: the judge decides that the goods are of adequate quality and that Buyer must pay the agreed price.
- Buyer does not appeal the judgment. The judgment becomes final.
- Seller takes all required steps for prompt enforcement of the judgment. The money is successfully collected through a public sale of Buyer's movable assets (for example, office equipment and vehicles).

PROCEDURES

The list of procedural steps compiled for each economy traces the chronology of a commercial dispute before the relevant court. A procedure is defined as any interaction, required by law or commonly used in practice, between the parties or between them and the judge or court officer. This includes steps to file and serve the case, steps for trial and judgment and steps necessary to enforce the judgment (table 11.8).

The survey allows respondents to record procedures that exist in civil law but not common law jurisdictions and vice versa. For example, in civil law countries the judge can appoint an independent expert, while in common law countries each party submits a list of expert witnesses to the court. To indicate overall efficiency, 1 procedure is subtracted from the total number for economies that have specialized commercial courts, and 1 procedure for economies that allow electronic filing of court cases. Some procedural steps that take place simultaneously with or are included in other procedural steps are not counted in the total number of procedures.

TIME

Time is recorded in calendar days, counted from the moment the plaintiff decides to file the lawsuit in court until payment. This includes both the days when actions take place and the waiting periods between. The average duration of different stages of dispute resolution is recorded: the completion of service of process (time to file and serve the case), the issuance of judgment (time for the trial and obtaining the judgment) and the moment of payment (time for enforcement of judgment).

COST

Costs recorded as a percentage of the claim, assumed to be equivalent to 200% of income per capita. No bribes are recorded. Three types of costs are recorded: court costs, enforcement costs and average attorney fees.

Court costs include all court costs and expert fees that Seller (plaintiff) must advance to the court, regardless of the final cost to Seller. Expert fees, if required by law or commonly used in practice, are included in court costs. Enforcement costs are all costs that Seller (plaintiff) must advance to enforce the judgment through a public sale of Buyer's movable assets, regardless of the final cost to Seller. Average attorney fees are the fees that Seller (plaintiff) must advance to a local attorney to represent Seller in the standardized case.

The data details on enforcing contracts can be found for each economy at http://www.doingbusiness.org by selecting the economy in the drop-down list. This methodology was developed in Djankov and others (2003) and is adopted here with minor changes.

CLOSING A BUSINESS

Doing Business studies the time, cost and outcome of insolvency proceedings involving domestic entities. The data are derived from survey responses by local insolvency practitioners and verified through a study of laws and regulations as well as public information on bankruptcy systems. The ranking on the ease of closing a business is based on the recovery rate (figure 11.9).

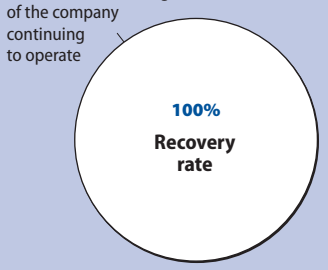
To make the data comparable across economies, several assumptions about the business and the case are used.

ASSUMPTIONS ABOUT THE BUSINESS

The business:

- Is a limited liability company.
- Operates in the economy's largest business city.
- Is 100% domestically owned, with the founder, who is also the chairman of the supervisory board, owning 51% (no other shareholder holds more than 5% of shares).
- Has downtown real estate, where it runs a hotel, as its major asset. The hotel is valued at 100 times income per capita or $200,000, whichever is larger.
- Has a professional general manager.
- Has 201 employees and 50 suppliers, each of which is owed money for the last delivery.
- Has a 10-year loan agreement with a domestic bank secured by a universal business charge (for example, a floating charge) in economies where such collateral is recognized or by the hotel property. If the laws of the economy do not specifically provide for a universal business charge but contracts commonly use some other provision to that effect, this provision is specified in the loan agreement.

FIGURE 11.9
Closing a business: time, cost and outcome of bankruptcy of a local company
Rankings are based on 1 subindicator



Note: Time and cost do not count separately for the ranking.

- Has observed the payment schedule and all other conditions of the loan up to now.
- Has a mortgage, with the value of the mortgage principal being exactly equal to the market value of the hotel.

ASSUMPTIONS ABOUT THE CASE

The business is experiencing liquidity problems. The company's loss in 2009 reduced its net worth to a negative figure. It is January 1, 2010. There is no cash to pay the bank interest or principal in full, due the next day, January 2. The business will therefore default on its loan. Management believes that losses will be incurred in 2010 and 2011 as well.

The amount outstanding under the loan agreement is exactly equal to the market value of the hotel business and represents 74% of the company's total debt. The other 26% of its debt is held by unsecured creditors (suppliers, employees, tax authorities).

The company has too many creditors to negotiate an informal out-of court workout. The following options are available: a judicial procedure aimed at the rehabilitation or reorganization of the company to permit its continued operation; a judicial procedure aimed at the liquidation or winding-up of the company; or a debt enforcement or foreclosure procedure against the company, enforced either in court (or through another government authority) or out of court (for example, by appointing a receiver).

TABLE 11.9

What do the closing a business indicators measure?

Time required to recover debt *(years)*
• Measured in calendar years
• Appeals and requests for extension are included
Cost required to recover debt *(% of debtor's estate)*
• Measured as percentage of estate value
• Court fees
• Fees of insolvency administrators
• Lawyers' fees
• Assessors' and auctioneers' fees
Recovery rate for creditors *(cents on the dollar)*
• Measures the cents on the dollar recovered by creditors
• Present value of debt recovered
• Official costs of the insolvency proceedings are deducted
• Depreciation of furniture is taken into account
• Outcome for the business (survival or not) affects the maximum value that can be recovered

Source: Doing Business database.

ASSUMPTIONS ABOUT THE PARTIES

The bank wants to recover as much as possible of its loan, as quickly and cheaply as possible. The unsecured creditors will do everything permitted under the applicable laws to avoid a piecemeal sale of the assets. The majority shareholder wants to keep the company operating and under its control. Management wants to keep the company operating and preserve their jobs. All the parties are local entities or citizens; no foreign parties are involved.

TIME

Time for creditors to recover their credit is recorded in calendar years (table 11.9). The period of time measured by *Doing Business* is from the company's default until the payment of some or all of the money owed to the bank. Potential delay tactics by the parties, such as the filing of dilatory appeals or requests for extension, are taken into consideration.

COST

The cost of the proceedings is recorded as a percentage of the value of the debtor's estate. The cost is calculated on the basis of survey responses and includes court fees and government levies; fees of insolvency administrators, auctioneers, assessors and lawyers; and all other fees and costs. Respondents provide cost estimates from among the following options: less than 2%, 2–5%, 5–8%, 8–11%, 11–18%, 18–25%, 25–33%, 33–50%, 50–75% and more than 75% of the value of the estate.

OUTCOME

Recovery by creditors depends on whether the hotel business emerges from the proceedings as a going concern or the company's assets are sold piecemeal. If the business keeps operating, no value is lost and the bank can satisfy its claim in full, or recover 100 cents on the dollar. If the assets are sold piecemeal, the maximum amount that can be recovered will not exceed 70% of the bank's claim, which translates into 70 cents on the dollar.

RECOVERY RATE

The recovery rate is recorded as cents on the dollar recouped by creditors through reorganization, liquidation or debt enforcement (foreclosure) proceedings. The calculation takes into account the outcome: whether the business emerges from the proceedings as a going concern or the assets are sold piecemeal. Then the costs of the proceedings are deducted (1 cent for each percentage point of the value of the debtor's estate). Finally, the value lost as a result of the time the money remains tied up in insolvency proceedings is taken into account, including the loss of value due to depreciation of the hotel furniture. Consistent with international accounting practice, the annual depreciation rate for furniture is taken to be 20%. The furniture is assumed to account for a quarter of the total value of assets. The recovery rate is the present value of the remaining proceeds, based on end-2009 lending rates from the International Monetary Fund's *International Financial Statistics*, supplemented with data from central banks and the Economist Intelligence Unit.

NO PRACTICE

If an economy has had fewer than 5 cases a year over the past 5 years involving a judicial reorganization, judicial liquidation or debt enforcement procedure (foreclosure), the economy receives a "no practice" ranking. This means that creditors are unlikely to recover their money through a formal legal process (in or out of court). The recovery rate for "no practice" economies is zero.

This methodology was developed in Djankov, Hart, McLiesh and Shleifer (2008) and is adopted here with minor changes.

INDICATOR RANKING

The ranking on each topic is the simple average of the percentile rankings on its component indicators. The ease of starting a business is a simple average of the city rankings on the number of procedures, and the associated time and cost (% of income per capita) required to start a business. The ease of dealing with construction permits is a simple average of the city rankings on the number of procedures, and the associated time and cost (% of income per capita) required to build a warehouse. The ease of registering property is a simple average of the city rankings on the number of procedures, associated time and cost (% of the property value) required to register property.

The rankings are limited in scope. They do not account for an economy's proximity to large markets, the quality of its infrastructure services (other than services related to construction permits), the security of property from theft and looting, macroeconomic conditions or the strength of underlying institutions. A large unfinished agenda remains for research into what regulation constitutes binding constraints, what package of reforms is most effective and how these issues are shaped by the context of an economy. The *Doing Business* indicators provide a new empirical data set that may improve understanding of these issues.

NOT IN THE EASE OF *DOING BUSINESS* RANKING

EMPLOYING WORKERS

The employing workers indicators set is not included in aggregate ranking on the ease of doing business for this report, because the methodology is currently being refined.

Doing Business measures the regulation of employment, specifically as it affects the hiring and redundancy of workers and the rigidity of working hours. In 2007 improvements were made to align the methodology for the employing workers indicators with the International Labour Organization (ILO) conventions. Only 4 of the 188 ILO conventions cover areas measured by *Doing Business*: employee termination, weekend work, holiday with pay and night work. The *Doing Business* methodology is fully consistent with these 4 conventions. It is possible for an economy to receive the best score on the ease of employing workers and comply with all relevant ILO conventions (specifically, the 4 covering areas measured by *Doing Business*)—and no economy can achieve a better score by failing to comply with these conventions.

The ILO conventions covering areas related to the employing workers indicators do not include the ILO core labor standards—8 conventions covering the right to collective bargaining, the elimination of forced labor, the abolition of child labor and equitable treatment in employment practices.

In 2009 additional changes were made to the methodology for the employing workers indicators.

First, the standardized case study was changed to refer to a small to medium-size company with 60 employees rather than 201. Second, restrictions on night and weekly holiday work are taken into account if they apply to manufacturing activities in which continuous operation is economically necessary. Third, legally mandated wage premiums for work performed on the designated weekly holiday or for night work are scored on the basis of a 4-tiered scale. Fourth, economies that mandate 8 or fewer weeks of severance pay and do not offer unemployment protection do not receive the highest score. Finally, the calculation of the minimum wage ratio was modified to ensure that an economy would not benefit in the scoring from lowering the minimum wage to below $1.25 a day, adjusted for purchasing power parity. This level is consistent with recent adjustments to the absolute poverty line.

This year further modifications were made to the methodology based on consultations with a consultative group of relevant stakeholders. For more information on the consultation process, see the *Doing Business* website (http://www.doingbusiness.org). Changes agreed as of the date of publication are the following: For the scoring of the minimum wage, no economy can receive the highest score if it has no minimum wage at all, if the law provides a regulatory mechanism for the minimum wage that is not enforced in practice, if there is only a customary minimum wage or if the minimum wage applies only to the public sector. A threshold was set for excessive flexibility in the paid annual leave period and the maximum number of working days per week. In addition, for the scoring of the annual leave period for the rigidity of hours index and the notice period and severance pay for the redundancy cost, the average value for a worker with 1 year of tenure, a worker with 5 years and a worker with 10 years is used rather than the value for a worker with 20 years of tenure.

The data on employing workers are based on a detailed survey of employment regulations that is completed by local lawyers and public officials. Employment laws and regulations as well as secondary sources are reviewed to ensure accuracy. To make the data comparable across economies, several assumptions about the worker and the business are used.

ASSUMPTIONS ABOUT THE WORKER

The worker:

- Is a 42-year-old, nonexecutive, fulltime, male employee.
- Earns a salary plus benefits equal to the economy's average wage during the entire period of his employment.
- Has a pay period that is the most common for workers in the economy.
- Is a lawful citizen who belongs to the same race and religion as the majority of the economy's population.
- Resides in the economy's largest business city.
- Is not a member of a labor union, unless membership is mandatory.

ASSUMPTIONS ABOUT THE BUSINESS

The business:

- Is a limited liability company.
- Operates in the economy's largest business city.
- Is 100% domestically owned.
- Operates in the manufacturing sector.
- Has 60 employees.
- Is subject to collective bargaining agreements in economies where such agreements cover more than half the manufacturing sector and apply even to firms not party to them.
- Abides by every law and regulation but does not grant workers more benefits than mandated by law, regulation or (if applicable) collective bargaining agreement.

TABLE 11.10

What do the employing workers indicators measure?

Difficulty of hiring index *(0–100)*
• Applicability and maximum duration of fixed-term contracts
• Minimum wage for trainee or first-time employee
Rigidity of hours index *(0–100)*
• Restrictions on night work and weekend work
• Allowed maximum length of the workweek in days and hours, including overtime
• Paid annual vacation days
Difficulty of redundancy index *(0–100)*
• Notification and approval requirements for termination of a redundant worker or group of redundant workers
• Obligation to reassign or retrain and priority rules for redundancy and reemployment
Rigidity of employment index *(0–100)*
• Simple average of the difficulty of hiring, rigidity of hours and difficulty of redundancy indices
Redundancy cost *(weeks of salary)*
• Notice requirements, severance payments and penalties due when terminating a redundant worker, expressed in weeks of salary

Source: Doing Business database.

RIGIDITY OF EMPLOYMENT INDEX

The rigidity of employment index is the average of 3 subindices: a difficulty of hiring index, a rigidity of hours index and a difficulty of redundancy index (table 11.10). All the subindices have several components. And all take values between 0 and 100, with higher values indicating more rigid regulation.

The difficulty of hiring index measures (i) whether fixed-term contracts are prohibited for permanent tasks; (ii) the maximum cumulative duration of fixed-term contracts; and (iii) the ratio of the minimum wage for a trainee or first-time employee to the average value added per worker.[3] An economy is assigned a score of 1 if fixed-term contracts are prohibited for permanent tasks and a score of 0 if they can be used for any task. A score of 1 is assigned if the maximum cumulative duration of fixed-term contracts is less than 3 years; 0.5 if it is 3 years or more but less than 5 years; and 0 if fixed-term contracts can last 5 years or more. Finally, a score of 1 is assigned if the ratio of the minimum wage to the average value added per worker is 0.75 or more; 0.67 for a ratio of 0.50 or more but less than 0.75; 0.33 for a ratio of 0.25 or more but less than 0.50; and 0 for a ratio of less than 0.25. A score of 0 is also assigned if the minimum wage is set by a collective bargaining agreement that applies to less than half the manufacturing sector or does not apply to firms not party to it, or if the minimum wage is set by law but does not apply to workers who are in their apprentice period. A ratio of 0.251 (and therefore a score of 0.33) is automatically assigned in 4 cases: if there is no minimum wage, if the law provides a regulatory mechanism for the minimum wage that is not enforced in practice, if there is no minimum wage set by law but there is a wage amount that is customarily used as a minimum or if there is no minimum wage set by law in the private sector but there is one in the public sector.

In Benin, for example, fixed-term contracts are not prohibited for permanent tasks (a score of 0), and they can be used for a maximum of 4 years (a score of 0.5). The ratio of the mandated minimum wage to the value added per worker is 0.58 (a score of 0.67). Averaging the 3 values and scaling the index to 100 gives Benin a score of 39.

The rigidity of hours index has 5 components: (i) whether there are restrictions on night work; (ii) whether there are restrictions on weekly holiday work; (iii) whether the workweek can consist of 5.5 days or is more than 6 days; (iv) whether the workweek can extend to 50 hours or more (including overtime) for 2 months a year to respond to a seasonal increase in production; and (v) whether the average paid annual leave for a worker with 1 year of tenure, a worker with 5 years and a worker with 10 years is more than 26 working days or fewer than 15 working days. For questions (i) and (ii), if restrictions other than premiums apply, a score of 1 is given. If the only restriction is a premium for night work or weekly holiday work, a score of 0, 0.33, 0.66 or 1 is given, depending on the quartile in which the economy's premium falls. If there are no restrictions, the economy receives a score of 0. For question (iii) a score of 1 is assigned if the legally permitted workweek is less than 5.5 days or more than 6 days; otherwise a score of 0 is assigned. For question (iv), if the answer is "no", a score of 1 is assigned; otherwise a score of 0 is assigned. For question (v) a score of 0 is assigned if the average paid annual leave is between 15 and 21 working days, a score of 0.5 if it is between 22 and 26 working days and a score of 1 if it is less than 15 or more than 26 working days.

For example, Honduras imposes restrictions on night work (a score of 1) but not on weekly holiday work (a score of 0), allows 6-day workweeks (a score of 0), permits 50-hour workweeks for 2 months (a score of 0) and requires average paid annual leave of 16.7 working days (a score of 0). Averaging the scores and scaling the result to 100 gives a final index of 20 for Honduras.

The difficulty of redundancy index has 8 components: (i) whether redundancy is disallowed as a basis for terminating workers; (ii) whether the employer needs to notify a third party (such as a government agency) to terminate 1 redundant worker; (iii) whether the employer needs to notify a third party to terminate a group of 9 redundant workers; (iv) whether the employer needs approval from a third party to terminate 1 redundant worker; (v) whether the employer needs approval from a third party to terminate a group of 9 redundant workers; (vi) whether the law requires the employer to reassign or retrain worker before making the worker redundant; (vii) whether priority rules apply for redundancies; and (viii) whether priority rules apply for reemployment. For question (i) an answer of "yes" for workers of any income level gives a score of 10 and means that the rest of the questions do not apply. An answer of "yes" to question (iv) gives a score of 2. For every other question, if the answer is "yes," a score of 1 is assigned; otherwise a score of 0 is given. Questions (i) and (iv), as the most restrictive regulations, have greater weight in the construction of the index.

In Tunisia, for example, redundancy is allowed as grounds for termination (a score of 0). An employer has to both notify a third party (a score of 1) and obtain its approval (a score of 2) to terminate a single redundant worker, and has to both notify a third party (a score of 1) and obtain its approval (a score of 1) to terminate a group of 9 redundant workers. The law mandates retraining or alternative placement before termination (a score of 1). There are priority rules for termination (a score of 1) and reemployment (a score of 1). Adding the scores and scaling to 100 gives a final index of 80.

REDUNDANCY COST

The redundancy cost indicator measures the cost of advance notice requirements, severance payments and penalties due when terminating a redundant worker, expressed in weeks of salary. The average value of notice requirements and severance payments applicable to a worker with 1 year of tenure, a worker with 5 years and a worker with 10 years is used to assign the score. If the redundancy cost adds up to 8 or fewer weeks of salary and the workers can benefit from unemployment protection, a score of 0 is assigned, but the actual number of weeks is published. If the redundancy cost adds up to 8 or fewer weeks of salary and the workers cannot benefit from any type of unemployment protection, a score of 8.1 weeks is assigned, although the actual number of weeks is published. If the cost adds up to more than 8 weeks of salary, the score is the number of weeks. One month is recorded as 4 and 1/3 weeks.

In Mauritania, for example, an employer is required to give an average of 1 month's notice before a redundancy termination, and the average severance pay for a worker with 1 year of service, a worker with 5 years and a worker with 10 years equals 1.42 months of wages. No penalty is levied. Altogether, the employer pays the equivalent of 10.5 weeks of salary to dismiss a worker.

The data details on employing workers can be found for each economy at http://www.doingbusiness.org by selecting the economy in the drop-down list. This methodology was developed in Botero and others (2004) and is adopted here with changes.

1. This question is usually regulated by stock exchange or securities laws. Points are awarded only to economies with more than 10 listed firms in their most important stock exchange.
2. When evaluating the regime of liability for company directors for a prejudicial related-party transaction, *Doing Business* assumes that the transaction was duly disclosed and approved. *Doing Business* does not measure director liability in the event of fraud.
3. The average value added per worker is a ratio of an economy's GNI per capita to the working-age population as a percentage of the total population.

Doing Business indicators

Doing Business indicators

	Global best practice	Juba	Sudan (Khartoum)	Sub-Saharan Africa average
Ease of doing business (rank)	**1-Singapore**	**159**	**154**	**137**
Starting a business (rank)	**1-New Zealand**	**123**	**121**	**126**
Procedures (number)	1	11	10	9
Time (days)	1	15	36	45
Cost (% of income per capita)	0.4	250.2	33.6	95.4
Min. capital (% of income per capita)	0	0	0	145.7
Dealing with construction permits (rank)	**1-Hong Kong SAR, China**	**49**	**139**	**117**
Procedures (number)	7	10	19	18
Time (days)	67	30	271	240
Cost (% of income per capita)	19.4	5,935.7	192.2	1,773.3
Registering property (rank)	**1-Saudi Arabia**	**124**	**40**	**121**
Procedures (number)	2	7	6	7
Time (days)	2	18	9	68
Cost (% of property value)	0	14.7	3	9.6
Getting credit (rank)	**1-Malaysia**	**176**	**138**	**120**
Strength of legal rights index (0-10)	10	2	5	4.6
Depth of credit information index (0-6)	6	0	0	1.7
Public registry coverage (% of adults)	62	0	0	2.7
Private bureau coverage (% of adults)	100	0	0	4.9
Protecting investors (rank)	**1-New Zealand**	**173**	**154**	**113**
Extent of disclosure index (0-10)	10	3	0	4.8
Extent of director liability index (0-10)	9	0	6	3.4
Ease of shareholder suits index (0-10)	10	5	4	5
Strength of investor protection index (0-10)	9.7	2.7	3.3	4.4
Paying taxes (rank)	**1-Maldives**	**84**	**94**	**116**
Payments (number per year)	3	46	42	37
Time (hours per year)	0	218	180	315
Total tax rate (% of profit)	9.3	25.5	36.1	68.1
Trading across borders (rank)	**1-Singapore**	**181**	**143**	**136**
Document to export (number)	4	9	6	8
Time to export (days)	5	52	32	32
Cost to export (US$ per container)	456	5,025	2,050	1,962
Document to import (number)	4	11	6	9
Time to import (days)	4	60	46	38
Cost to import (US$ per container)	439	9,420	2,900	2,492
Enforcing contracts (rank)	**1-Luxembourg**	**74**	**146**	**118**
Procedures (number)	26	46	53	39
Time (days)	321	111	810	639
Cost (% of claim)	9.7	26.0	19.8	50.0
Closing a business (rank)	**1-Japan**	**183**	**183**	**128**
Time (years)	0.6	no practice	no practice	3.4
Cost (% of estate)	4	no practice	no practice	20.7
Recovery (cents on the dollar)	92.7	0.0	0.0	23.2

Indicator details
Starting a business

JUBA

Standard company legal form: limited liability company
Paid-in minimum capital requirement: SDG 0
Data as of: November 2010

Procedure 1. Reserve the company name at the Business Registry (Government of Southern Sudan) and pay the fee

Time: 1 day

Cost: SDG 15

Comments: The entrepreneur submits a form with three different business names to check the availability. Once the availability is confirmed, the entrepreneur can reserve the name, which will be valid for 30 days. This process can be completed on the spot at the Business Registry.

Art. 10.1 of the Registration of Business Names Act (2008) regulates the registration of business names. Even though this Act is not directly applicable to companies, the Business Registry applies it by extension.

Procedure 2*. Prepare the company documents before an advocate

Time: 2 days

Cost: SDG 2,500

Comments: The entrepreneur prepares the Memorandum and Articles of Association with an advocate (registered lawyer). Art. 17.2 Companies Act (2003) states "a statutory declaration by an advocate engaged in the formation of the company, or by a person named in the articles as a director or secretary of the company, of compliance with all or any of the said requirements shall be delivered to the registrar, and the registrar may accept such a declaration as sufficient evidence of compliance." The Business Registry requires entrepreneurs to use an advocate.

Procedure 3. Apply for approval of the company registration at the Business Registry (Government of Southern Sudan) and pay the fee

Time: 2 days

Cost: SDG 25

Comments: Once the Memorandum and Articles of Association have been completed with the reserved business name, the applicant returns to the Business Registry. An application form is submitted together with the memorandum and articles. The application form should state the particulars of the company. The application is forwarded to the Legal Counsel, which sits in the same Business Registry. If approved, the file is passed to the Chief Registrar for his signature.

Arts. 15-17 Companies Act (2003) establish registration requirements for companies and contain statutory memorandum and articles of association.

Procedure 4. Pay the registration fees and obtain the Certificate of Incorporation from the Business Registry (Government of Southern Sudan)

Time: 1 day

Cost: SDG 821

Comments: Once the application has been approved, the entrepreneur pays the fee to obtain the Certificate of Incorporation.

Procedure 5. Obtain an Operating License from the Directorate of Trade and Supplies (State Government of Central Equatoria)

Time: 2 days

Cost: SDG 2,000

Comments: The entrepreneur fills in a form, presents the Certificate of Incorporation and indicates the address of the company headquarters. He pays the fees. An official from the Directorate of Trade should visit the office to confirm its whereabouts, but it does not happen in practice.

There is no specific regulation concerning this procedure, but the Directorate of Trade establishes the fees through appropriation bills, in this case, the Appropriation Bill (2009). Art. 85 of the Central Equatoria State Constitution (2006, amended in 2008) provides the general principle allowing states to collect fees.

Procedure 6. Obtain a Trading License from the *payam* (county authority)

Time: 2 days

Cost: SDG 300

Comments: An application form is filled and the companies' documents are submitted to the Executive Director at the *payam*. Once the fee is paid, the applicant receives a receipt to go to the Revenue Authority and obtain a Tax Clearance Certificate. Once he/she obtains the certificate, the entrepreneur can return to the *payam* office and obtain the Trading License.

There is no specific regulation concerning this procedure, but Art. 85 Central Equatoria State Constitution (2006, amended 2008) provides the general principle allowing states to collect fees.

Procedure 7. Obtain a Tax ID Card and a Tax Clearance Certificate from the Revenue Authority (State Government of Central Equatoria)

Time: 1 day

Cost: SDG 1,050 (SDG 800 State Development Tax + SDG 150 fee for Tax Clearance Certificate + SDG 90 fee for Tax ID Card + SDG 10 Stamp duty)

Comments: The entrepreneur must submit:

a. Copy of the Certificate of Incorporation;

b. Copy of the Operating License;

c. Receipt obtained at the Payam for the Trading License; and

d. Two passport size photographs of the company manager.

The entrepreneur then pays the fees corresponding to the Tax ID Card and the Tax Clearance Certificate as well as the State Development Tax.

There is no specific regulation concerning this procedure, but the Revenue Authority of Central Equatoria establishes the fees through appropriation bills. In this case Appropriation Bill (2009). Art. 85 of the Central Equatoria State Constitution (2006, amended 2008) and the State Revenue Authority Act (2007, amended 2008), provide the general principles allowing the Revenue Authority to collect fees.

Procedure 8*. Register with the Ministry of Finance (Government of Southern Sudan) and obtain a Tax Identification Number (TIN)

Time: 1 day

Cost: No cost

Comments: Registration with the Tax Authority of the Government of Southern Sudan was introduced with the enactment of the Taxation Act in 2009. Chapter III section 17 establishes registration requirements. The Ministry of Finance has undertaken an interim initiative to register taxpayers and will forgo penalties and fines during this period. The government is reaching out to businesses to complete registration with mobile units. As of October 2010, 300 companies had been registered.

Procedure 9*. Register with the Ministry of Labor (Government of Southern Sudan)

Time: 1 day

Cost: No cost

Comments: Part X of the Labor Act of Sudan (1997) establishes that the company must deposit the basic work and penalties regulations with the competent labor office.

Procedure 10*. Open a separate bank account for social security payments

Time: 1 day

Cost: No cost

Comments: There is no social security fund or institution yet in Southern Sudan. As a temporary measure, the Ministry of Public Labour, Public Service & Human Resource Development of the Government of Southern Sudan issued a circular (Circular J/5/21, March 22, 2010) instructing companies to open a separate bank account to deposit social security payments until a new mechanism is devised.

Procedure 11*. Obtain a company seal

Time: 1 day

Cost: SDG 90

Comments: Art. 108.b Companies Act (2003) requires companies to obtain a company seal. The company seal had to be approved by the security authorities. Currently such approval is not necessary and seals can be acquired at any shop.

*This procedure can be completed simultaneously with previous procedures.

Dealing with construction permits

JUBA

Warehouse value: USD 190,045 = SDG 420,000
Data as of: November 2010

Procedure 1. Apply for and obtain a croquis from the Survey Department of the Ministry of Physical Infrastructure (State Government of Central Equatoria)

Time: 1 day

Cost: SDG 125 (*croquis* fees for a plot located in a 2nd class area)

Comments: If BuildCo has owned the land for more than one year, it must first obtain a *croquis* (site map), detailing the dimensions and location of the plot where the construction will be undertaken, from the Survey Department of the Ministry of Physical Infrastructure at the Government of Central Equatoria. No document needs to be submitted. BuildCo simply applies and pays the fees to the Survey Department, who issues the *croquis* on the spot. The cost of the *croquis* depends on the location of the plot:

a. 1st class area: SDG 240;

b. 2nd class area: SDG 125;

c. 3rd class area: SDG 62.

A commercial building such as the one BuildCo intends to build is most likely to be constructed in a 2nd class area.

Procedure 2. Obtain a building plan approval from the Construction Department of the Ministry of Physical Infrastructure (State Government of Central Equatoria)

Time: 4 days

Cost: SDG 3,000 (for all businesses)

Comments: By law, construction companies must submit building plans to the Construction Department of the Ministry of Physical Infrastructure at the Government of Central Equatoria for approval. At the ministry, BuildCo must submit the following documents:

a. Proof of land ownership (lease and search certificate issued by the High Court);

b. *Croquis* (site plan) issued by the Survey Department;

c. Building plans – architectural drawings, structural drawings, floor plans, elevations, plumbing drawings and electrical drawings – which must abide by the building specifications established by the Council of Engineers in Khartoum. The engineer in charge of BuildCo's project must add on the plan his/her name and his/her license number, provided by the Council of Engineers in Khartoum, so that the Construction Department can check his/her credentials.

Engineers at the Ministry check the building plans and recommend them to the director general for approval. When the plans have been approved and signed by the Director General, BuildCo must pay the fees (SDG 3,000 for all businesses) at the Revenue Office within the Ministry.

In practice, however, few construction companies seek to obtain a construction permit for private commercial buildings. Most construction companies obtain permits either for large public projects, constructions designed to house NGOs and international organizations, or projects needing a bank loan (for which a construction permit is required).

Procedure 3. Obtain a construction permit from the *payam* (Juba county)

Time: 4 days

Cost: SDG 7,100 (SDG 200 for Form 34 + SDG 250 for Form 35 + SDG 150 for Completion Certificate + SDG 6,500 for Construction Permit fee [SDG 5 per square meter of the construction, paid every year])

Comments: BuildCo applies to the *payam* for a construction permit, pays the fees, and submits the plans approved by the Ministry of Physical Infrastructure, along with Form 34, the application form for building permit. On the application, BuildCo must clarify whether the land is leasehold or freehold, specify the proposed use of the land, provide an estimate of the construction value and spell out which materials will be used for the construction.

Engineers from the *payam* check the building plans and, granted that the construction abides by the city's construction requirements, transfer Form 34 and the building plans to the council for consideration. Depending on when the council sits, it can take from 2 to 7 days for the building permit to be issued. If the council has no objection, the *payam* issues four copies of the building permit (Form 35) signed by the Executive Director. One is given to BuildCo, one to the town surveyors, and two remain with the *payam*.

On the building permit is mentioned that the *payam* must be notified when the foundation and roofing are completed, and after construction. The *payam* is supposed to conduct an inspection before issuing the permit, but the inspection rarely happens in the case of private commercial buildings.

Procedure 4. Request the Survey Department of the Ministry of Physical Infrastructure (State Government of Central Equatoria) to peg the plot and the building surface

Time: 4 days

Cost: No cost

Comments: After receiving the building permit from the *payam*, BuildCo applies to the Survey Department to have its plot and the buidilng surface pegged. Depending on the department's work schedule, it may take a few days for the team of surveyors to come and complete the work. After having pegged the plot, the team signs the building permit and BuildCo is free to start construction.

Procedure 5. Receive an inspection during construction by engineers from the *payam*

Time: 1 day

Cost: No cost

Comments: When BuildCo applies for a construction permit, the *payam* assigns a team of public engineers to follow the project. The team is legally mandated to inspect the building when the excavations, roof, drains and overall construction have been completed, and to fill the progress report chart attached to the completed Form 34 previously submitted by BuildCo. However, in practice, these inspections rarely happen for commercial buildings. The engineers might visit the site once to ensure that the construction is supervised by a licensed engineer, and that BuildCo has received a building permit, but carry little technical verification. Inspections are most often made after an accident has happened.

Procedure 6. Request and receive a Certificate of Completion from the *payam*

Time: 1 day

Cost: No cost

Comments: By law, BuildCo is required to notify the *payam* when the construction is completed, so as to receive a final inspection and a Certificate of Completion (Form number 9). However, in practice, few constructions request and receive this certificate.

Procedure 7. Obtain a permanent satellite phone connection

Time: 3 days

Cost: SDG 16,575 (SDG 14,365 for the equipment + SDG 2,210 for the installation)

Comments: There is no functioning fixed phone line system in Juba. Satellite phones are the only fixed infrastructure alternative. The phone is often plugged to a fixed station connected by cable to a VAST antenna/dish.

Several companies already provide the necessary equipment in Juba. The equipment is available in situ, and only takes 2 days to obtain and one day to install. Engineers representing the phone company in Juba assist in the installation for the cost of SDG 2,210 (US$1,000). The equipment necessary to obtain quality phone connection in Juba, including the phone, the station, the cable and the antenna/dish, costs about SDG 14,365 (US$ 6,500).

Many Southern Sudanese companies and entrepreneurs also use cellphones, with a subscription to one of the operators available in the country (Zain, Vivacell and Gemtel). Since inter-network connectivity is still not very reliable, it is not uncommon for entrepreneurs to own several cellphones.

Procedure 8*. Apply for and obtain a borehole drilling permit from the Ministry of Water and Rural Irrigation (Government of Southern Sudan)

Time: 4 days

Cost: SDG 1,350

Comments: Before digging a well to obtain water. BuildCo must first obtain a borehole drilling permit from the Ministry of Water and Rural Irrigation at the Government of Southern Sudan. To obtain the document, BuildCo must submit an application form, the registration certificate of the company (as issued by the Companies Registry), the company's articles of association as well as the designs of the borehole to be drilled, and pay the fees (SDG 1,350). It may take 3 to 4 days for the ministry to issue the permit, since the document needs to be signed by the Undersecretary, who might not be immediately available. The permit is to be renewed – and the fees are to be paid – every year.

Procedure 9. Dig a borehole to obtain water

Time: 10 days

Cost: SDG 33,750 (average cost for a 80 meter deep borehole in a 2nd class area)

Comments: The public water delivery system in Juba covers only a portion of the city. Juba's treatment plant, located by the river Nile, has been rehabilitated recently, and can now deliver water to 20,000 people, according to the Ministry of Water and Rural Irrigation. If located close to the water pipeline system, a company can opt to buy and lay down the pipes necessary to connect the facility to the grid, but this is a rare occurrence.

Most construction companies hire private borehole drilling contractors to dig a borehole of commercial capacity. The borehole company first conducts a survey to determine how deep the well needs to be to reach water. In Juba, water can be located as high as 40 meters underground and as deep as 120 meters underground. The price of the borehole then depends on the location of the construction (1st class, 2nd class, 3rd class area), the depth of the well and the quality of the equipment used (steel casing, head pump or water pump, pipes and overhead water tank).

It is also common practice for companies to rely on water tanks, regularly filled by water trucks at the cost of SDG 5 per 200 liter drum.

Procedure 10*. Buy and install a generator to obtain power connection

Time: 2 days

Cost: SDG 99,450 (US$ 45,000 for a 140 kVA generator)

Comments: Currently, as 2 of the 3 power plants in Juba are no longer functional, power cuts remain recurrent in many portions of the city, and most companies still rely on diesel fueled generator to ensure continuous electricity delivery. A 140 kVA generator cost on average US$ 45,000. Since most companies in Juba use a generator to obtain electricity, *Doing Business in Juba 2011* measures the related time and cost.

Public electricity delivery has nonetheless improved in Juba since 2005. Some companies, especially if located in the city center or close to ministries, can apply for electricity connection at the Southern Sudan Electricity Corporation (SSEC). At the SSEC, BuildCo must apply to the Southern Sudan Electricity Corporation (SSEC) by submitting a letter of request on headed paper carrying the seal of the company. The request must specify the plot number, the name of the plot's owner, as well as the area where the plot is located. After paying the filing fee and security deposit, BuildCo is issued Form 15, the official application form, which it must fill.

After the application has been made and the payment has been completed, the Deputy Director for Distribution of the Southern Sudan Electricity Corporation (SSEC) and his technical team come to BuildCo's site to verify:

a. The physical location of the premises;

b. The material (poles, cables, switchboard) required to connect the building to the line;

c. The consumption needs of the facility, which eventually determines what type of meter is needed (1 phase, 3 phase, high current) and whether a transformer is necessary.

After the inspection, the team issues BuildCo a bill detailing what materials will be provided for free by the Electricity Corporation, and what equipment BuildCo will have to purchase by itself, either from the Electricity Corporation (3 phase meter and switchboard) or from the market (poles and cables).

Once BuildCo has purchased the necessary equipment, it notifies the Southern Sudan Electricity Corporation (SSEC), which sends a first team to connect the power line and install the switchboard. A second team follows a few days later, to install and connect the meter. How long it takes for the teams to come depends on the work schedule of the SSEC. While it usually takes 1 week for the teams to come and complete the work, it might sometimes take 2 to 3 weeks due to disruptions in the supply of 3 phase meters.

*This procedure can be completed simultaneously with previous procedures.

Registering property

JUBA

Property value: USD 61,500 = SDG 135,687
Data as of: November 2010

Procedure 1. Verify land ownership with a survey engineer from the Survey Department of the Ministry of Physical Infrastructure (State Government of Central Equatoria)

Time: 2 days

Cost: No cost

Comments: Prior to closing the negotiations, it is common practice in Juba for the seller and the buyer to visit the plot of land together with a survey engineer from the Survey Department of the Ministry of Physical Infrastructure (Government of Central Equatoria).

Before the visit, the seller has to show the following documents to the survey engineer:

a. Copy of the lease;

b. Copy of the Search Certificate obtained by the seller when acquiring the plot;

c. Copy of the *Croquis* (site map) obtained by the seller when acquiring the plot.

The seller and the buyer bring the survey engineer to the site. The survey engineer testifies that the plot of land belongs to the seller and shows the buyer the position and the dimensions of the plot.

Procedure 2. Obtain a fresh copy of the Search Certificate for Sale from the Land Registry of the High Court

Time: 3 days

Cost: SDG 4 (SDG 3 for administrative fee + SDG 1 for stamp duty)

Comments: After the negotiations between the seller and the buyer have been completed and before drafting the deed of transfer with a lawyer, the seller must obtain a Search Certificate for Sale from the Land Registry at the High Court in Juba.

In order to obtain the Search Certificate for Sale, the seller has to pay the relevant fees in cash and the stamp duty and present the following documents:

a. Copy of the lease;

b. Copy of the Search Certificate obtained by the seller when acquiring the plot;

c. Copy of the *Croquis* (site map) obtained by the seller when acquiring the plot.

The Search Certificate for Sale is valid for 7 days only from the moment it has been issued. If the certificate is not used within 7 days, the seller would need to return the outdated certificate to the Land Registry in order to obtain a new one.

Procedure 3. Draft the deed of transfer with an advocate

Time: 1 day

Cost: SDG 250

Comments: After obtaining the Search Certificate for Sale from the High Court, the seller and the buyer meet an advocate along with two witnesses in order to draft a deed of transfer.

In order to draft the deed of transfer, the advocate examines the following documents:

a. Copy of the newly-issued Search Certificate of Sale obtained by the seller from the Land Registry of the High Court;

b. Copy of the lease (in possession of the seller);

c. Copy of the *Croquis* (site map) obtained by the seller when acquiring the plot;

d. Identification documents of seller, buyer and their witnesses;

e. Affidavit authorizing the representative of the selling company to act on its behalf;

f. Affidavit authorizing the representative of the buying company to act on its behalf.

Procedure 4. Obtain Form for Consent to Assign Premises held on Lease (Form 31A) from the Land Registry at the High Court

Time: 1 day

Cost: SDG 5 (SDG 3 for administrative fees + SDG 1 for application form + SDG 1 for stamp duty)

Comments: After drafting the deed, the parties go to the Land Registry of the High Court to obtain Form 31A. This form has to be signed by the Director of Lands in the Ministry of Physical Infrastructure (Government of Central Equatoria) in order to authorize the transfer of the lease.

Procedure 5. Obtain leasehold document from the Directorate of Land of the Ministry of Physical Infrastructure (State Government of Central Equatoria)

Time: 7 days

Cost: SDG 13,569 (10% of the property value)

Comments: In order to change the name of the buyer on the document of lease, the buyer has to pay 10% of the property value (in cash) and submit the following documents to the Directorate of Land of the Ministry of Physical Infrastructure (Government of Central Equatoria):

a. Form 31A (duly filled);

b. Deed of transfer;

c. Search Certificate for Sale (obtained by the seller in procedure 2).

After authorizing the transfer of the leasehold, the Directorate of Land issues three documents to the buyer:

a. New lease (bearing the name of the buyer);

b. Approval of the Land Authority (Form 31A, signed by the Director of the Land's Authority);

c. Receipt of payment.

Procedure 6. Register the transfer of the lease at the Land Registry of the High Court and obtain Search Certificate

Time: 2 days

Cost: SDG 3,392 (2.5% of the property value)

Comments: In order to register the transfer of the leasehold in the name of the buyer, the buyer has to submit the following documents to the Land Registry of the High Court:

a. New lease (bearing the name of the buyer);

b. Approval of the Land Authority (Form 31A, signed by the Directors of the Land Authority);

c. Receipt of payment from the Directorate of Land.

Depending on the time passed from the moment when the deed of transfer was signed by the parties to the moment when the transfer is registered at the Land Registry, the following fees apply:

a. 2.5% of the property value (1 day to 6 months);

b. 4% of the property value (6 months to 1 year);

c. 6% of the property value (older than 1 year).

Fees are paid in cash at the Land Registry of the High Court. Upon receipt of payment, the Registrar transfers the name of the owner in the register books and keeps a copy of the document of transfer in the Box File. Subsequently, the Registrar issues the buyer with a Search Certificate attesting that the land now belongs to the buyer.

Procedure 7. Obtain a *croquis* (site map) from the Survey Department of the Ministry of Physical Infrastructure (State Government of Central Equatoria)

Time: 2 days

Cost: SDG 2,714 (2% of the property value)

Comments: In order to complete the transfer of land, the buyer has to obtain a new *croquis* (site map) from the Survey Department of the Ministry of Physical Infrastructure (Government of Central Equatoria). This document has to be attached to the other documents officializing the transfer of the lease under the name of the buyer (i.e. Search Certificate issued by the High Court in procedure 6 + Leasehold issued by the Land Directorate in procedure 5).

In order to obtain this document, the buyer has to present the following documents to the Survey Department:

a. Copy of the Lease (bearing the name of the buyer);

b. Copy of the Search Certificate.

In order to obtain the *croquis*, the buyer has to pay a fee equal to 2% of the property value in cash to the Survey Department. Upon receipt of payment, the survey engineer will draft a *croquis* and issue it to the buyer. The buyer has the right to request the survey engineers to visit the plot before drawing the *croquis*. This visit does not carry any additional cost and takes place the same day in which the *croquis* is issued.

After receiving the *croquis*, the buyer attaches it to the other documents attesting the transfer of the lease. The transfer of property is now complete.

*This procedure can be completed simultaneously with previous procedures.

Getting credit

City: Juba

	Private credit bureau	Public credit registry	Indicator
Depth of credit information index (0-6)			0
Are data on both firms and individuals distributed?	No	No	0
Are both positive and negative data distributed?	No	No	0
Does the registry distribute credit information from retailers, trade creditors or utility companies as well as financial institutions?	No	No	0
Are more than 2 years of historical credit information distributed?	No	No	0
Is data on all loans below 1% of income per capita distributed?	No	No	0
Is it guaranteed by law that borrowers can inspect their data in the largest credit registry?	No	No	0
Coverage	0	0	
Number of individuals	0	0	
Number of firms	0	0	

Strength of legal rights index (0-10)	2
Can any business use movable assets as collateral while keeping possession of the assets; and any financial institution accept such assets as collateral?	Yes
Does the law allow businesses to grant a non possessory security right in a single category of revolving movable assets, without requiring a specific description of the secured assets?	No
Does the law allow businesses to grant a non possessory security right in substantially all of its assets, without requiring a specific description of the secured assets?	No
May a security right extend to future or after-acquired assets, and may it extend automatically to the products, proceeds or replacements of the original assets?	No
Is a general description of debts and obligations permitted in collateral agreements, so that all types of obligations and debts can be secured by stating a maximum amount rather than a specific amount between the parties?	No
Is a collateral registry in operation that is unified geographically and by asset type as well as indexed by the grantor's name of a security right?	No
Do secured creditors have absolute priority to their collateral outside bankruptcy procedures?	No
Do secured creditors have absolute priority to their collateral in bankruptcy procedures?	No
During reorganization, are secured creditors' claims exempt from an automatic stay on enforcement?	Yes
Does the law authorize parties to agree on out of court enforcement?	No

Protecting investors

City: Juba

Strength of investor protection index (0-10)	**2.7**
Disclosure index	**3**
What corporate body provides legally sufficient approval for the transaction? (0-3)	2
Immediate disclosure to the public and/or shareholders (0-2)	0
Disclosures in published periodic filings (0-2)	0
Disclosures by Mr. James to board of directors (0-2)	1
Requirement that an external body review the transaction before it takes place (0=no, 1=yes)	0
Director liability index	**0**
Shareholder plaintiff's ability to hold Mr. James liable for damage the buyer-seller transaction causes to the company (0-2)	0
Shareholder plaintiff's ability to hold the approving body (the CEO or board of directors) liable for damage to the company (0-2)	0
Whether a court can void the transaction upon a successful claim by a shareholder plaintiff (0-2)	0
Whether Mr. James pays damages for the harm caused to the company upon a successful claim by the shareholder plaintiff (0=no, 1=yes)	0
Whether Mr. James repays profits made from the transaction upon a successful claim by the shareholder plaintiff (0=no, 1=yes)	0
Whether fines and imprisonment can be applied against Mr. James (0=no, 1=yes)	0
Shareholder plaintiff's ability to sue directly or derivatively for damage the transaction causes to the company (0-1)	0
Shareholder suits index	**5**
Documents available to the plaintiff from the defendant and witnesses during trial (0-4)	2
Ability of plaintiffs to directly question the defendant and witnesses during trial (0-2)	1
Plaintiff can request categories of documents from the defendant without identifying specific ones (0=no, 1=yes)	0
Shareholders owning 10% or less of buyer's shares can request an inspector investigate the transaction (0=no, 1=yes)	1
Level of proof required for civil suits is lower than that for criminal cases (0=no, 1=yes)	1
Shareholders owning 10% or less of buyer's shares can inspect transaction documents before filing suit (0=no, 1=yes)	0

Paying taxes

City: Juba

Tax or mandatory contribution	**Payments** (number)	**Notes on payments**	**Time** (hours)	**Statutory tax rate**	**Tax base**	**Total tax rate** (% of profit)	**Notes on total tax rate**
Business Profit Tax (corporate income tax)	5	quarterly advanced payments	56	10%	taxable income	4.8%	
VAT/GST	12		84	15%	value added	-	not included
Personal Income Tax	12		48	< SDG 300 = 0% SDG 301–5,000 = 10% > SDG 5,001 = 15%	gross salaries	-	not included
Social security contributions	12		30	17%	gross salaries	19.2%	
Tax on interest earned	-		-	10%	interest earned on bank account	0.3%	
Company license (Central Equatoria State)	1		-	SDG 800		0.5%	
State Tax Identity Card (Central Equatoria State)	1		-	SDG 90		0.1%	
State Tax Clearance Certificate (Central Equatoria State)	1		-	SDG 50		0.0%	
State Retail Trading License (Central Equatoria State)	1		-	SDG 200		0.1%	
State Fuel tax (Central Equatoria State)	1		-	15%	Fuel consumption	0.5%	
Fuel tax (Government of Southern Sudan)	-	Paid jointly with State tax	-	0.5%	Fuel consumption	0.0%	
Total	**46**		**218**			**25.5%**	

Trading across borders

Juba trading through the port of Mombasa, Kenya

	Time (days)	Cost (US$ per container)
Exporting		
Documents preparation	28	275
Customs clearance and technical control	4	375
Ports and terminal handling	6	375
Inland transportation and handling	14	4,000
Export total:	**52**	**5,025**
Importing		
Documents preparation	34	525
Customs clearance and technical control	3	430
Ports and terminal handling	6	390
Inland transportation and handling	17	8,075
Import total:	**60**	**9,420**

Export documents
- Bill of lading
- Certificate of origin
- Commercial invoice
- Customs export declaration
- Export Form and Letter from commercial bank
- Letter of approval to export
- Packing list
- Pre-shipment inspection clean report of findings
- Transit documents

Import documents
- Bill of lading
- Certificate of origin
- Commercial invoice
- Customs import declaration
- Exit Pass (Gate Pass)
- Import Form and Letter from commercial bank
- Letter of approval to import
- Packing list
- Pre-shipment inspection clean report of findings
- Technical standard/health certificate
- Transit documents

Enforcing contracts

City: Juba
Value of claim: SDG 5,437

	Indicator
Procedures (number)	**46**
Time (days)	**111**
Filing and service	21
Trial and judgment	60
Enforcement of judgment	30
Cost (% of claim)	**26**
Attorney cost (% of claim)	13.9
Court cost (% of claim)	7.1
Enforcement cost (% of claim)	5

*Claim assumed to be equivalent to 200% of income per capita.

Annex: Employing workers

Rigidity of employment index

	Answer
Difficulty of hiring index	
Are fixed-term contracts prohibited for permanent tasks?	No
What is the maximum length of a single fixed-term contract? (months)	24
What is the maximum length of fixed-term contracts, including renewals? (months)	48
What is the minimum wage for a 19-year old worker or an apprentice? (US$/month)	90.6
What is the ratio of minimum wage to average value added per worker?	0.5
Rigidity of hours	
What is the standard workday in manufacturing? (hours)	8
What is the minimum daily rest required by law? (hours)	n.a.
What is the maximum overtime limit in normal circumstances? (hours)	4 hours a day, 12 hours a week
What is the maximum overtime limit in exceptional circumstances? (hours)	4 hours a day, 12 hours a week
What is the premium for overtime work? (% of hourly pay)	50
Are 50-hour workweeks allowed for 2 months a year in case of increase in production?	Yes
What is the maximum number of working days per week?	6
What is the premium for night work? (% of hourly pay)	0
What is the premium for work on weekly rest day? (% of hourly pay)	0
Are there restrictions on night work and do these apply when continuous operations are economically necessary?	No
Are there restrictions on "weekly holiday" work and do these apply when continuous operations are economically necessary?	No
What is the paid annual vacation (in working days) for an employee with 9 months of service?	0
What is the paid annual vacation (in working days) for an employee with 1 year of service?	20
What is the paid annual vacation (in working days) for an employee with 5 years of service?	25
What is the paid annual vacation (in working days) for an employee with 10 years of service?	25
What is the paid annual vacation (in working days) for an employee with 20 years of service?	30
Paid annual leave (average for workers with 1, 5 and 10 years of tenure, in working days)	23.3
Difficulty of redundancy	
Is the termination of workers due to redundancy legally authorized?	Yes
Must the employer notify a third party before terminating one redundant worker?	Yes
Does the employer need the approval of a third party to terminate one redundant worker?	Yes
Must the employer notify a third party before terminating a group of 9 redundant workers?	Yes
Does the employer need the approval of a third party to terminate a group of 9 redundant workers?	Yes
Is there retraining or reassignment obligation before an employer can make a worker redundant?	No
Are there priority rules applying to redundancies?	No
Are there priority rules applying to re-employment?	No
Redundancy costs (weeks of salary)	
What is the notice period for redundancy dismissal after 9 months of continuous employment? (weeks of salary)	4.3
What is the notice period for redundancy dismissal after 1 year of continuous employment? (weeks of salary)	4.3
What is the notice period for redundancy dismissal after 5 years of continuous employment? (weeks of salary)	4.3
What is the notice period for redundancy dismissal after 10 years of continuous employment? (weeks of salary)	4.3
What is the notice period for redundancy dismissal after 20 years of continuous employment? (weeks of salary)	4.3
Notice period for redundancy dismissal (average for workers with 1, 5 and 10 years of tenure, in salary weeks)	4.3
What is the severance pay for redundancy dismissal after 9 months of employment? (weeks of salary)	0
What is the severance pay for redundancy dismissal after 1 year of employment? (weeks of salary)	0
What is the severance pay for redundancy dismissal after 5 years of employment? (weeks of salary)	21.7
What is the severance pay for redundancy dismissal after 10 years of employment? (weeks of salary)	43.3
What is the severance pay for redundancy dismissal after 20 years of employment? (weeks of salary)	113.7
Severance pay for redundancy dismissal (average for workers with 1, 5 and 10 years of tenure, in salary weeks)	21.7

Acknowledgments

Contact details for local partners are available on the *Doing Business* website at http://subnational.doingbusiness.org

Doing Business in Juba 2011 was produced by a World Bank Group team led by Brice Richard. The report was prepared under the direction of Mierta Capaul within the context of a wider Investment Climate project led by Catherine Masinde. The team comprised Goran Amidzic, Jean Lubega-Kyazze, Ngozi Njemanze, Mikiko Imai Ollison, Pilar Sánchez-Bella, and Alessio Zanelli.

Alwaleed Alatabani, William Battaile, David Bridgman, and Ismail Radwan reviewed the full text. Peer review comments were received from Alejandro S. Alvarez de la Campa, Dobromir Christow, Laurent Olivier Corthay, Iva Hamel, Ankur Huria, Andrei Mikhnev, Thomas Moullier, Raha Shahidsaless, Richard Stern, Uma Subramanian, and Justin Yap.

Santa Maria Aguti, Karim Ouled Belayachi, Frederic Bustelo, Cesar Chaparro, Amitava Chaudhuri, Alejandro Espinosa Wang, Ernesto Franco-Temple, Betina Hennig, Zenaida Hernandez, Nan Jiang, Thomas Kenyon, Aikaterini Leris, Jean Michel Lobet, Jana Malinska, Valérie Erica Maréchal, Frédéric Meunier, Trimor Mici, William Scott Mut, Madalina Papahagi, Maria Camila Roberts, Pilar Salgado-Otonel, Nadine Shamounki Ghannam, Tea Trumbic, Yutaka Yoshino and Yasmin Zand provided valuable assistance at various stages of the project. We would like to make a special mention to Apollonia Mathia, who contributed to the project as communications officer at the IFC local office and who sadly passed away on March 18, 2011.

The report website (http://www.doingbusiness.org/Juba) was developed by Graeme Littler, Hashim Zia, and Preeti Endlaw. The report was edited by Cintra Scott and designed by G. Quinn Information Design.

This project was made possible thanks to the support of the Ministry of Investment of the Government of Southern Sudan. Special thanks go to Joseph Hassan and James Luate from the Ministry of Investment; Martin Sebit Hakim from the Directorate of Trade of the State Government of Central Equatoria; and Paul Tesloach Kulang and Vincent Williams from the Business Registry.

The project was funded by the United States Agency for International Development (USAID).

The team wishes to express its special gratitude to the 94 lawyers, accountants, architects, engineers, entrepreneurs, freight forwarders, judges, public officials and international experts who generously participated in this project. The names of contributors who have agreed to be publicly acknowledged are listed on the following page.

PUBLIC OFFICIALS

Richard Abe
Deputy Chief of Customs, Nimule Customs

Yool Akau
Brigade General of Customs (Chief in Charge), Nimule Customs

Benjamin Akol
Member, Land Commission

Mathews Loch Akon
Payam Director, Juba Payam

Delfino Abbas Alex
Administrator, Land Registry, Judiciary of Southern Sudan

Gabriel Aliga
Program Coordinator, Southern Sudan Business Forum (SSBF)

Silvas Clark Amozay
Director general, Directorate of Housing and Urban Development, Ministry of Housing, Physical Planning and Environment, Government of Southern Sudan

Manhien Bol
Director, Ministry of water resources and Irrigation, Government of Southern Sudan

John Buol
Deputy Head, Ministry of Commerce at the Nimule border

Lino G. Warkuk Chol
Inspector For Industrial Development, Directorate of Industry, Ministry of Commerce, Government of Southern Sudan

Deng Gau Den
Member, Land Commission

General Oyay Deng
Minister, Ministry of Investment, Government of Southern Sudan

Gabriel Garang Deng
Director of Taxation, Ministry of Finance, Government of Southern Sudan

Akuei Deng
Undersecretary, Ministry of Investment, Government of Southern Sudan

Paul Gove
Head of the Station, Ministry of Commerce at the Nimule border

Daniel Gwagwe
Director, Administration and Finance, Bank of Southern Sudan

Martin Sebit Hakim
Director, Commerce and Supply, Directorate of Trade, State Government of Central Equatoria

Mubarak Hassam
Land Registrar, Land Registry, Judiciary of Southern Sudan

Joseph Hassan
Director, Ministry of Investment, Government of Southern Sudan

Galdino Hillary
Surveyor, survey department, Ministry of Physical Infrastructure, State Government of Central Equatoria

Aquilino Itira
Director, Customs Juba Station

Michael Amule Joseph
Commissioner general, Revenue Authority, State Government of Central Equatoria

Louis Kwot
Director, Ministry of Physical Infrastructure, State Government of Central Equatoria

Laku Loggale Legge
Counsel General, Ministry of Legal Affairs and Constitutional Development, Government of Southern Sudan

Ijjo Peter Lemin
Employment inspector, Ministry of Labor and Public service and Human Resources Development, Government of Southern Sudan

Hellen Achiro Lotara
Director general, Directorate of Labor and Industrial Relations, Ministry of Labor and Public service and Human Resources Development, Government of Southern Sudan

Emmanuel Parmenas Lupai
Director, operations and maintenance, Ministry of water resources and Irrigation, Government of Southern Sudan

Kuot Madhor
Director, Directorate of External Trade, Ministry of Commerce, Government of Southern Sudan

Justice Madol
Judge, Supreme Court

Makune Majole
Secretary General, South Sudan Concern Citizens International Association (SSCCIA)

Mary Aketch Taban Mil
Director, Directorate of Private Sector Development, Ministry of Commerce, Government of Southern Sudan

Samuel Modiyand
Head, Revenue Authority (Juba Bridge checkpoint), State Government of Central Equatoria

Edrid Mohamed
Head of Station, Standard Office, Government of National Unity

Steven Pitya Lako Mori
Investment officer, Ministry of Investment, Government of Southern Sudan

Liberio Lado Mori
Deputy Clerk, State Legislative Assembly

Ali Musa
Director, Federal Tax Authority

Luka N. Nasdna
Director of Labor, Ministry of Labor, Public Service and Human Resources, State Government of Central Equatoria

Ukuhi Paul
Program Officer, Southern Sudan Business Forum (SSBF)

Winston Paulo
Surveyor, survey department, Ministry of Physical Infrastructure, State Government of Central Equatoria

Justice Kukurlopita Marino Pitia
Judge, Court of Appeal, Central Equatoria Circuit

Reech Samuel
Head of Inspection, Directorate of Taxation, Ministry of Finance at the Nimule border

Kalisto Lado Severio
Director General of Land and Town Planning, Land Directorate, Ministry of Physical Infrastructure, State Government of Central Equatoria

Wilson Walani Sokiri
Director for Generation, Area Director, Southern Sudan Electricity Corporation (SSEC)

George Lado Tartisio
Justice of the Court of Appeal, Land Registry, Judiciary of Southern Sudan

David Chan Thiang
Director, Southern Sudan Centre for Census, Statistics and Evaluation (SSCCSE)

Cosmas Juma Tranquillo
Controller of Judges affairs, Land Registry, Judiciary of Southern Sudan

Emmanuel Matayo Wani
Director General, Directorate of Housing and Construction, Ministry of Physical Infrastructure, State Government of Central Equatoria

John Akuar Wilton
Sergeant, Nimule Border Traffic Police

PRIVATE PROFESSIONALS AND OTHER SPECIALISTS

Alemu Aberra
Managing Director, Buffalo commercial bank

Ian Alsworth-Elvey
Managing Director, Southern Sudan Beverages Limited (SSBL)

Charles Anyama
Consultant, Southern Sudan Chamber of Commerce, Industry & Agriculture

Kennedy Bangasu Bakorodi
Managing Director, General business, Bangasu - Star Overseas

Solomon Chaplain
Chairman / Managing Director, Rock City Investments

Simon Akuei Deng
Secretary General, Southern Sudan Chamber of Commerce, Industry & Agriculture

Petro Maluk Deng
Corporate Relationship Manager, KCB Sudan Ltd

Achai Bom Deng
Legal advisor, KCB Sudan Ltd

Roda Allison Dokolo
Protection Assistant, UNHCR

Nazih M.S. Farhat
Lawyer, Fattouch Investment Group

Jashinto Genye
Executive Director, CEFAD

Paul Gitahi
Executive Director, Equity Bank

Paul Gitonga
Treasury Advisor, Deloitte

Elizabeth Gresty
Advisor, USAID "Sudan Core Institutions" project, Deloitte

Francois Henepin
General Manager, Southern Sudan, SDV Logistics

Mande Johnson
Administrator, Lobo Investments Company

John Chaw Juk
Manager, South Sudan Investment Company (Nimule border)

Wani Mathias Jumi
Advocate, Lomoro & Co. Advocates

Ngor Ayuel Kacgor
C.E.O., Regional Trade and Contracting Co Ltd

Yasmin Hamed Kamis
Advocate, Yasmin & Anter Advocates

Guy Keeble
Logistics Manager, Freight and Logistics, Kuehne + Nagel Ltd

Rup Khadka
Tax Collection Advisor, USAID "Sudan Core Institutions" project, Deloitte

Joseph Kinyua
Credit Manager, Equity Bank

Lawrence Korbandy
Advocate and Commissioner for Oaths, Southern Sudan Association of Advocates

William E. Kosar
Legal & Legislative Advisor, USAID, "Strengthening Institutional Structures in Southern Sudan" Project

Dengtiel Kuer
Advocate, Southern Sudan Associated Advocates

David Taban Lasu
Operations Manager, Civicon construction

Joseph Philip Lokuku
Chairman, Jophco Engineering and Construction

Dong Samuel Luak
Advocate, Dong S. Kur Co. Advocates

Evans Wambaki Maina
Assistant Finance Manager, Equity Bank

Lomoro Robert Mullen
Advocate, Lomoro & Co. Advocates

Ituu Ngacha
Head of Credit, KCB Sudan Ltd

John Nsubuga
Audit manager, Goldstar and Partners Certified Public Accountants

Theo Osogo
Treasury Manager, Equity Bank

Aaron Qayumi
Project Technical Coordinator, Deloitte

P. Ravi
Business Unit Manager Logistics, Interfreight (Southern Sudan) LTD

Prasad Reddy
Manager, Water Africa Services Limited

Joseph Tibaijuka
Accounting firm, Goldstar and Partners Certified Public Accountants

Edmund Tumusiime
Architect & Partner, Astroid Building Consultancy

Ramadan Waku
Clearing Agent, Dolphin Clearing

Yacoub Kenyi Leju Yanga
Member, Chamber of Commerce, Southern Sudan Chamber of Commerce, Industry & Agriculture

Mansuk Denis Yata
Managing Director / Clearing Agent, Dolphin Clearing

Charles Yeka
Manager, Rhino Stars Forwarder

THE WORLD BANK

IFC International Finance Corporation
World Bank Group

USAID
FROM THE AMERICAN PEOPLE

The Government of Southern Sudan

HTTP://SUBNATIONAL.DOINGBUSINESS.ORG