



Doing Business SUBNATIONAL



2012



Doing Business in **Hargeisa 2012**

COMPARING REGULATION FOR DOMESTIC FIRMS IN HARGEISA AND WITH 183 ECONOMIES






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Hargeisa 2012

COMPARING REGULATION FOR DOMESTIC FIRMS IN HARGEISA AND WITH 183 ECONOMIES

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Washington, D.C. 20433
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Doing Business in Hargeisa 2012 measures business regulations and their enforcement in Hargeisa, Somaliland. It is the first *Doing Business* city profile in Somaliland. Comparisons with other economies are based on *Doing Business 2012—Doing business in a more transparent world*—the ninth in a series of annual reports published by the World Bank and International Finance Corporation. The indicators in *Doing Business in Hargeisa 2012* are also comparable with 335 cities from 54 economies benchmarked in other subnational *Doing Business* studies. All data and reports are available at www.doingbusiness.org/subnational.

Doing Business investigates the regulations that enhance business activity and those that constrain it. *Doing Business in Hargeisa 2012* measures regulations affecting 11 stages of the life of a small or medium-size business: starting a business, dealing with construction permits, getting electricity, registering property, getting credit, protecting investors, paying taxes, trad-

ing across borders, enforcing contracts, and resolving insolvency. Data on the employing workers indicator is available as an annex. The data in *Doing Business in Hargeisa 2012* are current as of May 2012.

Doing Business in Hargeisa 2012 is part of the World Bank's Private Sector Development Re-engagement Program Phase II, implemented jointly by the World Bank and the International Finance Corporation in collaboration with the Government of Somaliland. The project aims to help build business in Somaliland through entrepreneurship and an improved business environment. The study was produced at the request of the Ministry of Planning and Development of Somaliland and financed through a World Bank executed trust fund with contributions from the U.K. Department for International Development (UKAID), the Danish International Development Agency (DANIDA) and the World Bank's State and Peace-building Fund (SPF).

Executive summary

Hargeisa is the largest economic center of Somaliland. It sits on the Horn of Africa, 50 kilometers from Ethiopia, and 160 kilometers from the closest port in Berbera on the Gulf of Aden. Following the civil war in the 1980s, Somaliland unilaterally declared independence from Somalia in 1991, but it still lacks international recognition. During the first decade after the civil war, insecurity and unrest prevailed. A reconciliation dialogue was initiated between clan representatives in the city of Borama in 1993. In 1997 the Hargeisa Conference laid the foundations for a new institutional agreement, resulting in the creation and strengthening of government institutions. A new constitution was approved by referendum in 2001 and a series of elections have since taken place: local elections in 2002, presidential elections in 2003 and 2010, and legislative elections in 2005.¹

Livestock is the main pillar of Somaliland's economy: it is estimated to contribute to 60% of GDP,² with customs duties representing 85% of central government revenue and livestock representing the majority of export earnings.³ Remittances and an expanding service sector are other key economic sectors. The population—55% nomad and 35% urban—is growing fast at 3.1% a year.⁴ At 80%, unemployment is soaring.⁵

Relative peace and security have allowed for a vibrant private sector to develop. With limited government and financial institutions, the diaspora has been the main engine for recovery and source of investment: in 2008 the diaspora provided up to 80% of start-up capital for small and medium-size businesses.⁶ Remittances constitute 40% of urban households' income in Hargeisa. For one-quarter of them, they are the main

source of income.⁷ The private sector in Hargeisa delivers basic services such as health, education, electricity, domestic water supply and urban waste disposal.

Doing Business in Hargeisa 2012 measures the 11 *Doing Business* indicators that study business regulations as they apply to a domestic company throughout its life cycle.⁸ A fundamental premise of *Doing Business* is that economic activity requires good rules—rules that establish and clarify property rights and reduce the cost of resolving disputes; rules that increase the predictability of economic interactions and provide contractual partners with certainty and protection against abuse.

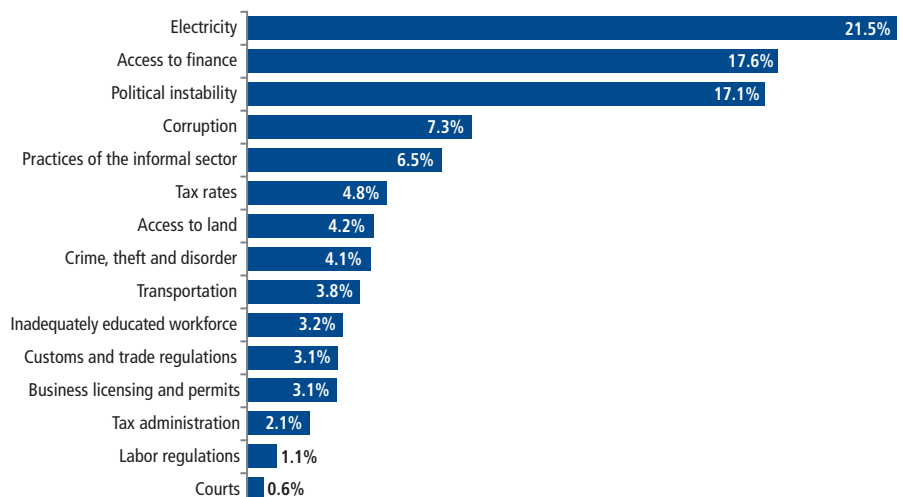
This report can be useful for public authorities in Hargeisa in two ways. First, it generates micro-level data on business regulations that can be compared internationally. This is no small contribution given there are limited statistics and official data. Access

to reliable and consistent data in Africa and in fragile states is limited, which hinders legal development and reform.⁹ Second, each chapter identifies bottlenecks, highlights opportunities for improvement and presents international and regional good practices.

PRIVATE SECTOR DEVELOPMENT IN FRAGILE AND CONFLICT-AFFECTED STATES

The 2011 *World Development Report* on conflict, security and development states that “strengthening legitimate institutions and governance to provide citizen security, justice, and jobs is crucial to break cycles of violence.”¹⁰ The private sector can play a positive role in the economic development of fragile and conflict-affected countries, generating jobs and government revenue through tax collection. But it is not easy to do business in countries affected by war and violence.

FIGURE 1.1 Access to electricity and finance, and political instability: the main obstacles for enterprises in fragile and conflict-affected economies



Note: Enterprise Surveys data covers 24 of the 33 economies classified as fragile and conflict-affected states by the World Bank Group. Source: Enterprise Surveys. www.enterprisesurveys.org. World Bank Group.

Conflict has a particularly acute impact on the formal private sector. Human capital is reduced as a result of violence or migration. Infrastructure and institutions are destroyed. Access to finance becomes difficult. Data from World Bank Enterprise Surveys show that the main constraints faced by firms working in conflict areas are lack of access to electricity and finance, political instability, practices of the informal sector, and corruption (figure 1.1). Compared globally, the business environment in fragile and conflict-affected states tends to have the most bureaucratic hurdles and the fewest property protections for entrepreneurs.¹¹ On average it is more difficult to do business in fragile and conflict-affected states, according to the *Doing Business* indicators.¹²

Nevertheless, many fragile and conflict-affected states in Sub-Saharan Africa have been improving their business environments in a number of regulatory areas (figure 1.2). Most improvements have occurred in business entry, secured transactions and tax compliance requirements. Sierra Leone has been a consistent reformer and was among

the countries that improved the most on the World Bank's ease of doing business index during 2010/11. During that year, Sierra Leone improved its credit information system by enacting a new law providing for the creation of a public credit registry; it made trading across borders faster by implementing an automated system for customs data; and it established a fast-track commercial court in an effort to expedite commercial cases, including insolvency proceedings.

Smart and transparent regulations are important to creating certainty and a level playing field, particularly for small and medium-size domestic entrepreneurs. The government has an important role to play in setting minimum standards and safeguards, supervising compliance with the law, and providing for conflict resolution institutions, among others. The government of Somaliland, aware of the importance of the private sector to economic development, has set for itself the task of creating an enabling climate for private sector development in the Draft Somaliland National Development Plan 2012–16. As the government undertakes reforms, it should

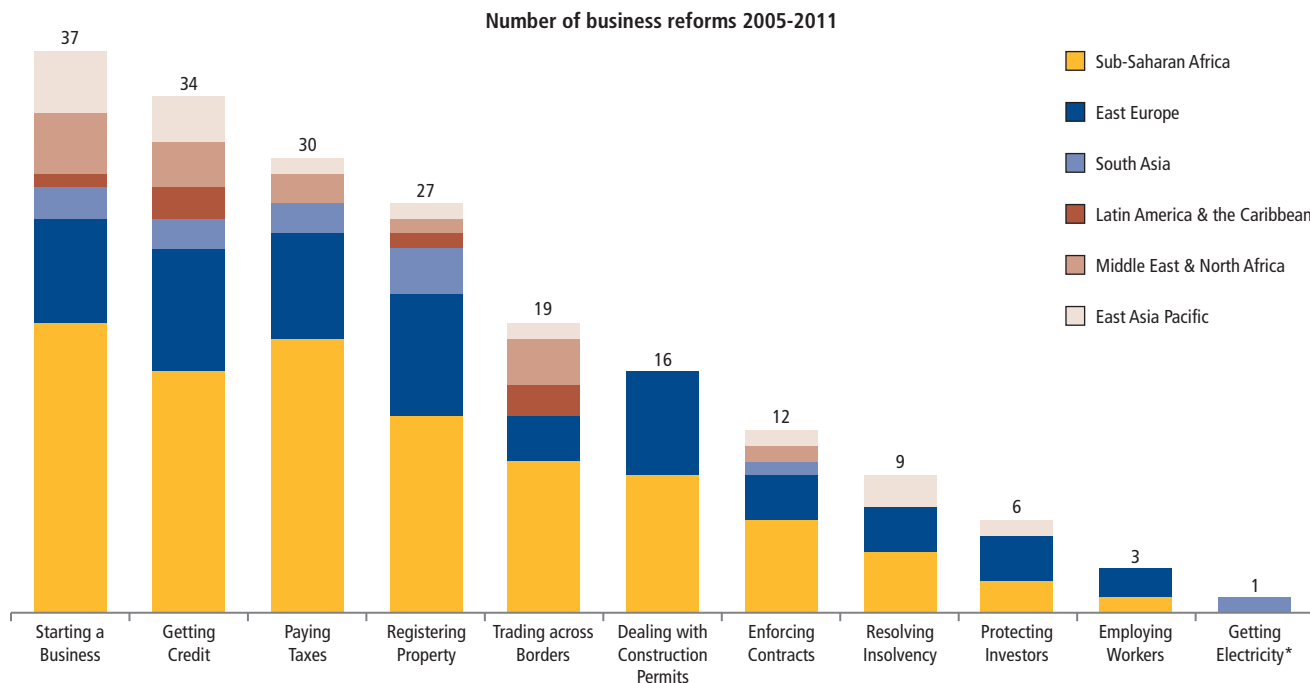
collaborate with local stakeholders—private sector and civil society—to understand their needs and priorities. This process can in turn increase trust in public institutions.

MAIN FINDINGS

If one compared Hargeisa to the 183 economies measured by *Doing Business* 2012, it would rank 174 on the ease of doing business—ahead of economies like Eritrea (180) or Chad (183), but behind Djibouti (170) or the United Arab Emirates (33) (table 1.1).

Behind the aggregate ranking, Hargeisa's performance varies from topic to topic (figure 1.3). On the ease of dealing with construction permits, getting electricity and registering property, Hargeisa would rank 86, 84 and 79, respectively, ahead of the averages for Sub-Saharan Africa and the fragile and conflict-affected states.¹³ Although the institutions governing these areas in Hargeisa are generally efficient, there is space for improvement in terms of establishing safety standards, inspection guidelines and supervision. Costs are high when dealing

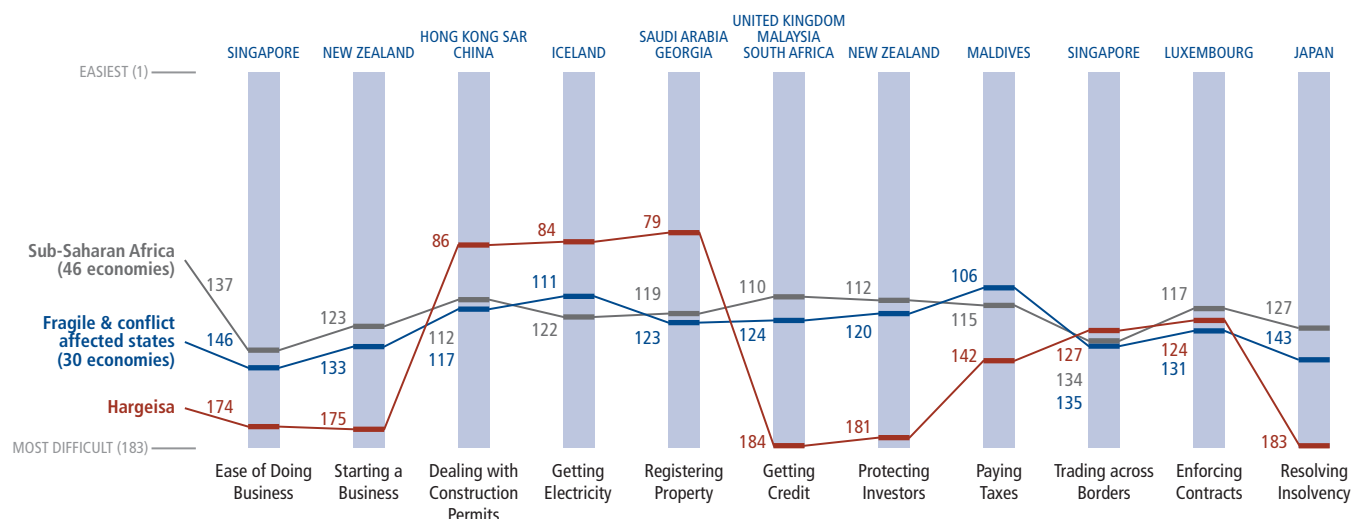
FIGURE 1.2 Fragile and conflict-affected economies in Sub-Saharan Africa have recently undertook many business reforms across *Doing Business* indicators



Note: *Doing Business* data covers 30 of the 33 economies classified as fragile and conflict-affected states by the World Bank Group. Twenty-seven of those have undertaken reforms since 2005, 16 being in Sub-Saharan Africa.

*Getting electricity reforms are counted since 2010.

Source: *Doing Business* database.

FIGURE 1.3 Hargeisa's performance in the *Doing Business* indicators compared with Sub-Saharan African economies and fragile and conflict-affected states

Note: Rankings are based on the average economy percentile rankings on each indicator's sub-components. See the data notes for details. Data are based on the *Doing Business 2012* report.

Source: *Doing Business* database.

with construction permits or getting electricity due to lack of infrastructure: limited water and electricity networks and lack of sewage make connection to utilities very expensive.

Compared globally, Hargeisa would rank 175 on the ease of starting a business. The process in Hargeisa is faster but significantly more costly than the Sub-Saharan Africa average. When compared to 183 economies measured by *Doing Business* it is among the top 15 most expensive cities in the world to start a business, with 60% of the cost stemming from the cost of business licenses. High costs may have a role in the high level of informality. Statistics show that when businesses register, they are more likely to do so with the municipality than with the Ministry of Commerce: the municipality issued 3,075

business licenses in 2010 alone, while the ministry only registered a fraction with a total of 358 companies between 2002 and 2007.¹⁴

On the ease of paying taxes and trading across borders, Hargeisa would rank 142 and 127, respectively. Although complying with tax obligations does not take long, the total tax rate is high, partly because of the absence of deductions or provisions for asset depreciation. The government's collection capacity is limited and in many cases it becomes a negotiation with larger businesses. When it comes to trading across borders, importing and exporting a standardized container of cargo through the port of Berbera is faster and cheaper than the Sub-Saharan Africa average. Most of the costs in trading across borders go to inland handling and transportation as a result of the poor road infrastructure.

Hargeisa would rank 124 on the ease of enforcing a contract and 183 on resolving insolvency. Commercial dispute resolution through the courts is expensive but quite fast. The short time to enforce a contract is partly due to the low caseload, because most cases are solved through traditional justice mechanisms. The judiciary was reestablished in the past decade and there are promising signs: legal professionals are back, law faculties have opened their doors, and courthouses have been rebuilt. Increasing transparency

and clarifying applicability of laws could help improve trust in the courts. Resolving insolvency is considered a no practice indicator given that there have only been a few cases of winding up with shareholders.¹⁵

On the ease of protecting investors and getting credit, Hargeisa would rank 181 and 184 respectively. These rankings reflect an incomplete regulatory framework. On the ease of getting credit, Hargeisa scores 0 out of 6 on the depth of credit information index, because there is no public or private credit registry or bureau, and 0 out of 10 on the strength of legal rights, given the lack of regulation on secured transactions. In terms of protecting investors, the Companies Law does not specifically address many issues affecting minority shareholders. This is why Hargeisa scores only 2 out of 10 in the overall strength of investor protection index.

KEY AREAS FOR IMPROVEMENT

Governments can contribute to improving the business environment in many ways. Whereas some areas are more urgent than others, *Doing Business in Hargeisa 2012* draws on good global and regional practices to serve as guide for business reforms. This report identifies four general recommendations across the topics covered.

First, the legal and regulatory framework should be completed and standards and guidelines issued. Approving a commercial

TABLE 1.1 How Hargeisa compares globally and regionally on the ease of doing business

Ease of Doing Business (Rank)	
Singapore	1
United Arab Emirates	33
Rwanda	45
Kenya	109
Sudan	135
Djibouti	170
Hargeisa	174
Eritrea	180
Chad	183

Source: *Doing Business* database.

banking act will be critical for the development of the financial sector; passing a commercial code would establish a regulatory framework for secured transactions; a building code is critical for the urban planning of Hargeisa. In the long term there should be regulations protecting minority shareholders. Although some of these laws are being drafted or debated, the legislative process has been contentious and slow with simultaneous draft bills originating from different ministries; between 1997 and 2002 Parliament passed only 22 bills.¹⁶ The Law Reform Commission could be strengthened to consolidate bill proposals from the executive. Existing laws should be made easily available and translated into the local language. For example, the Companies Law (2004) contains provisions affecting business incorporation, commercial disputes, and insolvency proceedings, among others, but it is available only in English. Given that many judges and lawyers speak only Somali, the law remains unapplied in many instances. Guidelines and standards are also important: inspection guidelines for construction permits, safety standards for electricity connections, and accounting standards for tax payments, among others.

Second, administrative procedures for business registration, construction permits, and property registration can be streamlined. Entrepreneurs starting a business must interact with five government agencies and visit them multiple times to obtain the required licenses. Having a single access point could reduce the number of procedures and the time lost. Similarly, to obtain a building permit a construction company must interact with several different agencies including the district office, the Municipal Archives Section, the Municipal Land Revenue Section and the Mayor's office. A single access point or one-stop shop would centralize all clearances in one location and make the technical approvals an in-house process at the municipality. Registering a property for tax purposes with the Municipality of Hargeisa could also become faster if the internal procedures were streamlined.

Third, measures should be taken to reduce costs, which are a cross-cutting issue. Where the source of high costs is licensing

fees—as is the case for business registration—the issuing authority should consider cutting fees. Although the fees obtained from business permits are a source of revenue for local governments, high fees hinder formal economic activity. A good international practice is for fees to cover the administrative costs of government services. Where high costs are due to infrastructure limitations—mainly connection to water, sewage and electricity—long-term investment will be necessary.

Finally, the government should promote higher compliance with regulations. One way is through better communication and awareness campaigns. For example, the Business Registry in Juba, South Sudan, launched a registration promotion campaign after resuming its activities in 2006 and the number of businesses registering has increased consistently since then. Sierra Leone launched a comprehensive communications strategy after a tax law reform in 2009, managing to increase tax registrants. Another mechanism to improve compliance is through better enforcement. As the different government institutions increase their capacity, greater resources and effort should be put into supervision. Public officials should make sure that businesses register and pay taxes and constructions are undertaken with the necessary licenses.

NOTES

1. International Crisis Group. 28 July 2003. *Somaliland: Democratisation and its Discontents*. ICG Africa Report N°66. Nairobi/Brussels.
2. GDP numbers are estimated as there is no reliable source. Ministry of Planning and Development. July 2012. *Somaliland Statistical Bulletin 6*.
3. Government revenue comes from taxes on trade and transactions and data are for 2009. Ministry of Planning and Development. 2010. *Somaliland in Figures*.
4. Estimates are for Somaliland overall. Ministry of Planning and Development. 2010. *Somaliland in Figures*. Also Delegation of the European Commission and UN-HABITAT. September 2002. "Somalia Urban Sector Profile Study."
5. USAID. July 2011. *Private Sector Development Assessment*. Partnership for Economic Growth Somaliland.
6. Estimate for Somalia. UNDP Somalia. March 2009. "Somalia's Missing Middle: The Somali Diaspora and its Role in Development."
7. Munzele Maimbo, Samuel, ed. November 2006. "Remittances and Economic Development in Somalia: An Overview." Conflict Prevention and Reconstruction Paper No. 38. Washington, D.C.: The World Bank Group.
8. Because the methodology for the employing workers indicators set is currently being refined, it is not included in the aggregate ranking on the ease of doing business index for this report. However, the data are available as an annex to the report.
9. Anderson, John, and Sophie Pouget. 2012. "Legal indicators: practical tools to promote legal and regulatory reform in Africa." *Africa Law Today* 4:2. ABA Section of International Law.
10. World Bank. 2011. *World Development Report 2011: Conflict, Security, and Development*. Washington, D.C.: The World Bank Group.
11. Peschka, Mary Porter. 2011. "The role of the private sector in fragile and conflict-affected states". World Development Report Background Paper. Washington, D.C.: World Bank Group.
12. Johns, Melissa. 2010. "Conflict Affected Countries: Reform Trends from the Doing Business Data Set." Working Paper. Washington, D.C.: World Bank Group.
13. Fragile and conflict-affected countries include those economies measured by *Doing Business* that are considered fragile situations as defined by the World Bank FY12 list. They are as follows: Afghanistan, Angola, Bosnia and Herzegovina, Burundi, Central African Republic, Chad, Comoros, Congo, Dem. Rep., Congo, Rep., Côte d'Ivoire,

Eritrea, Georgia, Guinea, Guinea-Bissau, Haiti, Iraq, Kiribati, Kosovo, Liberia, Marshall Islands, Micronesia, Fed. Sts., Nepal, Sierra Leone, Solomon Islands, Sudan, Timor-Leste, Togo, West Bank and Gaza, Yemen, Rep., and Zimbabwe.

14. Somaliland Ministry of Commerce register books. Also Hargeisa Municipality *Statistical Abstract*. Fourth Edition, September 2012.
15. If an economy has had zero cases per year in the past five years involving a judicial reorganization, judicial liquidation or 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. See Data notes for more details.
16. Academy for Peace and Development. April 2002. “The Judicial System in Somaliland.” Workshop Report. Hargeisa, Somaliland.

About *Doing Business* and *Doing Business in Hargeisa 2012*

A vibrant private sector—with firms making investments, creating jobs and improving productivity—promotes growth and expands opportunities for poor people. To foster a vibrant private sector, governments around the world have implemented wide-ranging reforms, including price liberalization and macroeconomic stabilization programs. But 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.

Until 10 years ago, 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 that capture often one-time experiences of businesses. Such surveys can be useful gauges of economic and policy conditions. But few perception surveys provide indicators with a global coverage that are updated annually.

The *Doing Business* project takes a different approach from perception surveys. It looks at domestic, primarily small and medium-size companies and measures the regulations applying to them through their life cycle. Based on standardized case studies, it presents quantitative indicators on business regulation that can be compared across 183 economies and over time. This approach complements the perception surveys in exploring the major constraints for businesses, as experienced by the businesses themselves and set out in the regulations that apply to them.

Rules and regulations are under the direct control of policy makers—and policy

makers intending to change the experience and behavior of businesses will often start by changing rules and regulations that affect them. *Doing Business* goes beyond identifying that a problem exists and points to specific regulations or regulatory procedures that may lend themselves to reform. And its quantitative measures of business regulation enable research on how specific regulations affect firm behavior and economic outcomes.

The first *Doing Business* report, published in 2003, covered 5 indicator sets and 133 economies. The latest report, *Doing Business 2012: Doing business in a more transparent world*, covers 11 indicator sets and 183 economies. Ten 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.¹ The initial goal remains: to provide an objective basis for understanding and improving the regulatory environment for business.

WHAT DOING BUSINESS IN HARGEISA 2012 COVERS

Doing Business in Hargeisa 2012 provides a quantitative measure of the national and local regulations for starting a business, dealing with construction permits, getting electricity, registering property, getting credit, protecting investors, paying taxes, trading across borders, enforcing contracts and resolving insolvency—as they apply to domestic small and medium-size enterprises. *Doing Business in Hargeisa 2012* includes an annex on the employing workers indicator.

A fundamental premise of *Doing Business* is that economic activity requires good rules. These include rules that establish and clarify property rights, and rules that increase the predictability of economic interactions. 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 Hargeisa 2012 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. A regulatory process such as starting a business or registering property is broken down into clearly defined steps and procedures. 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.²

WHAT DOING BUSINESS IN HARGEISA 2012 DOES NOT COVER

Just as important as knowing what *Doing Business in Hargeisa 2012* 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 Hargeisa 2012 focuses on 11 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 Hargeisa 2012* 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 all aspects of the quality of infrastructure. Nor does it focus on regulations specific to foreign investment.
- While *Doing Business in Hargeisa 2012* focuses on the quality of the regulatory framework, it is not all-inclusive; it does not cover all regulations, or all regulatory goals in Somaliland. 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 Hargeisa 2012* covers 11 specific sets of indicators. These indicator sets do not cover all aspects of regulation in the area of focus. For example, the indicators on starting a business or protecting investors do not cover all aspects of commercial legislation. The employing workers indicators do not cover all areas of labor regulation. The current set of indicators does not, for example, include measures of regulations addressing safety at work or the right of collective bargaining.
- *Doing Business in Hargeisa 2012* also does not attempt to measure all costs and benefits of a particular law or regulation to society as whole. The paying taxes indicators, for example, measure the total tax rate, which is a cost to business. The indicators do not measure, nor are they intended to measure, the social and economic programs funded through tax revenues. Measuring business laws and regulations provides one input into the debate on the regulatory burden associated with achieving regulatory objectives. Those objectives can differ across economies.

Based on standardized case scenarios

The indicators analyzed in *Doing Business in Hargeisa 2012* are based on standardized case scenarios with specific assumptions, such as that the business is located in the largest economic center of Somaliland, Hargeisa. 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* 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* 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.

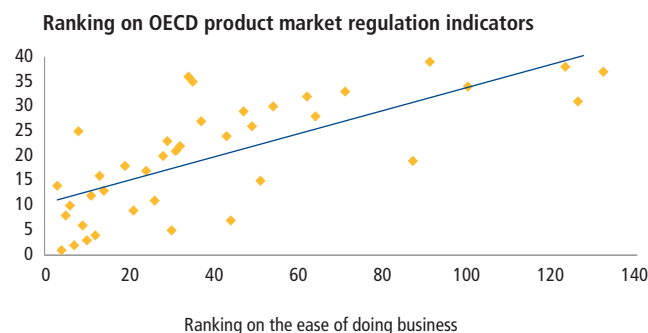
Where regulation is particularly onerous, levels of informality are higher. Informality comes at a cost: firms in the informal sector typically grow more slowly, have poorer access to credit and employ fewer workers—and their workers remain outside the protections of labor law.³ All this may be even more so for female-owned businesses, according to country-specific research.⁴ Firms in the informal sector are also less likely to pay taxes. *Doing Business* 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* with data from other sources, such as the World Bank Enterprise Surveys.⁵

WHY THIS FOCUS

Doing Business 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. Closest to *Doing Business* in

FIGURE 2.1 A strong correlation between *Doing Business* rankings and OECD rankings on product market regulation



Note: Correlation is significant at the 5% level when controlling for income per capita.
Source: *Doing Business* database; OECD data.

FIGURE 2.2 A similarly strong correlation between *Doing Business* rankings and World Economic Forum rankings on global competitiveness



Note: Correlation is significant at the 5% level when controlling for income per capita.
Source: *Doing Business* database; WEF 2010.

what it measures is the set of indicators on product market regulation compiled by the Organization for Economic Co-operation and Development (OECD). These indicators are designed to help assess the extent to which the regulatory environment promotes or inhibits competition. They include measures of the extent of price controls, the licensing and permit system, the degree of simplicity of rules and procedures, the administrative burdens and legal and regulatory barriers, the prevalence of discriminatory procedures, and the degree of government control over business enterprises.⁶ The rankings on these indicators—for the 39 countries that are covered, several of them large emerging markets—are highly correlated with those on the ease of doing business (the correlation here is 0.72; figure 2.1).

Similarly, there is a high correlation (0.82) between the rankings on the ease of doing business and those on the World Economic Forum's Global Competitiveness Index, a much broader measure capturing such factors as macroeconomic stability, aspects of human capital, the soundness of public institutions and the sophistication of the business community (figure 2.2). Economies that do well on the *Doing Business* indicators tend to do well on the OECD market regulation indicators and the Global Competitiveness Index and vice versa.⁷

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.⁸ 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. Even firms operating in the formal sector might not have equal access to transparent rules and regulations affecting their ability to compete, innovate and grow.

Where regulation is burdensome and competition limited, success tends to depend more on whom you know than on what you can do.⁹ 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. Not surprisingly, higher rankings on the ease of doing business—based on 10 areas of business regulation measured by *Doing Business*—are correlated with better governance and lower levels of perceived corruption.¹⁰

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.¹¹

DOING BUSINESS IN HARGEISA 2012 AS A BENCHMARKING EXERCISE

Doing Business in Hargeisa 2012, 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 Hargeisa 2012 provides 2 takes on the data it collects: it presents “absolute” indicators for each of the 11 regulatory topics it addresses, and it provides comparisons between Hargeisa and other regional and world economies 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 economies may rank unexpectedly high on some indicators. And some economies 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 governments, how much the regulatory environment for local entrepreneurs improves matters more than their relative ranking. As economies 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.

WHAT RESEARCH SHOWS ON THE EFFECTS OF BUSINESS REGULATION

Nine years of *Doing Business* data, together with other data sets, have enabled a growing body of research on how specific areas of business regulation—and regulatory reforms in those areas—relate to social and economic outcomes. Some 873 articles have been published in peer-reviewed academic journals, and about 2,332 working papers are available through Google Scholar.¹²

Much attention has been given to exploring links to microeconomic outcomes, such as firm creation and employment. Recent research focuses on how business regulations affect the behavior of firms by creating incentives (or disincentives) to register and operate formally, to create jobs, to innovate and to increase productivity.¹³ Many studies have also looked at the role played by courts, credit bureaus, and insolvency and collateral laws in providing incentives for creditors and investors to increase access to credit. The literature has produced a range of findings.

Lower costs for business registration encourage entrepreneurship and enhance firm productivity. Economies with efficient business registration have a higher entry rate by new firms as well as greater business density.¹⁴ Economies where registering a new business takes less time have seen more businesses register in industries where the potential for growth is greatest, such as those that have experienced expansionary shifts in global demand or technology.¹⁵ Reforms making it easier to start a business tend to have a significant positive effect on investment in product market industries such as transport, communications and utilities, which are often sheltered from competition.¹⁶ There is also evidence that more efficient business entry regulations improve firm productivity and macroeconomic performance.¹⁷

Simpler business registration translates into greater employment opportunities in the formal sector. Reducing start-up costs for new firms was found to result in higher take-up rates for education, higher rates of job creation for high-skilled labor and higher average productivity because new firms are often set up by high-skilled workers.¹⁸ Lowering entry

costs can boost legal certainty: businesses entering the formal sector gain access to the legal system, to the benefit of both themselves and their customers and suppliers.¹⁹

Assessing the impact of policy reforms poses challenges. While cross-country correlations can appear strong, it is difficult to isolate the effect of regulations given all the other potential factors that vary at the country level. Generally, cross-country correlations do not show whether a specific outcome is caused by a specific regulation or whether it coincides with other factors, such as a more positive economic situation. So how do we know whether things would have been different without a specific regulatory reform? Some studies have been able to test this by investigating variations within an economy over time. Other studies have investigated policy changes that affected only certain firms or groups. Several country-specific impact studies conclude that simpler entry regulations encourage the establishment of more new firms:

- In Mexico one study found that a program that simplified municipal licensing led to a 5% increase in the number of registered businesses and a 2.2% increase in wage employment, while competition from new entrants lowered prices by 0.6% and the income of incumbent businesses by 3.2%.²⁰ Other research found that the same licensing reform directly led to a 4% increase in new start-ups and that the program was more effective in municipalities with less corruption and cheaper additional registration procedures.²¹
- In India the progressive elimination of the “license raj” led to a 6% increase in new firm registrations, and highly productive firms entering the market saw larger increases in real output than less productive firms.²² Simpler entry regulation and labor market flexibility were found to be complementary. States with more flexible employment regulations saw a 25% larger decrease in informal firms and 17.8% larger gains in real output than states with less flexible labor regulations.²³ The same licensing reform led to an aggregate productivity improvement of around 22% for firms affected by the reform.²⁴

- In Colombia new firm registrations increased by 5.2% after the creation of a one-stop shop for businesses.²⁵
- In Portugal the introduction of a one-stop shop for businesses led to a 17% increase in new firm registrations and 7 new jobs for every 100,000 inhabitants compared with economies that did not implement the reform.²⁶

A sound regulatory environment leads to stronger trade performance. Efforts to streamline the institutional environment for trade (such as by increasing the efficiency of customs) have been shown to have positive effects on trade volumes.²⁷ One study found that an inefficient trade environment was among the main factors in poor trade performance in Sub-Saharan African countries.²⁸ Similarly, another study identified the government’s ability to formulate and implement sound policies and regulations that promote private sector development, customs efficiency, quality of infrastructure and access to finance as important factors in improving trade performance.²⁹ The same study found that economies with more constrained access to foreign markets benefit more from improvements in the investment climate than those with easier access.

Research also shows that an economy’s ability to enforce contracts is an important determinant of its comparative advantage in the global economy: among comparable economies, those with good contract enforcement tend to produce and export more customized products than those with poor contract enforcement.³⁰ Another study shows that in many developing economies production of high-quality output is a precondition for firms to become exporters: institutional reforms that lower the cost of high-quality production increase the positive effect that trade facilitation can have on income.³¹ Research shows that removing barriers to trade needs to be accompanied by other reforms, such as making labor markets more flexible, to achieve higher productivity and growth.³²

Regulations and institutions that form part of the financial market infrastructure—including courts, credit information systems, and

collateral, creditor and insolvency laws—play a role in easing access to credit. Enterprise surveys conducted by the World Bank show that access to credit is a major constraint to businesses around the world.³³ Good credit information systems and strong collateral laws can help alleviate financing constraints. Analysis in 12 transition economies found that reforms strengthening collateral laws increased the supply of bank loans by 13.7% on average.³⁴ Creditor rights and the existence of credit registries, whether public or private, are both associated with a higher ratio of private credit to GDP.³⁵ And greater information sharing through credit bureaus is associated with higher bank profitability and lower bank risk.³⁶

Country-specific research assessed the effect of efficient debt recovery and exit processes in determining conditions of credit and in ensuring that less productive firms are either restructured or exit the market:

- The establishment of specialized debt recovery tribunals in India sped up the resolution of debt recovery claims and allowed lenders to seize more collateral on defaulting loans. It also increased the probability of repayment by 28% and lowered interest rates on loans by 1–2 percentage points.³⁷
- Following a broad bankruptcy reform in Brazil in 2005 that, among other things, improved the protection of creditors, the cost of debt fell by 22% and the aggregate level of credit rose by 39%.³⁸
- The introduction of improved insolvency regimes that streamlined mechanisms for reorganization reduced the number of liquidations by 8.4% in Belgium and by 13.6% in Colombia as more viable firms opted for reorganization instead.³⁹ In Colombia the new law better distinguished viable from nonviable firms, making survival more likely for financially distressed but viable firms.

HOW GOVERNMENTS USE DOING BUSINESS

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. For governments, 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 exploring 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 (boxes 2.1 and 2.2). For example, Saudi Arabia used the company law of France as a model of 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 business regulation reform. In the words of Luis Guillermo Plata, the former Minister of Commerce, Industry and Tourism of Colombia,

It’s not like baking a cake where you follow the recipe. No. We are all different. But we can take certain things, certain key lessons, and apply those lessons and see how they work in our environment.

Over the past 9 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. In structuring their reform programs for the business environment, 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, avoiding a narrow focus on improving *Doing Business* rankings and encouraging broad-based reforms that enhance the investment climate. The World Bank Group uses a vast range of indicators and analytics in this policy dialogue, including its Global Poverty Monitoring Indicators, Logistics Performance Indicators and many others. With the open data initiative, all indicators are available to the public at <http://data.worldbank.org>.

METHODOLOGY AND DATA

Doing Business data are based on national and local laws and regulations as well as administrative requirements. For a detailed

BOX 2.1 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 interministerial 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. Governments have reported more than 300 regulatory reforms that have been informed by *Doing Business* since 2003.

BOX 2.2 How regional economic forums use *Doing Business*

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.ⁱ The action plan sets specific targets, such as making it 25% faster to start a business by reducing the average time by 1 week.

Drawing on a firm survey, planners identified 5 priority areas: starting a business, getting credit, enforcing contracts, trading across borders and dealing with permits. APEC economies then selected 6 “champion economies” for the priority areas: New Zealand and the United States (starting a business), Japan (getting credit), Korea (enforcing contracts), Singapore (trading across borders) and Hong Kong SAR, China (dealing with construction permits). In 2010 and 2011 several of the champion economies organized workshops to develop programs for building capacity in their area of expertise.

i. APEC (Asia-Pacific Economic Cooperation). 2010. “APEC Ease of *Doing Business* Action Plan (2010–2015).” <http://aimp.apec.org>.

explanation of the *Doing Business in Hargeisa 2012* methodology, see data notes.

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 fill out written 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.⁴⁰

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 provides sufficiently broad coverage across topics. Thus *Doing Business* uses the simplest method: weighting all topics equally and, within each topic, giving equal weight to each of the topic components.⁴¹

Inclusion of getting electricity indicators

This year's ease of doing business ranking includes getting electricity as a new topic. The getting electricity indicators were introduced as a pilot in *Doing Business 2010* and *Doing Business 2011*, which presented the results in an annex. During the pilot phase the methodology was reviewed by experts, and data on the time, cost and procedures to obtain an electricity connection were collected for the full set of 183 economies. To avoid double counting, procedures related to getting an electricity connection have been removed from the dealing with construction permits indicators.⁴⁹

Improvements to the methodology

The methodology has undergone continual improvement over the years.⁴² 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 Hargeisa 2012*.

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.

Doing Business 2012 report removes procedures related to getting an electricity connection from dealing with construction permits indicators. This has been done to avoid double counting as the *Doing Business 2012* report includes an 11th indicator—Getting

Electricity.⁴³ *Doing Business in Hargeisa 2012* has reflected the removal of procedures related to getting an electricity connection from dealing with construction permits to allow for international comparability. In addition, *Doing Business in Hargeisa 2012* includes improvements in the methodology for the employing workers indicators and the getting credit (legal rights) indicators, in addition to the removal of the procedures related to getting an electricity connection from the dealing with construction permits indicators. It also includes changes in the ranking methodology for paying taxes.

Employing workers methodology. With the aim of better capturing the balance between worker protection and efficient employment regulation that favors job creation, *Doing Business* has made a series of amendments to the methodology for the employing workers indicators over the past 4 years. In addition, the World Bank Group has been working with a consultative group—including labor lawyers, employer and employee representatives, and experts from civil society, the private sector, the International Labour Organization (ILO) and the OECD—to review the methodology and explore future areas of research.⁴⁴ The consultative group completed its work this year, and its guidance has provided the basis for several changes in methodology (see also the data notes). A full report with the conclusions of the consultative group is available on the *Doing Business* website.⁴⁵

Follow-on work is continuing to explore the measurement of worker protection to complement the measurement of the cost to employers of labor regulations. The data on worker protection will serve as a basis for the development of a joint analysis of worker protection by the World Bank Group and the ILO.

Pending further progress on research in this area, this year's report does not present rankings of economies on the employing workers indicators or include the topic in the aggregate ranking on the ease of doing business. It does present the data on the employing workers indicators. Additional data on labor regulations collected in 183 economies are available on the *Doing Business* website.⁴⁶

Paying taxes methodology. *Doing Business* has benefited from dialogue with external stakeholders, including participants in the International Tax Dialogue, on the survey instrument and methodology for the paying taxes indicators. As a result of these consultations, this year's report introduces a threshold for the total tax rate for the purpose of calculating the ranking on the ease of paying taxes. All economies with a total tax rate below the threshold (which will be calculated and adjusted on a yearly basis) will now receive the same ranking on the total tax rate indicator. Since the total tax rate is 1 of 32 indicators included in the ranking on the overall ease of doing business, this change has minimal effects on the overall rankings. The correlation between rankings on the ease of paying taxes with and without this threshold is 99%. The threshold is not based on any underlying theory. Instead, it is meant to emphasize the purpose of the indicator: to highlight economies where the tax burden on business is high relative to the tax burden in other economies. Giving the same ranking to all economies whose total tax rate is below the threshold avoids awarding economies in the scoring for having an unusually low total tax rate, often for reasons unrelated to government policies toward enterprises. For example, economies that are very small or that are rich in natural resources do not need to levy broad-based taxes. For more details on the calculation of the threshold, see the data notes.

Getting credit methodology. The strength of legal rights index measures certain rights of borrowers and lenders with respect to secured transactions. The index describes how well collateral and bankruptcy laws facilitate lending by measuring 10 aspects of these laws. One aspect of collateral law that is measured relates to whether secured creditors can continue individual court actions after a debtor starts a court-supervised reorganization procedure or whether they are subject to an automatic stay or a moratorium. Previously only economies where secured creditors can continue a court action in these circumstances were rewarded in the scoring for the strength of legal rights index. Now economies where secured creditors must stop individual court actions but their rights remain protected through other

means are also rewarded (see the data notes for more details). The change aligns the methodology for this indicator with guidelines of the United Nations Commission on International Trade Law (UNCITRAL) and the World Bank Group.

Data adjustments

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 economy are available on the website, beginning with the first year the indicator or economy was included in the report. To provide a comparable time series for research, the data set is back-calculated to adjust for changes in methodology and any revisions in data due to corrections. The data set is not back-calculated for year-to-year changes in income per capita. 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.

NOTES

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5. <http://www.enterprisesurveys.org>
6. OECD, "Indicators of Product Market Regulation," <http://www.oecd.org>. The measures are aggregated into 3 broad families that capture state control, barriers to entrepreneurship and barriers to international trade and investment. The 39 countries included in the OECD market regulation indicators are Australia, Austria, Belgium, Brazil, Canada, Chile, China, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, India, Ireland, Israel, Italy, Japan, Korea, Luxembourg, Mexico, the Netherlands, New Zealand, Norway, Poland, Portugal, Russia, the Slovak Republic, Slovenia, South Africa, Spain, Sweden, Switzerland, Turkey, the United Kingdom and the United States.
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40. All background papers are available on the *Doing Business* website (<http://www.doingbusiness.org>).
41. A technical note on the different aggregation and weighting methods is available on the *Doing Business* website (<http://www.doingbusiness.org>).
42. All changes in methodology are explained in the data notes of the report (data notes and all *Doing Business* reports are available at <http://www.doingbusiness.org>).
43. Previous years' data on dealing with construction permits are adjusted to reflect this change. They are made available on *Doing Business* website under "historical data" (<http://www.doingbusiness.org>).
44. For the terms of reference and composition of the consultative group, see World Bank, "Doing Business Employing Workers Indicator Consultative Group," <http://www.doingbusiness.org>.
45. <http://www.doingbusiness.org/methodology/employing-workers>.
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Starting a business

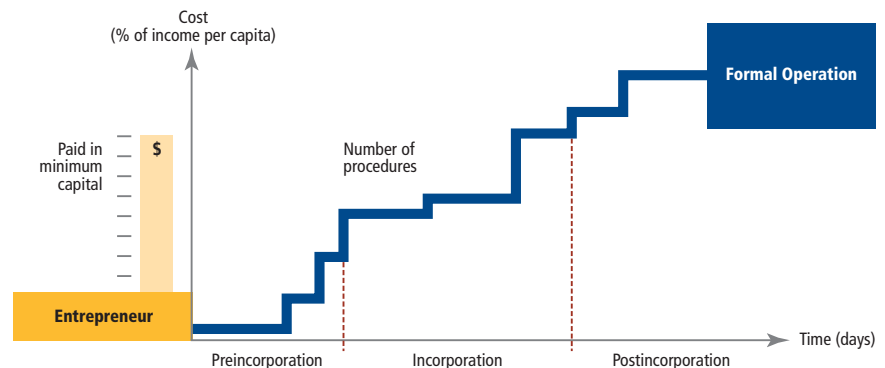
In Hargeisa the informal sector represents the largest part of the economy, providing 77% of the total employment in the city.¹ Informality, which typically flourishes in conflict-affected economies, can limit firms' growth and productivity. Although issues like security and stability take priority in the government's agenda, making the process of business incorporation easy can encourage businesses to join the formal sector.

WHY DOES FORMAL BUSINESS REGISTRATION MATTER?

Registered businesses grow larger and are more productive than informal ones.² They have access to services and institutions from courts to banks as well as to new markets—benefits that are not available to unregistered firms. Legal entities outlive their founders. Resources can be pooled as several shareholders join together. The legal form under which a company is registered also matters. Limited liability companies cap the financial liability of company owners to their investments, so personal assets are not put at risk.

Business entry regulation and associated costs can hinder or encourage business formalization. One study finds that higher entry costs are associated with a larger informal sector and a smaller number of legally registered firms.³ When regulation, compliance and start-up costs are cumbersome, cutting into businesses' profits, they discourage entrepreneurs and hamper job creation.⁴ On the other hand, a recent study using data collected from company registries in 100 countries over 8 years found that simple business start-up is critical for fostering formal entrepreneurship. Countries with a quick, efficient and cost-effective business registration process have a higher entry rate as well as greater business density.⁵

FIGURE 3.1 What are the time, cost, paid-in minimum capital and number of procedures required to get a local, limited liability company up and running?



WHAT DOES STARTING A BUSINESS MEASURE?

Doing Business measures the procedures, time, cost and paid-in minimum capital required for a small to medium-size company to start up and operate formally (figure 3.1). These procedures include obtaining all necessary licenses and permits and completing any required notifications, verifications or inscriptions for the company and employees with relevant authorities. To make the data comparable across 183 economies, *Doing Business* uses a standardized business that is 100% domestically owned, has a start-up capital equivalent to 10 times income per capita, engages in general industrial or commercial activities and employs between 10 and 50 people.

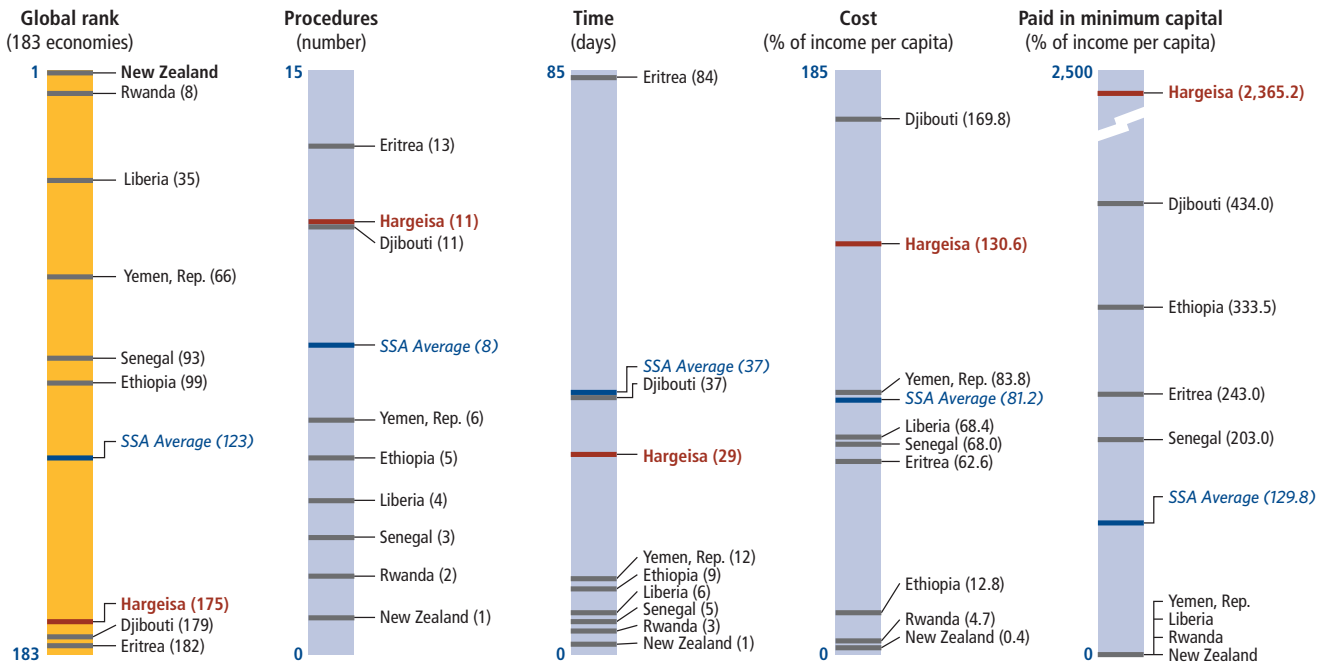
HOW DOES IT WORK IN HARGEISA AND HOW DOES IT COMPARE GLOBALLY?

Starting a limited liability company in Hargeisa requires 11 procedures over 29 days and costs 130.6% of income per capita. In addition, 2,365% of income per capita has to be deposited into a bank account as minimum capital. Expressed as a percentage of income per capita, this is the highest

minimum capital that has to be paid in the world. By contrast, in Rwanda, a regional and global good practice economy, an entrepreneur spends only three days and 4.7% of income per capita completing two procedures—and no minimum capital has to be paid in. Hargeisa would rank 175 compared to 183 other economies on the ease of starting a business as measured by *Doing Business 2012*, ahead of neighboring Djibouti (179) or Eritrea (182) but behind Rwanda (8), Yemen (66) or Ethiopia (99) (figure 3.2).

Business incorporation in Hargeisa is governed mainly by the Companies Law of Somaliland (Law No. 25/2004), as well as administrative rules set up by the institutions involved in the process: the Ministry of Commerce issues commercial licenses; the Attorney General administers the act of incorporation; and the Ministry of Finance handles payments. Since 2007, only 358 corporations have registered with the Ministry of Commerce (figure 3.3). In total, the ministry has issued 1,274 business licenses since 1997. This is a very low number in an economy of more than 3.5 million inhabitants—about 0.4 registered firms per 1,000 inhabitants. In Sub-Saharan Africa, there are

FIGURE 3.2 Starting a business in selected African and Middle Eastern economies: Hargeisa has the highest paid-in minimum capital requirement in the world



Notes: SSA denotes the Sub-Saharan Africa region. Rankings are based on the average economy percentile rankings on the procedures, time, cost and paid-in minimum capital requirement to start a business. See the data notes for details.

Source: Doing Business database.

on average 1.2 new registered firms for every 1,000 inhabitants aged 16 to 64.⁶ South Sudan, a country affected by many years of civil war, registered on average about 1,800 new businesses yearly from 2006 to 2010, significantly more than in Somaliland.⁷

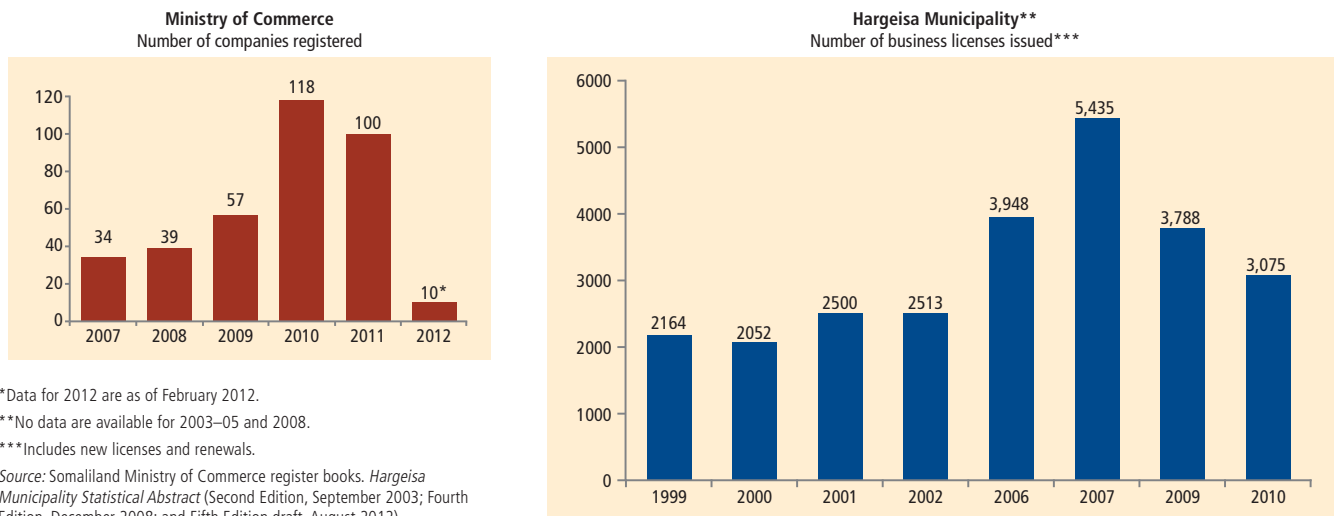
After incorporation and in order to operate, businesses need to obtain a local business license issued by the Hargeisa Municipality, as per the *Regions and District*

Self-Administration Law (Law 23). The number of business establishments registered with the municipality is much higher than those registered with the Ministry of Commerce. Hargeisa Municipality issued 3,075 business licenses in 2010 (figure 3.3) while the Ministry of Commerce issued only 118 commercial licenses for the same year. While a significant portion of the municipal business licenses were issued to sole proprietorships,⁸ many others were issued to small

and medium-size enterprises with similar characteristics to the category of firms measured by *Doing Business*.⁹

The 11 procedures required to start a business include 3 pre-incorporation, 3 incorporation, and 5 post-incorporation interactions with various agencies (figure 3.4).¹⁰ Prior to incorporation, a business must notarize a list of necessary documents, deposit the minimum paid-in capital into a bank account,

FIGURE 3.3 More businesses register with Hargeisa Municipality than with the Ministry of Commerce



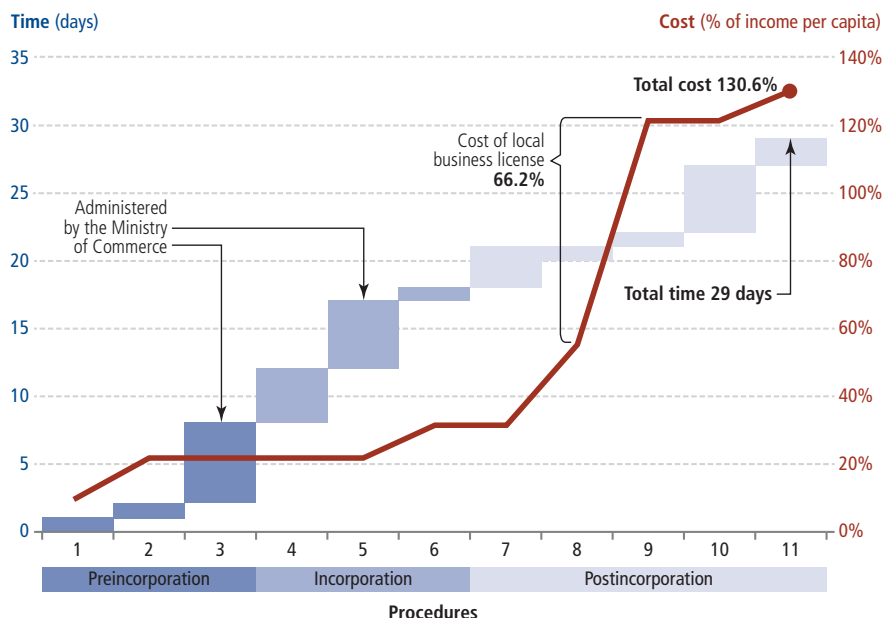
*Data for 2012 are as of February 2012.

**No data are available for 2003–05 and 2008.

***Includes new licenses and renewals.

Source: Somaliland Ministry of Commerce register books. *Hargeisa Municipality Statistical Abstract* (Second Edition, September 2003; Fourth Edition, December 2008; and Fifth Edition draft, August 2012).

FIGURE 3.4 Entrepreneurs must complete numerous procedures involving five government agencies



Source: *Doing Business* database.

and obtain clearance from the Ministry of Commerce to register with the Attorney General's Office. Despite the fact that notarization is not required by law, based on common practice and requirements set forth by the Ministry of Commerce and the Attorney General, notaries formally witness, review and stamp the incorporation documents. Incorporation starts at the Attorney General's Office and concludes with the commercial license issued by the Ministry of Commerce. After incorporation, a municipal business license has to be obtained. This license includes two interactions with the District Commissioner corresponding to the business premises location and one interaction with the Hargeisa Municipality to obtain the municipal business license. Post-incorporation steps also include registering with the Chamber of Commerce and commissioning a company seal. Although neither of these procedures is required by law, the Ministry of Commerce currently instructs every entity to register with the Chamber of Commerce and frequently requires Chamber of Commerce membership prior to issuing a commercial license.

The 29 days needed to register a business in Hargeisa are faster than the Sub-Saharan Africa average of 37 days, but significantly slower than regional good practices found in Rwanda (3 days), Senegal (5 days) or Liberia

(6 days) (figure 3.2). The interactions with the Ministry of Commerce and the local authorities are the main bottlenecks, taking two-thirds of the total time. Entrepreneurs in Hargeisa spend on average 11 days with the Ministry of Commerce to obtain the necessary clearances for a commercial license, and 9 days with local authorities at district and municipal level to obtain a local business license.

Entrepreneurs pay 130.6% of income per capita (\$276) to start a business in Hargeisa.¹¹ Compared with 183 economies measured by *Doing Business*, Hargeisa is among the top 15 most expensive cities in the world to start a business. The \$140 cost of the local business license represents more than half of the total cost and 66.2% of income per capita (figure 3.4). The Ministry of Commerce charges 1% of the company's start-up capital for the commercial license. Overall, these two licenses make up almost 60% of the total cost. The next most expensive fee is the \$50 Chamber of Commerce membership fee, which represents 18% of the total cost and 23.7% of income per capita (figure 3.5).

In addition to start-up fees, entrepreneurs have to deposit on average 2,365% of income per capita as paid-in minimum capital—an exorbitant and unaffordable amount for many local small and medium-size businesses. The

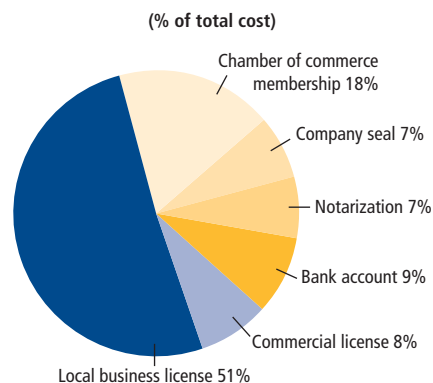
Procedures

1. Notarize incorporation documents
2. Open a bank account with Bank of Somaliland and deposit the minimum capital
3. Obtain clearance from the Ministry of Commerce to incorporate with Attorney General's Office
4. Obtain certificate of incorporation from Attorney General's Office
5. Apply for and obtain a commercial license at the Ministry of Commerce
6. Pay commercial license fee at the Ministry of Finance
7. Apply for local business license at the District Commissioner's Office and receive on-site inspection of the business premises
- 8*. Register with the Somaliland Chamber of Commerce
9. Pay local business license fee at the District Office
10. Obtain local business license from the Mayor's Office
11. Purchase a company seal

* This procedure is simultaneous with a previous procedure.

Companies Law of Somaliland requires paid-in minimum capital, but it does not set an amount. Section 58 of the law states that the authorized minimum capital is determined by order of the Attorney General. In practice, however, it is a subject of discussion among the Ministry of Commerce and the Attorney General as well as representatives of the company being incorporated. This leaves room for interpretation and gives public officials leverage to delay the process when disagreements arise. This can also discourage aspiring companies from joining the formal sector if unreasonable amounts of capital deposits are asked.

FIGURE 3.5 Two business licenses—the commercial license and the local business license—account for about 60% of the total cost



Source: *Doing Business* database.

There are thus many opportunities for streamlining business registration in Hargeisa. And indeed, authorities at both central and local levels have undertaken some reforms. At the beginning of 2012, the Ministry of Commerce eliminated a fee of 3% of initial capital for the commercial licenses, easing the financial burden on newly registered firms. Currently, the central government is working closely with international development partners to reform business incorporation. At the same time, Hargeisa Municipality has been working with international experts to restructure business classifications, based on which license fees are charged, and to simplify business registration at the local level. Overall, however, the business registration process remains expensive and relatively lengthy.

WHAT TO REFORM?

Reduce or abolish the paid-in minimum capital requirement

The paid-in minimum capital could be reduced to a nominal amount or abolished altogether. The economies that originally introduced the minimum capital requirement intended to protect investors and creditors. Because the deposited capital is often withdrawn immediately after registration, however, this does not offer real investor protection. According to a recent study, economies that have higher minimum capital requirements do not necessarily have higher bankruptcy recovery rates.¹² And such requirements can have counterproductive effects on entrepreneurship.¹³ Since 2005, 57 economies have reduced or eliminated their requirement, lowering the average paid-in minimum capital requirement globally from 184% of income per capita to 49%. In Sub-Saharan Africa, 21 economies require no minimum capital; these include Burundi, Kenya, Liberia, South Africa, Sudan, and Tanzania.

Clarify business classifications and consider reducing the cost of licensing

The fee schedules for both the commercial and local business licenses can be better defined. The Ministry of Commerce fee schedule currently requires a payment of 1% of the stated capital for initial registration,

regardless of firm size. Commercial licenses are valid for only one year. Renewals are different and have significant fixed fees depending on the type of business. However, the type of business is defined only by broad classification, not firm characteristics. For instance, the renewal fee for all wholesale businesses is around \$308. Firm characteristics such as revenues or number of employees are ignored. Annual renewals often end up being much more expensive than the initial registration. As a result, entrepreneurs are discouraged to register knowing that in a year's time their license costs will increase.

The municipal license fee schedule suffers from a similar lack of specifics, but also from a failure to define existing terms. Although it mentions different fees for small and large restaurants, for example, the terms *small* and *large* are undefined, leaving the matter open to public officials' interpretation.

The low number of registered businesses in Hargeisa may indicate that high licensing fees deter new firms from registering. Since few businesses register, high fees do not result in significant revenues for the government. Authorities could consider cutting fees and involving public and private stakeholders in a discussion on acceptable fee levels. Many argue that the right fees are those that cover the administrative costs of government services. Moreover, money to pay for government services is raised through taxes.

Streamline procedures and establish a one-stop shop for business start-up

Currently, entrepreneurs must interact with five different government agencies when starting a business: the Ministry of Commerce, the Attorney General's Office, the Ministry of Finance, the District Office, and Hargeisa Municipality. Some of these agencies require multiple visits; for instance, the Ministry of Commerce and the District Office have to be visited twice. And many entrepreneurs in Hargeisa claim things hardly get done without continual follow-up. Meanwhile, the Ministry of Finance is the only address where license fee payments can be made.

As an interim measure, these procedures can be streamlined through

better communication among these agencies. Rather than having entrepreneurs visit them separately, these agencies can set up a document-forwarding system among themselves. This measure would only be effective through efficient communication among government agencies.

A better solution would be to set up a one-stop shop that would place representatives of all relevant agencies under one roof to receive and process both applications and payments. The applications should consist of one consolidated form that fulfills the requirements of all agencies involved. There should also be a single window that would serve as a contact point for all of the agencies. This would allow an entrepreneur to complete company formation in a single trip, significantly reducing the hassle and time involved. An alternative is to identify one key agency to accept and process applications on behalf of other agencies; this agency could be given access to the registration database for the type of information needed.¹⁴

The key to a successful reform is giving officials at the one-stop shop decision-making power for their respective agencies. Without it, delays will continue as the documents travel to agency headquarters and back. In addition, duplicate processes at the other agencies must be eliminated. Economies that fail to do this see their one-stop shop become "one more stop" in the company registration process.

Globally, 83 economies have some kind of one-stop shop for business registration. These one-stop shops offer at least one more service to go along with business registration. Not surprisingly, services are more than twice as fast as in economies without a one-stop shop.¹⁵ The example of Rwanda is telling. In 2009 Rwanda consolidated the name-checking procedure at the main desk of its Commercial Registration Department. It also combined services into a single point of interaction in two stages. First, the Rwanda Development Board, Rwanda Revenue Authority and Caisse Sociale du Rwanda agreed in November 2008 to have representatives within the one-stop shop (at the Commercial Registration Department) receive and process applications. At this

stage, the applicant was still required to interact separately with representatives of the Revenue Authority and Caisse Sociale. Second, in May 2009 the Commercial Registration Department reorganized its procedures so that applicants were no longer required to deal with representatives from the Revenue Authority and Caisse Sociale separately. By empowering the Registrar to process the applications on the premises rather than sending the applications to the separate agencies for processing, the one-stop shop became fully functional.

Improve access to information and ensure transparency

Easy access to information saves time for businesses and public officials. It also increases predictability in the application of regulations and fee schedules. In Hargeisa, no agency offers easily accessible step-by-step guidelines on business registration. Entrepreneurs have to learn each step as they move along or hire a lawyer who deals with business registration matters on a regular basis and knows public officials in all relevant agencies. Similarly, not all agencies publish their fee schedules in public domains. At a minimum, fee schedules should be posted on clearly visible locations within agency premises. Many good-practice economies publish detailed fee schedules on their website platforms. Some economies also print the fee schedules directly on the application forms.

New Zealand, the world's top performer for starting a business, publishes a 10-page guidebook covering all issues regarding business registration and the steps needed to complete the process.¹⁶ Lower fees and easier access to fee schedules tend to go hand in hand. Regardless of income levels, incorporation fees tend to be lower in economies where information on fee schedules is easily accessible (figure 3.6). The cost to start a business averages 18% of income per capita in economies where fee schedules are easily accessible and 66% in economies where they are not.¹⁷

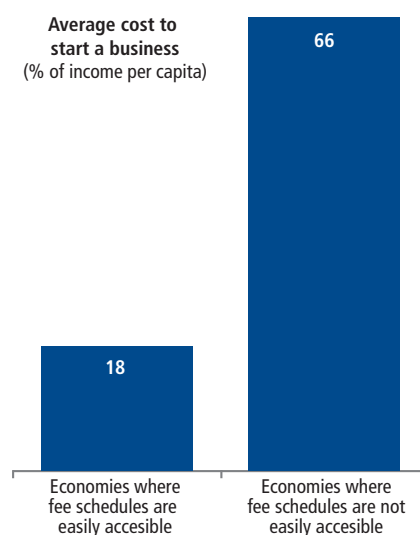
Make it optional to use professional intermediaries and register with the Chamber of Commerce

There are two steps in Hargeisa that are being requested even though they not required

by law: the notarization of incorporation documents and membership in the Chamber of Commerce. Making the Chamber of Commerce membership optional is a straightforward step. There is no rationale or legal basis in having central agencies require such membership in order to issue a commercial license. The Chamber of Commerce plays a critical role in representing the business community and protecting their interests. But for companies that do not see any benefits from the membership, paying the membership fee can be a financial barrier.

The notarization issue is more complex to address. The company law requires that incorporation documents be prepared by a solicitor, although it does not define what exactly a solicitor is. It is assumed, however, that a solicitor is a professional with a legal background in incorporation matters. Government agencies require notarized paperwork to ensure that the documents are prepared by a designated professional. This adds to the complexity and cost of business registration. Given the situation, many entrepreneurs use public notaries to

FIGURE 3.6 The cost to start a business is lower where information on the fees is easily accessible



Note: Fee schedules are considered easily accessible if they can be obtained through the website of the relevant authority or another government agency or through public notices, without a need for an appointment with an official. The data sample for incorporation includes 174 economies; that for electricity connections, 181 economies. Differences in the second panel are statistically significant at the 5% level after controlling for income per capita.

Source: World Bank. 2011. *Doing Business 2012: Doing Business in a More Transparent World*. Washington, D.C.: World Bank Group.

both draft and notarize the documents. One way to simplify the process is to introduce standard incorporation forms for small and medium-size companies, thus making the need to go through professional intermediaries optional.

NOTES

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2. 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.
3. Dabla-Norris, Era, and Gabriela Inchauste. 2008. "Informality and Regulations: What Drives the Growth of Firms?" *IMF Staff Papers* 5 (1): 50-82.
4. Fonseca, Raquel, Paloma Lopez-Garcia, and Christopher Pissarides. 2001. "Entrepreneurship, Start-Up Costs and Employment." *European Economic Review* 45 (4-6): 692-705.
5. Klapper, Leora, Anat Lewin and Juan Manuel Quesada Delgado. 2009. "The Impact of Business Environment on the Business Creation Process." Policy Research Working Paper 4937. Washington, DC: The World Bank Group. *Entry rate* refers to newly registered firms as a percentage of total registered firms. *Business density* is defined as the number of businesses as a percentage of the working-age population (pages 18-65).
6. World Bank Development Indicators: <http://data.worldbank.org>.
7. Ministry of Registry and Ministry of Legal Affairs and Constitutional Development, Government of South Sudan.
8. The Hargeisa municipal statistics do not break down licenses by legal company type, such as sole proprietorships, partnerships and limited liability companies. Rather, the breakdown is based on 10 different business grades based on business size and type. For instance, commercial banks or supermarkets fall under Grade 1, gas stations under Grade 2, and large pharmacies under Grade 3.
9. See the data notes for more details on the type of firms measured in the *Doing Business* case study.
10. See also Indicator details for a detailed list of procedures.
11. All dollar amounts are U.S. dollars unless otherwise indicated.

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Dealing with construction permits

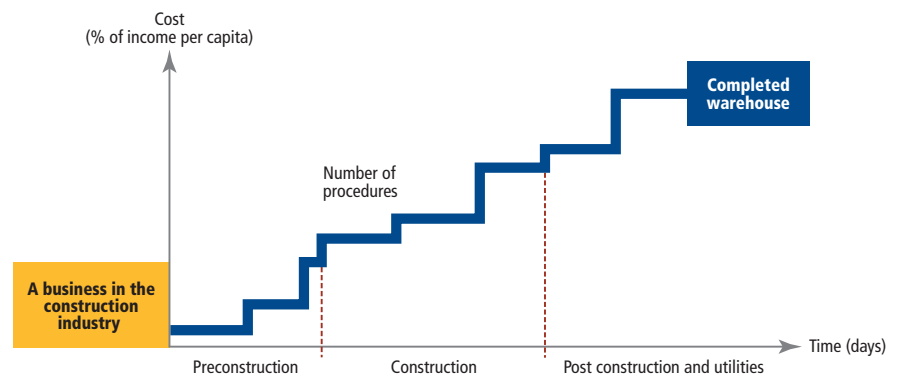
Shukri owns a construction company in Hargeisa. While there is plenty of construction going on in the city, property ownership disputes and the lack of proper utility infrastructure pose major obstacles to his business. Moreover, Hargeisa is one of the most expensive cities in the world for dealing with construction permits. Like many builders, she is tempted to choose the “easy” path of grabbing land and building without a permit. In an economy where the population is growing 3.1%¹ annually and informal construction is thriving, strategic urban planning and infrastructure development are becoming ever more challenging.

WHY DOES DEALING WITH CONSTRUCTION PERMITS MATTER?

Promulgating and enforcing proper building regulations ensure sustainable urban development. Striking the right balance between safety and efficiency, however, is challenging. Smart regulations ensure public safety while remaining efficient, transparent and affordable. If procedures are overly complicated or costly, builders tend to proceed without a permit. In developing economies 60-80% of construction projects are undertaken without a permit because the approval process is too complex or the oversight too lax.² In Hargeisa, lack of legal certainty has contributed to low compliance levels and inconsistent implementation of regulations. In 2006 only 3,000 out of 60,000 developed properties were allocated title deeds.³ Furthermore, the central authority has in the past imposed several bans on construction to avoid safety risks resulting from land-related conflicts.

Building regulations also have an effect on the economy and employment. A recent study calculated that the construction

FIGURE 4.1 What are the time, cost and number of procedures to comply with formalities to build a warehouse?



industry constitutes on average 6.5% of GDP in OECD economies.⁴ In the European Union, the United States and Japan combined, more than 40 million people work in construction. It is estimated that for every 10 jobs directly related to a construction project, another 8 jobs are created in the local economy.⁵ These multiplier effects yield not only additional income for the community, but also additional tax revenues and investment. Beyond economic returns and pay-offs in attracting more investment, the more important benefit of building permit reforms is the protection of public safety.

WHAT DOES DEALING WITH CONSTRUCTION PERMITS MEASURE?

Doing Business records the procedures, time and cost required for a construction business to obtain all the necessary approvals to build a simple commercial warehouse and connect it to water, sewerage and a fixed telephone line (figure 4.1). The case study includes inspections and certificates needed before, during and after construction of the warehouse. To make the data comparable across 183 economies, the case study assumes that the warehouse

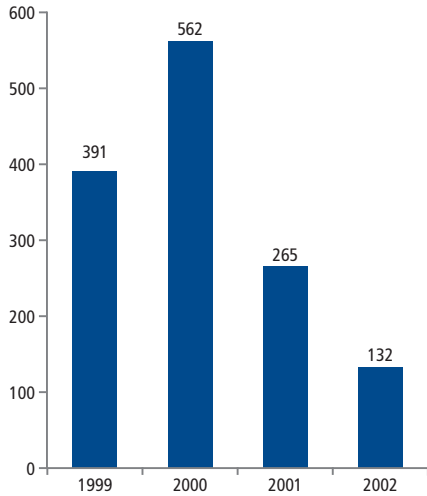
is located in the periurban area of the city measured, is not in a special economic or industrial zone and will be used for general storage.

HOW DOES IT WORK IN HARGEISA AND HOW DOES IT COMPARE GLOBALLY?

Despite numerous attempts by lawmakers to adopt a building code, Somaliland remains without one. The efforts have intensified in the past two years and there have been several law drafts circulated in review meetings with various stakeholders. UN-HABITAT published an urban planning manual for Somaliland in collaboration with the Somaliland Ministry of Public Works in 2010.⁶ While the manual is a valuable tool for industry practitioners from both the private and public sector, it is not an enforceable legal document.

In the interim, building permits in Hargeisa are administered loosely on the basis of the Land Management Law (Law 2/2001 & 2008), the Regions and District Self-Administration Law (Law 23) and the City Charter of Hargeisa. However, none of these regulations provide sufficient legal detail

FIGURE 4.2 Number of title deeds issued for buildings in Hargeisa from 1999 to 2002



Source: Hargeisa Municipality Statistical Abstract (Second Edition, September 2003).

and clarity on construction planning and administration, and the current permitting process has been subject to ad-hoc rules that have become common practice over time. Because of the lack of legal guidance and control in urban development, Hargeisa continues to experience informal developments, land disputes and limited access to basic services.

Statistics support this observation. Between 1999 and 2002 the number of title deeds issued by Hargeisa Municipality decreased by two-thirds from 391 to 132 (figure 4.2). Conversely, according to the “Somaliland Times” there were on average 90 to 100 ongoing constructions every month in 2003.⁷ Similarly, municipal authorities confirm that the number of property disputes has increased since the early 2000s. Many are never resolved and parties go ahead and build without a permit. Consequently, unplanned urban development gives rise to buildings that do not comply with minimal safety standards posing a direct hazard to the public.

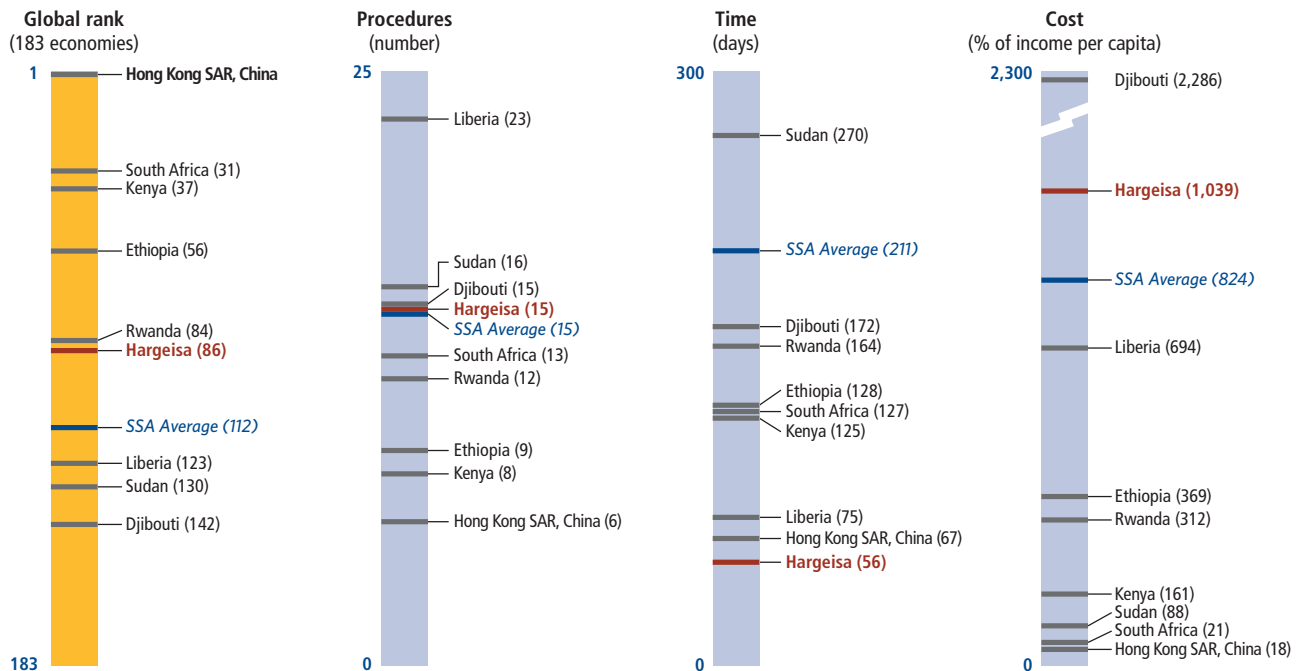
Obtaining building approvals and utility connections in Hargeisa requires 15 procedures, takes 56 days and costs 1,038.8% of income per capita. This is much faster but more expensive than the Sub-Saharan Africa average, where the same number of procedures takes 211 days at a cost of 823.7% of income per capita (figure 4.3). If compared to the 183 economies measured by *Doing Business 2012*, Hargeisa would rank 86 on the ease of dealing with construction permits—ahead of Liberia

(123), or Djibouti (142), but behind South Africa (31), Kenya (37) and Ethiopia (56).

Seven of the 15 procedures required to deal with construction permits in Hargeisa take place before construction (figure 4.4). First a land legalization certificate is obtained; while this is not mandatory by law, it has become a common step due to widespread land disputes. Five procedures follow until a building permit is obtained. Once the construction starts, the building site is subject to inspections, which are not regulated by law. Typically, only one inspection takes place within two weeks after construction starts. After construction is complete, two more requirements are necessary to get the proper titling. The process concludes with five procedures to get connection to water, sewerage and telephone.

The 56 days required to deal with construction permits is fast—about one-fourth of the global average time (193 days) and faster than in good-practice economies like New Zealand or Finland. If a property is free of disputes, the land legalization certificate is normally issued in a week. Obtaining the necessary pre-construction clearances and the building permit takes 23 days. Going

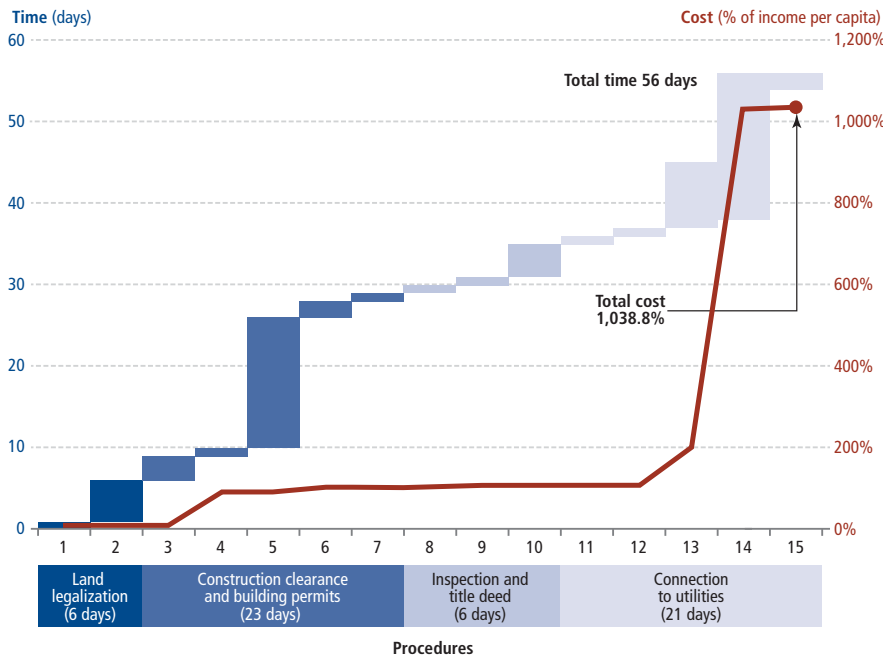
FIGURE 4.3 Dealing with construction permits in Hargeisa is fast, but expensive



Notes: SSA denotes the Sub-Saharan Africa region. The ease of dealing with construction permits indicator is based on a simple average of the economy’s percentile rankings for the number of procedures, time and cost required to comply with formalities to build a warehouse and connect it to utilities. See Data notes for details.

Source: *Doing Business* database.

FIGURE 4.4 Dealing with construction permits in Hargeisa involves several agencies and costs 1,038.8% of income per capita



Source: Doing Business database.

through inspections and getting the title deed takes approximately one week, while getting utilities set up takes three weeks.

The cost of dealing with construction permits in Hargeisa is 1,038.8% of income per capita. This would place Hargeisa among the top 20 most costly economies globally. Only 16 economies are more expensive; these include Afghanistan, Burundi, Chad, Djibouti, Tanzania and Zimbabwe. However, just a small portion of the total cost comes from administrative fees (\$16 for the land legalization certificate, \$186 for the building permit, \$13 for inspections and \$16 for the title deed). The rest, almost 90% of the total cost, is spent on connecting the warehouse to utilities (figure 4.5).

Lack of infrastructure places a heavy burden on entrepreneurs in Hargeisa. The civil conflict left most of the city and its infrastructure heavily damaged. The water network is in desperate need of upgrade and expansion. Many areas of the city have no access to water, so builders look for alternative solutions such as water reservoirs, which are expensive. In areas covered by the city water network, installation fees amount to \$195 on average. The situation is even more

problematic with sewerage. Since there is no sewerage system, new buildings have to have their own septic tanks. The cost varies depending on the size of the building. For a warehouse measured in the *Doing Business* case study, the average cost to build a sewerage tank is \$1,750. Installation costs for telephone connections are \$20 for buildings that are less than 200 meters away from connection points.

WHAT TO REFORM?

Draft and ratify a building code

Hargeisa lacks a comprehensive set of construction regulations. This puts the future of city's urban planning at risk. Lack of clear guidelines on safety standards puts the local population residing in buildings in danger. There is an immediate need for a comprehensive yet simple building code tailored towards local needs and circumstances. The new building code should become a common point of reference for all industry practitioners, including designers, contractors and government agencies reviewing building plans and construction.

Drafting an entire building code is a complex task. Nevertheless, the central government

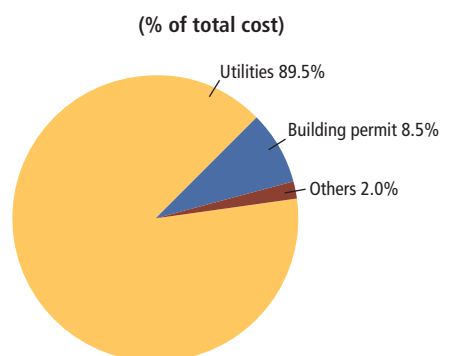
Procedures

1. Apply for land legalization certificate and obtain "check-in form" from the District Office
2. Receive inspection by a district surveyor and obtain land legalization certificate approval from the District Office and the Municipal Land Planning Department
3. Obtain land file number from the Municipal Archives Section and have application file forwarded to the Municipal Land Revenue Section
4. Pay premium of land (building permit) fee at the Municipal Land Revenue Section
5. Get building approval from Hargeisa Municipality
6. Notify the District Office of the intent to start construction and receive an on-site inspection by a District Surveyor
7. Obtain land permit (approval to start construction) from the District Commissioner
8. Receive on-site inspection by the District Inspectorate
9. Apply for property title deed at the District Commissioner's Office
10. Obtain property title deed from the Physical Asset and Land Tenure Department
11. Apply for water connection at the Hargeisa Water Agency (HWA)
12. Receive inspection by an HWA technical team
13. Pay installation fees and obtain water connection
14. * Build a septic tank
15. * Apply for and obtain telephone land line connection from the telephone company

* This procedure is simultaneous with a previous procedure.

can identify a checklist of priorities—such as fire protection, structural efficiency, sanitation, and environmental integrity—from well-established building codes in other economies. These priorities can form the core of Somaliland's future building regulations, while being more easily understood and enforced by local authorities. The Republic of Yemen has followed this route, using the building code of the Arab League to establish a list of essential technical norms in 2008. The process was the outcome of a dialogue between enforcement agencies and private sector building professionals.

FIGURE 4.5 Utility connections make up almost 90% of the total cost



Source: Doing Business database.

In 2008 Algeria introduced a new building code aimed at strengthening enforcement mechanisms and addressing illegal construction. In Haiti lawmakers are about to adopt a standard international building code developed by the International Code Council while addressing country-specific technical requirements—such as special soil and seismic conditions.

Local authorities should collaborate with private architects and engineers to select a good-practice building code, adapt it, and draft checklists appropriate for Somaliland. Such participation can increase the relevance of future building standards to local technical constraints and building traditions as well as existing materials and systems used by contractors. Information about new regulations should then be extensively publicized.

Introduce inspection guidelines based on the risk characteristics of buildings

In Hargeisa, inspections are not regulated. They are random, and typically only one inspection occurs within two weeks of the start of construction. The inspectors check if the lining and marking of the building foundation have been implemented in compliance with the initially submitted plans. Once the building passes the foundation phase, no more inspections occur.

Despite the legal vacuum, Hargeisa urban planning authorities should introduce temporary measures that ensure safety while encouraging efficiency. Proper inspections, clearances, and consultations should be in place to guarantee public safety. At the same time, because it is inefficient to treat all building projects equally, authorities should take the time to assess the risk of different projects and devise risk-based rules for dealing with clearances and approvals. They should collaborate with building practitioners to develop a building risk categorization and incorporate it into the proposed guidelines. Complex and risky structures must have stricter standards than two-story commercial warehouses—and, conversely, requiring less documentation for low-risk buildings can facilitate the approval process. This saves time for entrepreneurs

and the authorities and allows both to use resources more efficiently without compromising safety.⁸ Globally, 86 economies have a risk-differentiated approach, including the 13 that established one in the past 7 years. In Sub-Saharan Africa, 20 economies apply risk-based approvals; these include Burundi, Ethiopia, Sudan and Tanzania.

Establish a single access point for building permit clearances

At the moment, a construction company must obtain documents or approvals and make payments at several different agencies to obtain a building permit. The authorities include, among others, relevant district offices, the Municipal Archives Section, the Municipal Land Revenue Section and Mayor's Office. A single access point or a one-stop shop would centralize all clearances in one location and make the technical approvals an in-house process at the Municipality. The success of the one-stop shop would depend on having representatives from the different technical departments with the authority to clear projects under one roof. One-stop shops improve the organization of the review process—not by reducing the number of checks needed but by better coordinating the efforts among different authorities. As a result, more resources can be devoted to safety checks rather than to multiple interactions with and among various agencies.

Globally 26 economies have some kind of one-stop shop for construction permitting. Most recently Mauritania and Taiwan, China, introduced one-stop shops while Morocco made improvements to the one created in 2006. One telling example is that of Burkina Faso. In 2006 the country was among the 10 economies with the most complex requirements of construction permitting in the world. Not surprisingly, more than 23% of local companies identified licenses and permits generally as a major constraint to doing business in the economy.⁹ To help address this concern, Burkina Faso opened a one-stop shop for construction permits in Ouagadougou in May 2008. The reform merged 32 procedures into 15, reduced the time required from 226 days to 122 days and cut the cost by 40%. Two years later the number of permits issued rose from 209 (in 2008) to 611 (in 2010).¹⁰

Improve water and sewerage infrastructure

Central and local authorities should invest in Hargeisa's infrastructure development in order to extend the water pipe network and develop sewerage systems. While there are budgetary constraints on the government's side, other opportunities for raising funds should be explored. Recently, the European Union granted a substantial grant to improve the water services in Somaliland. The project will focus mainly on water supply infrastructure. Public private partnership is another alternative to explore in water delivery. Even small-scale projects targeting certain neighborhoods and following agreed-upon guidelines could potentially alleviate the problem. Solving the public infrastructural issues would significantly decrease the cost to construct new buildings in Hargeisa.

NOTES

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9. World Bank Enterprise Surveys: <http://www.enterprisesurveys.org>.
10. Information provided in 2010 by Burkina Faso's Centre de Facilitation des Actes de Construire.

Getting electricity

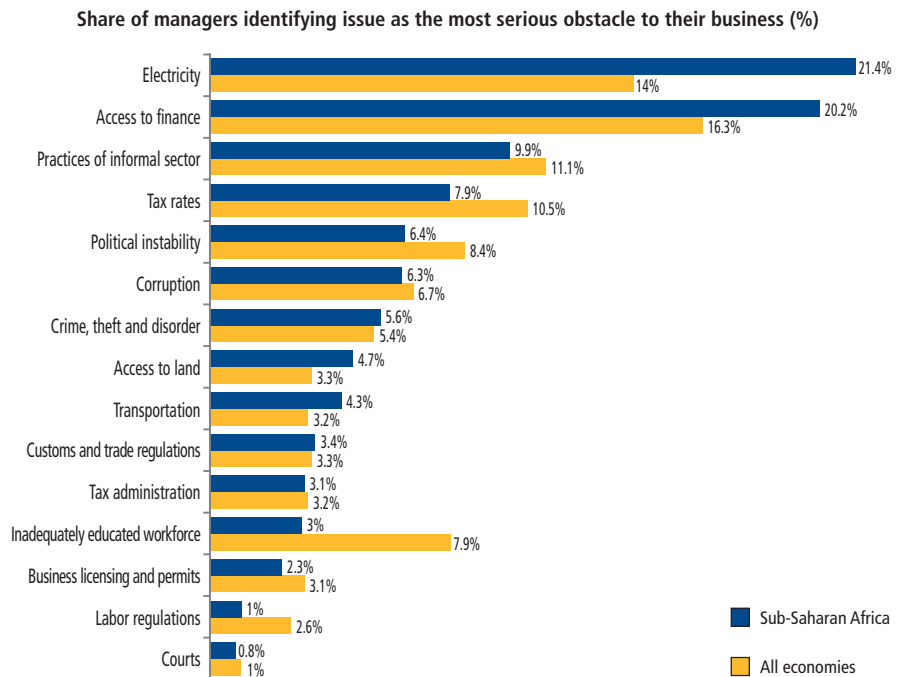
In Somaliland 68% of urban households and 96% of firms have access to electricity.¹ This is high compared to the Sub-Saharan Africa average, where the electrification rate in urban areas is 57.5%.² However, Somaliland's network is characterized by "extremely high costs, high wastage, poor quality, unreliability and losses of power."³ In reality, local firms often rely on their own generators to face power outages.

WHY DOES GETTING ELECTRICITY MATTER?

Infrastructure services—particularly electricity—are a concern for businesses around the world. World Bank Enterprise Surveys show that managers in 41 Sub-Saharan African economies consider lack of electricity to be the biggest constraint to their businesses (figure 5.1).⁴ Poor electricity supply undermines firms' productivity and investments.⁵ More than 30 African economies experience power shortages and regular interruptions to service, and African firms report losing 5 percent of their sales because of them. Overall, the economic cost of power outages in Africa can rise to 2 percent of GDP.⁶

Obtaining a new connection for a business—the process measured by the getting electricity indicator—represents only a small

FIGURE 5.1 Firms in Sub-Saharan Africa consider electricity their biggest constraint

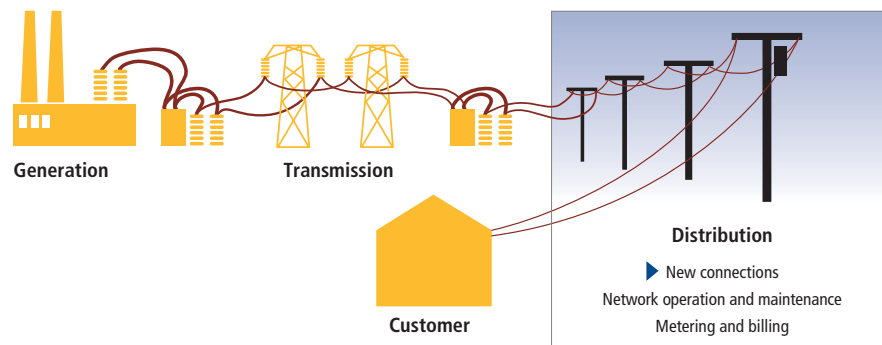


Note: The data sample comprises 109 economies worldwide and 41 economies in Sub-Saharan Africa.
Source: World Bank Enterprise Surveys (2006–2011 data).

part of electricity services (figure 5.2). Yet analysis of 140 economies suggests that the connection to electricity is a useful proxy for the broader performance of the electricity sector.⁷ Longer delays and higher costs of getting an electricity connection are

associated with lower electrification rates. Additional connection procedures are more likely in economies with weak electricity supplies because of high losses in transmission and distribution systems. The quality of regulatory institutions can be linked to generation and distribution. A study covering 28 developing economies found that high quality of regulatory governance is associated with higher per capita electricity generation.⁸ An efficient regulatory framework also helps build a reliable distribution system for firms and individuals.

FIGURE 5.2 *Doing Business* measures the connection process at the level of distribution utilities



WHAT DOES GETTING ELECTRICITY MEASURE?

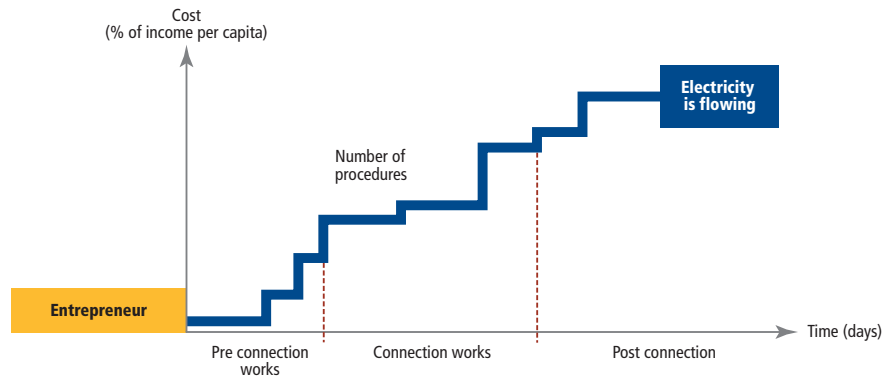
Doing Business measures the procedures, time and cost required for a small to

medium-size enterprise to obtain a new electricity connection for a standardized warehouse with specific electricity needs (figure 5.3). These procedures include applications and contracts with electricity utilities, necessary inspections, clearances from the distribution utility and other agencies, and external and final connection works. The warehouse is assumed to be located in Hargeisa, in an area where electricity is most easily available. The subscribed capacity of the connection is 140 kilovolt amperes (kVA) and the length of the connection is 150 meters.

HOW DOES IT WORK IN HARGEISA AND HOW DOES IT COMPARE GLOBALLY?

Obtaining an electricity connection in Hargeisa requires 5 procedures, takes 57 days and costs 1,878.5% of income per capita. Although this is more than twice as fast as and almost three times less expensive than the average in Sub-Saharan Africa, it is more expensive than all other regions in the world: the average costs in Organisation for Economic Co-operation and Development (OECD) high-income economies and Middle East and North Africa economies are

FIGURE 5.3 The getting electricity indicator measures the time, cost and number of procedures required to obtain a new electricity connection



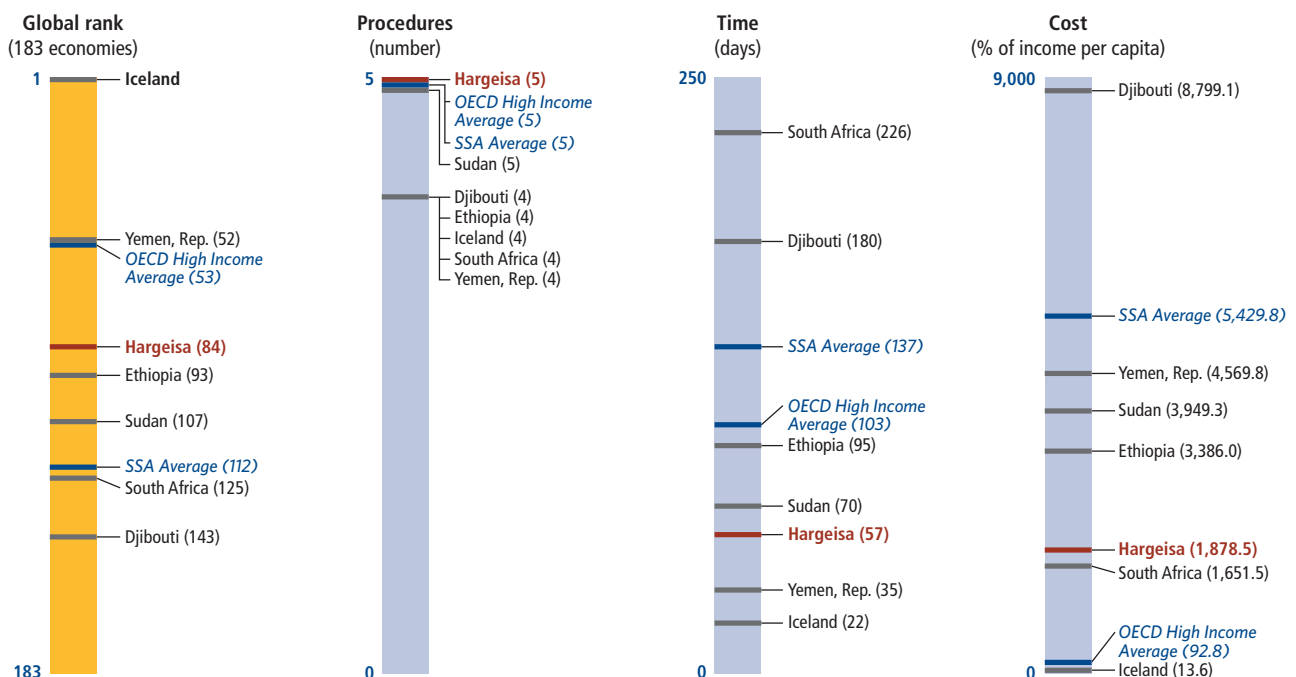
respectively 92.8% and 1,317.1% of income per capita. Hargeisa also compares favorably with neighboring economies (figure 5.4). In Djibouti obtaining the same connection involves only four procedures, but it is slower (180 days) and much more expensive (8,799.1% of income per capita). Hargeisa would rank 84 of 183 economies on the ease of getting electricity as measured by *Doing Business 2012*, ahead of Ethiopia (93) and Djibouti (143) but behind Yemen (52).

Around the world, the electricity connection process is governed by laws and regulations covering a variety of aspects. This is not the

case in Hargeisa. Here, the main challenge is the absence of a regulatory framework. There are neither standardized procedures nor a central regulatory authority overseeing power generation, distribution and transmission (box 5.1). The process of obtaining an electricity connection is thus unregulated with regard to quality, safety, technical standards and procurement practices. Licensing procedures for utilities to generate and transmit electricity do not exist.⁹

Hargeisa has one public utility—*Somaliland Electricity Agency (SEA)*—and up to 20 private independent power producers and

FIGURE 5.4 Getting electricity in Hargeisa is faster and less expensive than the Sub-Saharan Africa average—but more expensive than in all other regions in the world



Notes: SSA denotes the Sub-Saharan Africa region. Rankings are the simple average of the city's percentile rankings on the procedures, time and cost to get an electricity connection. Cities with the same average percentile rankings have the same rank. See Data notes for details.
Source: *Doing Business* database.

BOX 5.1 The challenges of generating, transmitting and distributing electricity in Somaliland

Although Somaliland has its own energy resources—especially wind, solar, and fossil fuels—this potential is largely under-utilized. Instead, electricity is generated almost exclusively from imported diesel. Somaliland’s consumption tariff of between \$0.8 and \$1.0 per kilowatt-hour (kWh) is one of the highest in the world. By contrast, end-users in South Africa pay about 10 times less at \$0.09/kWh.ⁱ The estimated installed capacity in Somaliland is 77 megawatts (MW), of which 6 MW are attributed to the public utility SEA. But only 44% of it is actually realized: as the *Somaliland Energy Policy* puts it, the network is characterized by “poor servicing, inefficient production, aging generators and idle capacity.” Power losses are estimated at between 25% and 40%, far from the 10-12% international target.ⁱⁱ Local firms often have their own generators to face power outages.

Anecdotal evidence from the utility companies suggests that obtaining the financing necessary to invest in production and networks is difficult in an economy with no commercial banks and no electricity regulatory framework. The only financing alternatives are investing their own equity, raising funds from the diaspora, or getting small loans from local remittance companies.

A sound regulatory framework would allow the government to engage in major energy projects, such as the establishment of an electric grid with Ethiopia—which has important hydroelectric and geothermal generation capacities—and even with other East African countries as part of a regional interconnected grid. New regulations would also facilitate exploitation of coal resources in the north of Somaliland as well as investments in wind and solar energy that are available in the region, according to private and public utilities.

i. Energy Supply Association of Australia (ESAA). *International Electricity Price Comparisons*. ESAA Fact sheet. www.esaa.com.au/Library/PageContentFiles/de27d276-324e-4ac3-ac98-fd8714f97ff8/120412_International_electricity_price_comparisons.pdf
 ii. Ministry of Mining, Energy and Water Resources of Somaliland. 2010. *Somaliland Energy Policy*.

suppliers.¹⁰ Each serves a specific city zone with its own respective network, generating, transmitting and distributing power to end-users. Although the private utilities report to the Ministry of Mining, Energy and Water Resources, and the public utility to the Ministry of Public Works, the ministries’ oversight is limited. In the absence of a regulatory framework, connections to electricity are at discretion of each utility company.

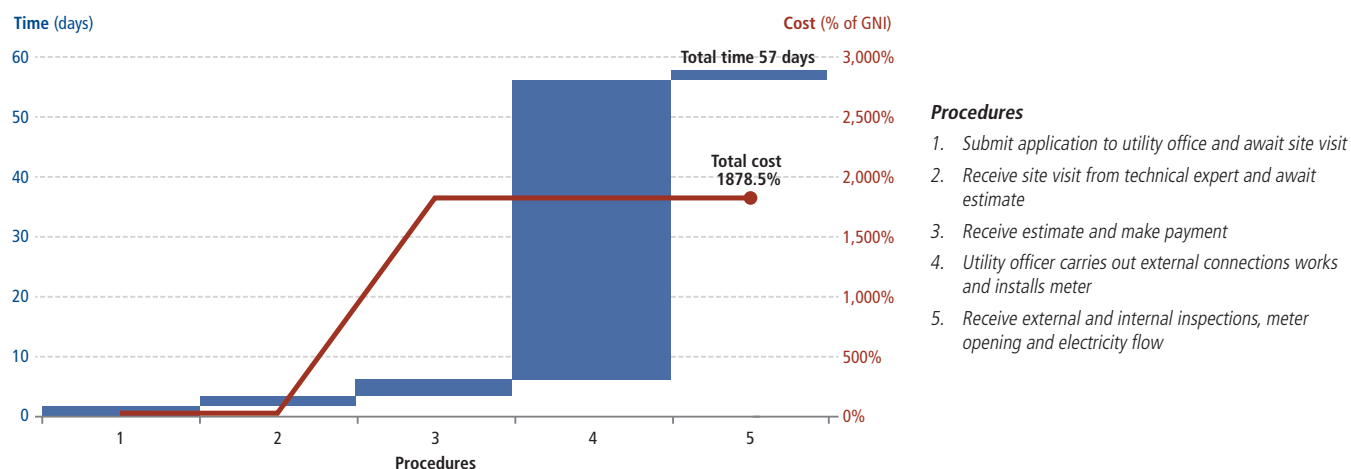
After a four-year process involving various stakeholders, the Ministry of Mining, Energy and Water Resources issued the *Somaliland Energy Policy* in 2010.¹¹ The goal of the energy policy is to “provide a starting point from which the Government will provide legal guidelines on regulation of the energy sector.” There is an ongoing effort to issue regulations—the *Energy and Electricity Act* and the *Energy Regulations* are under way—which

will aim to set clear rules and standards for electricity connection.

In practice, obtaining a connection to electricity in Hargeisa requires five procedures involving a utility, which is similar to the average in Sub-Saharan Africa (figure 5.5).¹² First, the customer submits an application to the utility company. Then the customer receives a visit from a technical expert who assesses the technical conditions, such as the nearest connection point, the type of wires and poles to be installed and whether a transformer is needed. The next step is for the technician to estimate the overall cost, for the manager to sign the estimate and for the customer to make the payment to the utility. Then the utility carries out all the external works, including the external wiring, the installation of the transformer and the installation of the meter. Finally, once the technical engineer has conducted an inspection of both external and internal wiring, the meter can be opened on the same day and electricity starts flowing. The number of separate steps is relatively low because the utility carries out all external works and imports the transformer. In many other economies, the customer has to separately hire a contractor to carry out external works.

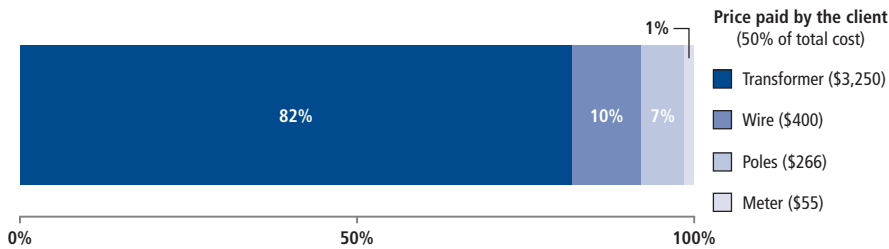
At 57 days, getting electricity in Hargeisa is significantly faster than the average in the OECD high-income economies (103 days) and in Sub-Saharan Africa (137 days). Part of the reason for the quick turnaround is that utilities do not have to comply with

FIGURE 5.5 The longest procedure to get electricity is related to external connections works, including the waiting time for the transformer



Source: Doing Business database.

FIGURE 5.6 Cost breakdown of material to connect to electricity in Hargeisa



Source: Doing Business database.

any safety standards when carrying out both the internal and external works. The lack of safety controls for internal and external wiring is a major concern in Sub-Saharan Africa. In nearly half of the region's economies, the internal installation is never checked before the building is connected to the network. In Hargeisa, the situation is similar: internal installations might be checked by the technical engineer of the utility but this is not systematic as it is not a legal requirement. There are no instructions explaining how the inspection should be carried out, and there is no official internal report on the inspection. The speed with which external connection works are carried out is partly due to a lack of safety requirements and other technical standards. For example, in Kenya, the utility conducts an external site inspection after the client submits an application. If the client has not met standard requirements, the utility will give specific recommendations before proceeding to external works. Another contributing factor is that, except for the transformer required in the *Doing Business* case study,¹³ material—poles, wire and meter—is usually easily available, which is not always the case in Sub-Saharan Africa. In total, external works take 50 days, including the import of the transformer. This is similar to Sudan and Ethiopia (60 days) but much faster than Kenya (90 days) and Djibouti (150 days).

In the absence of official fee schedules setting connection costs according to the requested load, voltage at the point of connection, location and other factors, fees are negotiated between the customer and the utility. Because the network's capacity is limited, the installation of a distribution transformer is required, which accounts for 82% of the total cost (figure 5.6). Customers

are not charged any application fee and no deposit is required.

WHAT TO REFORM?

Adopt and implement an electricity regulatory framework

Private and public actors in Hargeisa cite the absence of a regulatory framework as one of the main problems entrepreneurs face in getting an electricity connection. The *Somaliland Energy Policy* notably calls for the creation of an electricity regulatory authority that would regulate the "distribution [...] of electric energy" and would be in charge of "advising on tariff structure as well as enforcing quality standards, performance and code of conduct." The adoption and ratification of the *Energy and Electricity Act* and the *Energy Regulation* represent an important opportunity to create efficient institutions capable of ensuring a fast, safe and transparent connection framework.

Establish safety standards and supervision mechanisms for internal wiring

In Hargeisa, internal wiring safety checks exist but are neither systematic nor regulated, and there is no supervision of utilities. When safety checks take place, they are at discretion of the utility companies. The safety of internal wiring installations is a concern not only for people using the building but also for utilities: one customer's faulty internal wiring can lead to power outages affecting other customers connected to the same distribution line. In 38 economies covered by *Doing Business 2012*—many of them in the Middle East and North Africa and in Sub-Saharan Africa—internal wiring installations are never checked. The *Somaliland Energy Policy* of 2010 acknowledges that safety risk is one of the

main weaknesses of the electricity sector. Future electricity regulations are a good opportunity to implement a safe and efficient process for internal wiring checking.

Two important issues should be considered while implementing supervision mechanisms in Hargeisa. First, the responsibility of checking safety standards may be given either to utilities or to private contractors. In the short term it can be safer to require utilities or a designated agency to carry out safety checks. Although this approach leads to a greater burden on customers and longer average connection delays, it can also help provide basic standards for checking the internal wiring installations. In Benin, Cote d'Ivoire, Guinea-Bissau and Niger, internal wiring is checked by government agencies independent of the utility. Once professional standards are clearly established and qualified electricians are available, the responsibility can be delegated to an electrical contractor, which usually implies fewer procedures and less time. This is the case in Denmark, Germany and Japan, where the utility simply requests certification by the electrical contractor that the internal wiring has been done in accordance with prevailing standards. The South African government, in an effort to free utilities from the burden of inspecting internal wiring, has made private electricians liable for the quality of the installations; however, the shortage of qualified electrical professionals has posed problems.

Second, it is important to ensure that a regulation aimed at strengthening the safety of internal wiring is effectively implemented. In Senegal, it became legally mandatory to check internal wiring installations more than 10 years ago, but it has been very poorly implemented in practice.¹⁴

Increase the transparency of connection costs and processes

In Hargeisa, all costs are set by the utility on a case-by-case basis. As a result, prices vary significantly and customers lack transparent information regarding their connection costs. An efficient electricity regulation should establish clearly how the costs should be shared when an expansion of the distribution network is needed. Several countries around the world worked in this direction.

In 2011 Afghanistan introduced a new fee schedule for connections, making it easier for entrepreneurs to understand the connection process. Trinidad and Tobago also made connection costs more transparent through a new capital contribution policy. Before August 2009 connection costs were calculated case by case, making it difficult for customers to assess whether they were charged too much. Now the utility bears the connection costs and then distributes them across all customers through clearly regulated consumption tariffs. This reduced the connection cost for the case study customer in Port of Spain by 52% of income per capita.

Also, utility companies can make it easier for customers to find out what they need to pay. This can be done by posting all the necessary information about procedures and paperwork for new connections in their office, on their website, or in other public offices. They can also post their performance standards, such as for turnaround time. For example, in Guinea-Bissau, the *Direcção Geral da Energia* makes available to the public all laws and regulations regarding internal wiring, through documents available in the institution's offices. And in Burkina Faso, customers can find all necessary information regarding the connection costs, a description of steps to follow to obtain a connection, and the forms to file. Utilities in Hargeisa could follow this example and make fees available to the public through a brochure or board at customer service offices, and through their websites when they have one.

NOTES

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4. www.enterprisesurveys.org
5. Calderón, César and Luis Servén. 2003. "The Output Cost of Latin America's Infrastructure Gap." In *The Limits of Stabilization: Infrastructure, Public Deficits, and Growth in Latin America*, William R. Easterly and Luis Servén, eds. Washington, D.C.: World Bank Group; David Dollar, Mary Hallward-Driemeier, and Taye Mengistae. 2005. "Investment Climate and International Integration." Policy Research Working Paper 3323. Washington, D.C.: World Bank Group; Ritva Reinikka and Jakob Svensson. 1999. "Confronting Competition: Investment Response and Constraints in Uganda." Policy Research Working Paper 2242. Washington, D.C.: World Bank Group; Benjamin Eifert. 2007. "Infrastructure and Market Structure in Least-Developed Countries." University of California at Berkeley, Department of Economics; Atsushi Iimi. 2008. "Effects of Improving Infrastructure Quality on Business Costs: Evidence from Firm-Level Data." Policy Research Working Paper 4581. Washington, D.C.: World Bank Group.
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11. Ministry of Mining, Energy and Water Resources of Somaliland. 2010. *Somaliland Energy Policy*.
12. *Doing Business 2012*. For a full explanation of current procedures in Hargeisa, see List of procedures under Getting electricity.
13. See Data notes.
14. A study carried out by the agency in charge of safety checks showed that only 7% of domestic installations complied with safety standards and that fires due to electricity problems are frequent.

Registering property

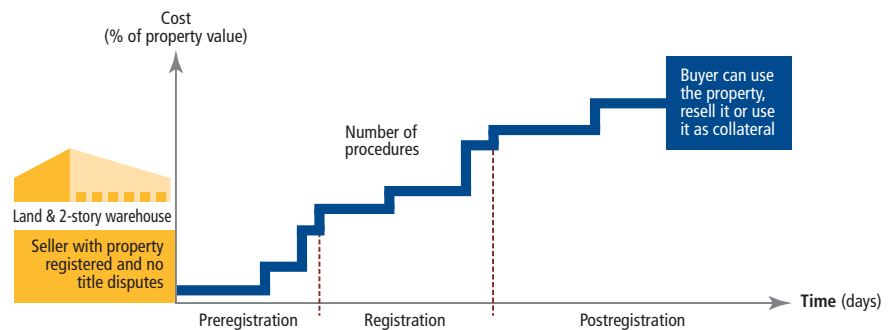
Rahma bought a warehouse to stock inventory for her furniture store in Hargeisa. Although obtaining a deed of sale from a notary was relatively quick, going to the municipality's different offices to pay taxes was a long and complex process. And even after she had completed all the formal procedures, the transaction was not fully secured and safe: secure property rights have been a major concern since the end of the civil war, when many municipal records were lost or destroyed, and the land registration system is still being rebuilt. The property registry is not automatically updated after a new property transfer, it remains largely incomplete, and there is no system for non-encumbrance verification to ensure that a property is free of charges and liens.

WHY DOES REGISTERING PROPERTY MATTER?

Registered property rights are necessary to support investment, productivity and growth.¹ Cadastres and land registries are tools used around the world to map, prove and secure property and use rights. These institutions are part of the land information system of an economy. With land and buildings accounting for between one-half and three-quarters of the wealth in most economies,² having an up-to-date land information system clearly matters.

The benefits of land registration go beyond the private sector. For governments, having reliable up-to-date information in cadastres and land registries is essential to correctly assess and collect tax revenue. With up-to-date land information, governments can map the different needs in their cities and strategically plan the provision of services and infrastructure in the areas of each city where they are most needed.³ Land information can

FIGURE 6.1 What are the time, cost and number of procedures required to transfer a property between 2 local companies?



also help in planning the expansion of urban areas.

WHAT DOES REGISTERING PROPERTY MEASURE?

Doing Business records the procedures necessary for a business to purchase a property from another business and to transfer the property title to the buyer's name (figure 6.1). The process starts with obtaining the necessary documents, such as a copy of the seller's title, 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 or resell it. Every procedure required by law or necessary in practice is included, whether it is the responsibility of the seller or the buyer and even if it must be completed by a third party on their behalf.

HOW DOES IT WORK IN HARGEISA AND HOW DOES IT COMPARE GLOBALLY?

Land registration in Hargeisa is only partially regulated. The Urban Land Management Law adopted in 2001 and amended in 2008 addresses several major issues such as land disputes resolution (box 6.1). The Somaliland

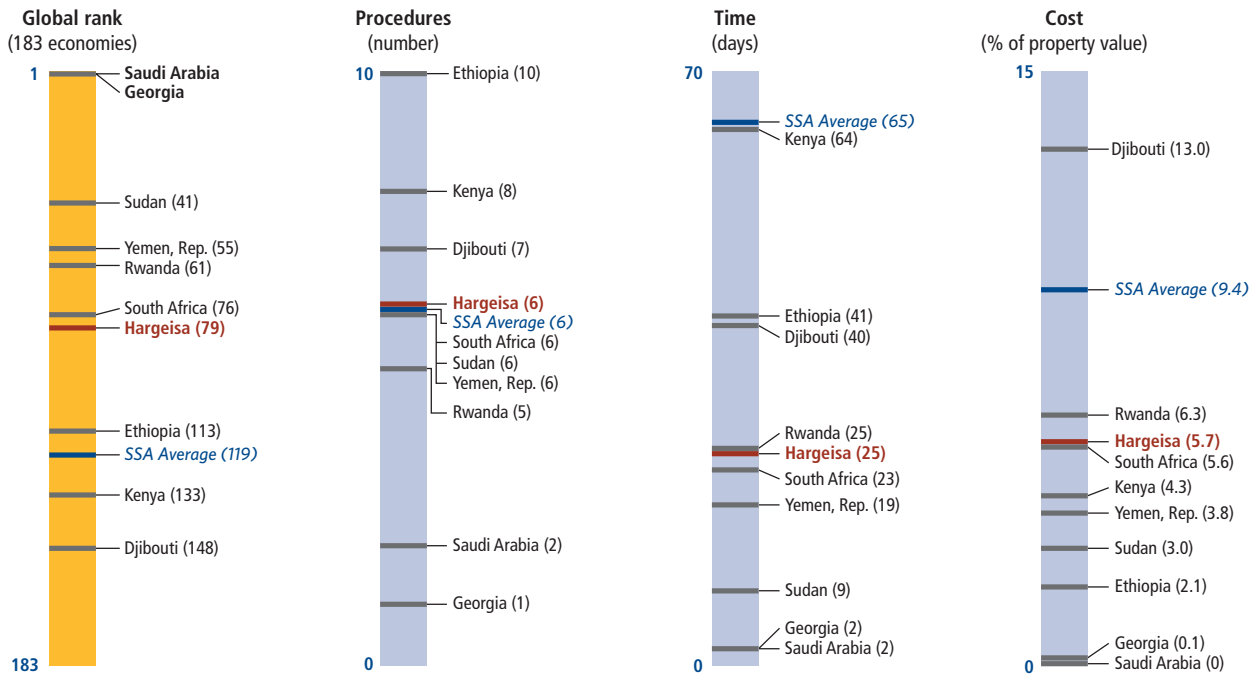
BOX 6.1 A land registration system still affected by the civil war

More than 20 years after the end of hostilities, land tenure and land administration are still strongly affected by the civil war. Many of the paper-based records in the municipal cadastre were lost or destroyed. The lack of up-to-date information, combined with the fact that numerous land parcels were grabbed during and after the war, has made it difficult and sensitive to register owners accurately. Land conflicts in Hargeisa are frequent and can lead to violent confrontations.ⁱ The Urban Land Management Law addresses the issue of land disputes, but in practice most cases are resolved through customary law. In recent years, with the boom of private investment coming in large part from the diaspora, solving this problem has become even more urgent. Real estate prices are soaring in Hargeisa: a property of 40 square meters (430 square feet) in the center of Hargeisa can be sold at more than \$100,000.ⁱⁱ

i. Barry, Michael and Florian Bruyas. 2007. *Land Administration Strategy Formulation in Post Conflict Situations: The Case of Hargeisa, Somaliland*. International Federation of Surveyors. Working Week.

ii. Interviews with notaries in Hargeisa. April 2012.

FIGURE 6.2 It is faster and less expensive to register property in Hargeisa than in many Sub-Saharan African economies



Notes: SSA denotes the Sub-Saharan Africa region. Rankings are based on the average percentile rankings on the procedures, time, and cost to register property. Cities with the same average percentile rankings have the same rank. See data notes for details.

Source: Doing Business database.

Notaries Law adopted in 2001 defines the process and formalities of the sales contract notarization. But there is little regulation regarding the main institutions involved in property registration.

To transfer a property in Hargeisa, an entrepreneur must complete 6 procedures that take 25 days and cost 5.7% of property value. This is easier than the average in Sub-Saharan Africa, where it takes 6 procedures, 65 days and it costs 9.4% of property value (figure 6.2). Compared to the 183 economies measured by *Doing Business 2012* Hargeisa would rank 79 on the ease of registering property, ahead of Ethiopia (113) and Djibouti (148), but behind Sudan (41) or the Republic of Yemen (55).

There is a property registry that records the maps and property rights in Hargeisa. It is managed by the Physical Asset and Land Tenure Department. Originally, there was a cadastre established by the British administration which covered this function, but it was largely destroyed in the late 1980s during the civil war. A new property registry was set up in 1994, and its reconstruction is still underway. The task is complicated since

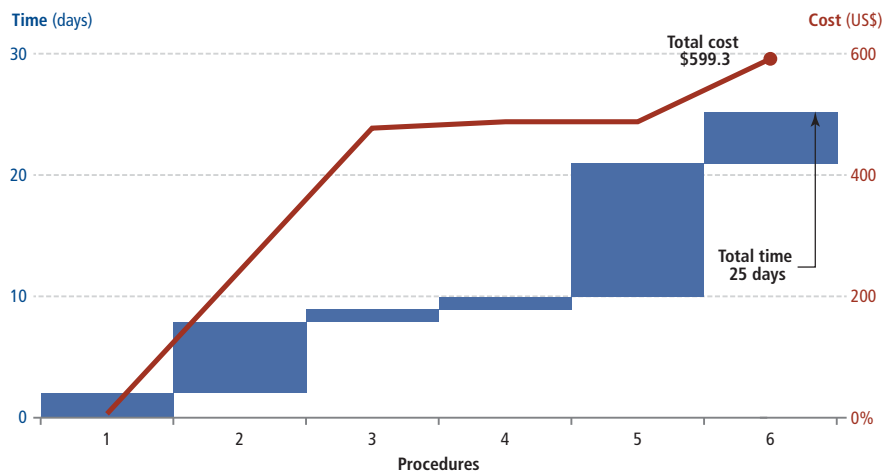
the war led to migratory flows, and many land plots were grabbed during and after the war. The paper-based property registry remains largely incomplete with fewer than 4,000 registered property owners.⁴ It is not required by law for the buyer to register the property transfer, and it is not done in practice either. Consequently, in a majority of cases, the name that appears on the property registry for a specific land plot is that of the first registered owner instead of the current owner. The fact that the property registry is not up-to-date, does not prevent the buyer from using or reselling the property. But it makes it more difficult to verify that the property is free of charges and liens prior to a transfer.

In 2004 the Municipality of Hargeisa started with a new initiative, implementing a Geographic Information System (GIS) based on satellite images that improve the quality of data collected.⁵ The GIS registers the location and names of building occupants, but not the size of the land plot nor the name of the owner.⁶ It is used for property taxation and functions independently of the paper-based property registry. The GIS allows the local government to tax the property

occupant without having to define who the owner of each land plot is, a delicate issue that could reopen disputes. Nevertheless, the information obtained from the GIS could be leveraged for land registration purposes. Approximately 60,000 properties are registered in the GIS.⁷

Six procedures are required to register property in Hargeisa, the same as the Sub-Saharan Africa average, but fewer than Djibouti (7), Ethiopia (10) or Eritrea (11).⁸ First, the seller and buyer go to the notary with 2 witnesses to sign the sales deed. To prove ownership, the seller shows the original property registry record with the name of the last registered owner, the purchase-sales agreement and the receipts of the yearly land and property taxes. After the signature, the buyer pays transfer taxes to both the Municipality of Hargeisa and the Ministry of Finance. Then, the buyer applies for registration with the tax authorities at the District Office. The District Office sends a geometer to verify the location of the land plot, and then forwards the buyer's application to the municipality's Geographic Information System (GIS) Mapping Office, where the owner's name and the location of

FIGURE 6.3 Procedures, time and cost to register property in Hargeisa



Procedures

1. Prepare and notarize the deed of sale and related documents
2. Pay the transfer tax at the municipal General Taxation Office and obtain a receipt
3. Pay the transfer tax at the Revenue Office of the Ministry of Finance
4. Apply for tax registration at the District Office
5. Receive visit from the Geometer of the District Office to register the property with the GIS Mapping Office
6. Pay the registration fee to tax authority and obtain a confirmation.

Source: Doing Business database.

the land plot are entered into the computerized system. Finally, the buyer returns to the municipality and pays the tax registration fee, completing the process (figure 6.3).

It takes 25 days to complete all these procedures. This is significantly faster than the world average (59 days) and the Sub-Saharan Africa average (65 days), but slower than the 9 days needed in Sudan or the 19 days needed in the Republic of Yemen. While some time is saved by the fact there are no checks for encumbrances, there are many delays related to post-registration procedures. For example, after the buyer pays the municipal transfer tax, he has to wait five days to pick up the receipt because his file has to be signed by the General Taxation Officer, the Executive Officer of the municipality, and the Mayor himself. Also, the buyer has to wait 11 days from the moment he applies for tax registration until he can pay the fees and complete the registration of the land plot with the GIS Mapping Office. During this time the application goes back and forth between different offices in the municipality and the district—including the District Secretary, the municipality’s GIS Mapping Office, the Archives at three different times, and the Director of Land Management’s Office (figure 6.4).

Registering property in Hargeisa costs 5.7% of the property value—less costly than the Sub-Saharan Africa average (9.4%) and similar to the world average of 5.7% (figure 6.5). There are five different taxes and fees, and

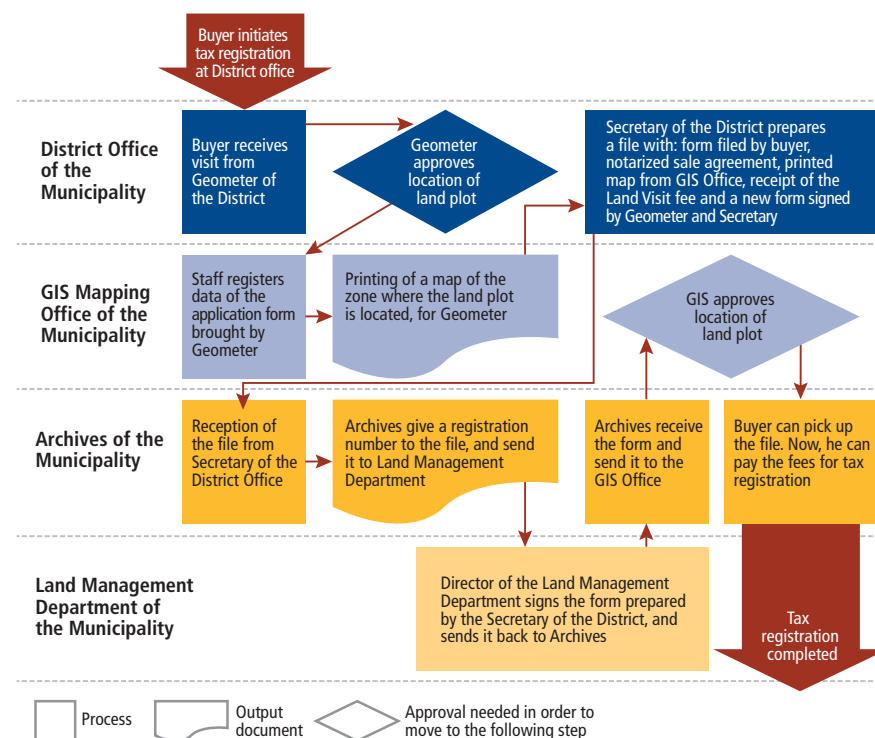
two of them represent 73% of the total cost: the municipal transfer tax and the transfer tax paid to the Ministry of Finance. The fee to register with the tax authorities varies from one year to the next depending on the tax income targeted by the Municipality of Hargeisa. Also, the 2001 Notaries Law has a fee schedule, but notaries argue it is outdated and apply their own fees.⁹

WHAT TO REFORM?

Consider moving to a title-based system

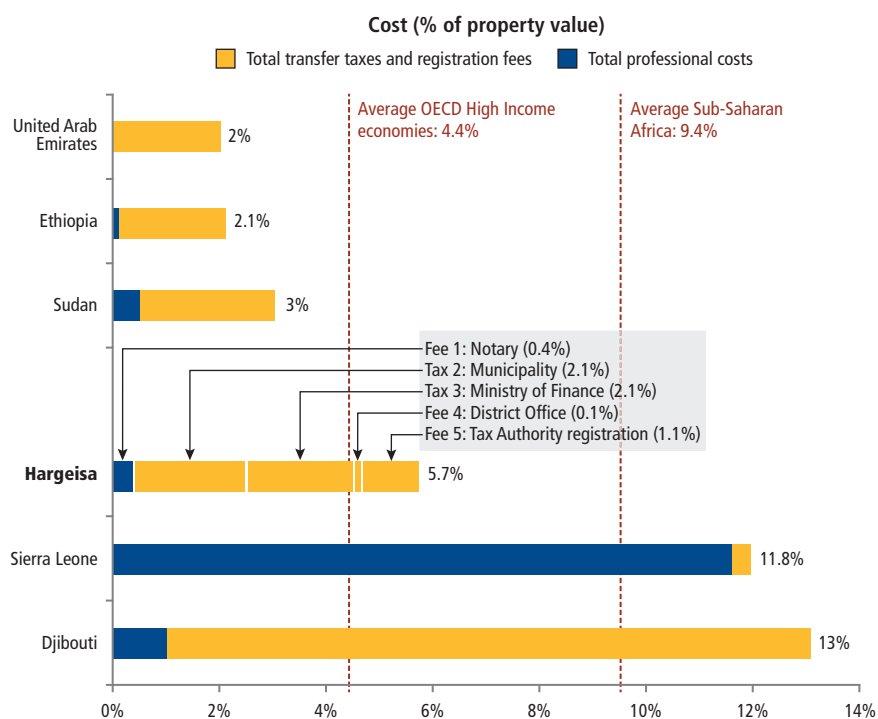
Property registries around the world confer different legal effects on the information they record. Title-based systems provide conclusive evidence about who holds the rights in a given property. Deed-based systems, by contrast, do not provide conclusive

FIGURE 6.4 Tax registration with the Municipality is a cumbersome process



Source: Doing Business database.

FIGURE 6.5 Transfer taxes and registration fees make up most of the cost of transferring property in Hargeisa



Source: Doing Business database.

proof. They record property transfers, but the fact that a transfer is registered does not necessarily mean that it is valid. Because the last registered owner could be holding a title that is not valid, a buyer will usually hire a lawyer to determine the “good root” of the title he or she is buying. In Hargeisa, the reason for not registering owners in the current GIS is mainly political, since this could reopen disputes over land ownership. However, the necessity for an updated and more efficient system creates the opportunity to reconsider which system would be more appropriate.

In Samoa, after the Land Titles Registration Act of 2009 changed the registration system from a deed to a title system, the time required to transfer a property was reduced by four months. Some economies prefer to keep a deed system while improving the conclusiveness of the records held in the registry. Argentina, for example, has a deed-based system but complements it with a 20-year statute of limitations. This means that lawyers have to go back only 20 years to check the good root of a title.

Update the system of property rights registration

Having updated data for property rights and encumbrances facilitates transfer of property. Hargeisa’s property registry is incomplete and there is no system for verifying encumbrances on property. If the land plot is not registered in the property registry, an owner can go through a land legalization process, but future transactions are rarely registered. These practices do not help maintain an up-to-date property registry and increase the probability of land conflicts.

Hargeisa could learn from other experiences in economies that have recently set up property management systems, such as Timor-Leste. When Timor-Leste achieved independence in 1999 most of its land was occupied without official deeds and land conflicts were frequent. In 2007 a project started to issue title deeds to land owners.¹⁰ Cadastral surveys were organized for each property and by 2011 the project had established ownership of 91% of the 47,000 parcels under review. A subsequent government motion will allow the owners of the surveyed parcels to obtain formal land titles.¹¹

Also, most economies require a non-encumbrance verification to ensure that the property is free of all charges and liens prior to the transfer. This procedure can be very efficient: 108 economies worldwide have an electronic database for encumbrances, and 36 of them offer information online, including Morocco. In Ethiopia, obtaining a certificate takes only two days and costs 0.09% of property value; the Land Registry has been decentralized in 10 sub-cities since 2005 in order to simplify property transfers. In the long term Hargeisa could use this reform as an example, taking advantage of the fact that its five district offices already deal with other issues related to land transactions, such as applications with tax authorities for newly acquired properties and applications for land legalization.

Coordinate the paper-based property registry and the GIS Office

The GIS Office managing Hargeisa’s electronic database for property taxation and the office in charge of the paper-based property registry are located next to each other, but there is almost no interaction. The municipality has plans to extend the GIS electronic database to the paper-based property registry,¹² but nothing has been done since the creation of the GIS in 2004.

Globally, 60% of economies covered by *Doing Business 2012* have electronic databases for encumbrances. Digital records have advantages over paper records: they take less space, and backup copies ensure that property records will not be compromised in the event of natural disasters or wars. The Municipality of Hargeisa could put the technology and know-how it already possesses regarding electronic land information to good use by improving the quality of the property registry.

Streamline fee payment procedures

Transferring property in Hargeisa requires payment of five different taxes and fees, and waiting time is frequently long because many signatures are needed. For example, the application form to register with the tax authorities has to travel five times back and forth between different offices within the municipality before the buyer can pick it up and go to another office to make the payment. Simplifying this process would

save time and increase transparency for new owners. Hargeisa could easily reduce the number of signatures needed for each application, and merge several payments such as the municipal and the Ministry of Finance taxes: these two payments are made in two offices next to each other, but the second can occur only after the first one has been approved by three municipal officials, including the Mayor.

A one-stop shop is an efficient way to minimize interactions between agencies and entrepreneurs. Establishing a one-stop shop in Hargeisa could be a way to streamline procedures since most of them already take place within the municipality. Ghana did it in 2008 under the roof of its Lands Commission. In Djibouti, too, property registration was sped up in 2008 by improving efficiency at the Service des Domaines.

Consider replacing percentage-based fees with fixed fees

Property taxes are an important source for many governments. But when transfer fees are too burdensome, even already-registered property might again become informal, if subsequent transactions are not registered. This not only weakens the protection of property rights, but also reduces potential revenue from property taxes. In Hargeisa transfer taxes amount to 73% of the total costs: 37% for the municipal transfer tax paid at the municipal General Taxation Office and 36% for the transfer tax paid to the Ministry of Finance.

Over the past 7 years, 56 economies worldwide have lowered transfer taxes and other government fees, reducing the global average cost to register property by 4% of the property value. Of these economies, 23 are in Sub-Saharan Africa. Mozambique reduced its transfer tax rate from 10% in 2005 to 2.4% in 2006. Others took a gradual approach: Burundi cut the transfer cost by 10% of property value over 3 years, by first abolishing the 7% registration fee and then reducing the transfer tax rate from 6% of the property value to 3%.

NOTES

1. Deininger, Klaus. 2003. *Land Policies for Growth and Poverty Reduction*. World Bank Policy Research Report. New York: Oxford University Press.
2. World Bank. 1989. *World Development Report 1989*, p. 87. New York: Oxford University Press.
3. Property information held in cadastres and land registries is part of the land information available to governments. Land information also includes other geographic, environmental and socioeconomic data that are useful for urban planning and development.
4. Interviews with Municipal officials in Hargeisa. April 2012.
5. UN Habitat. 2006. *Municipal Revenue Generation Through Property Taxation, The UN-HABITAT Approach. Better Information for Better Cities, the Case of Hargeisa*.
6. Barry, Michael and Florian Bruyas. 2007. *Land Administration Strategy Formulation in Post Conflict Situations: The Case of Hargeisa, Somaliland*. FIG (International Federation of Surveyors) Working Week.
7. Interview with the GIS Mapping Office staff in Hargeisa. April 2012.
8. See List of procedures for a detailed description of procedures.
9. The Somaliland Notaries Law sets the fee for property transfer at Sh. Sl. 20,000, the equivalent of \$3.50. Notaries, however, argue that this fee dates back to 2001 and is not adapted to the cost of living in Hargeisa, so in practice the notary fees for land transaction are set by the market. For the *Doing Business 2012* case study, the fee has been estimated to vary between \$40 and \$50.
10. The project is managed by Tetra-Tech and funded by USAID.
11. IRIN News. September 29, 2011. "Timor-Leste: Regulating land ownership 'key to stability'." www.irinnews.org/report.aspx?reportid=93845.
12. Barry, Michael and Florian Bruyas. 2007. *Ibid.*

Getting credit

Mobile banking has been soaring in Hargeisa in the last years, and it is not uncommon to see street vendors be paid directly by cell phone.¹ It is also possible for a student in the university to pay the fees by cell phone. However, access to traditional finance is limited for local businesses. There are no commercial banks in Somaliland, and borrowers have to look for alternative ways to get credit from remittance companies or members of their clan in the diaspora. Creditors cannot consult the credit history of a potential borrower, nor can they register movable assets as collateral.

WHY DOES GETTING CREDIT MATTER?

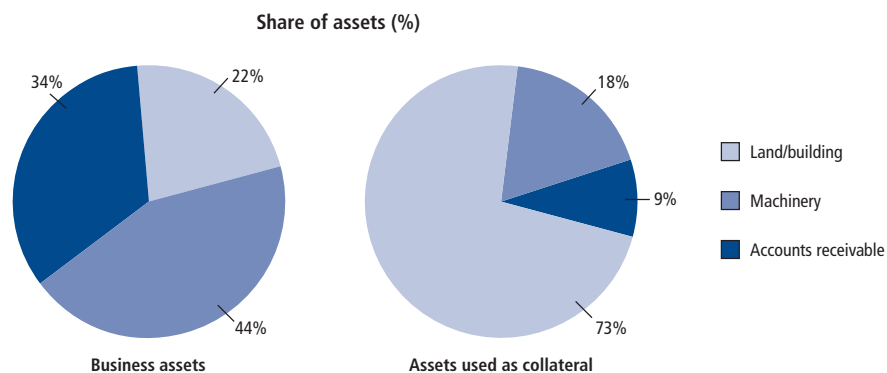
Access to credit is essential to private sector development. Lack of it is a major constraint for small and medium businesses, particularly in Africa. Only 22% of enterprises in Sub-Saharan Africa have a loan, compared to 43% in other developing countries. And 45% of firms in the region cite access to finance as a major constraint to growth.² Institutions that share credit information and a regulatory framework for secured transactions can facilitate access to finance and improve its allocation. These institutions and systems work best together.

Credit bureaus and registries are essential components of the financial infrastructure that facilitate access to finance. Sharing credit information reduces information asymmetries between lenders and borrowers, thereby improving access to credit for small firms and lowering interest rates. Credit information sharing systems also improve borrower discipline and support bank supervision and credit risk monitoring.³ Researchers found that in Mozambique, with the existence of data on repayment behavior, banks required 11.6% less in collateral value

for each additional loan a firm took. A more intensive bank-borrower relationship improved by 4.2% the likelihood that a loan for a small firm would be approved.⁴

Legal rights facilitate the use of movable assets as collateral, because of the ability to enforce claims in the event of default. Movable assets like machinery, inventory or accounts receivable—not fixed assets like land or buildings—often account for a large share of capital stock of small and medium-size enterprises. In the developing world 78% of the capital stock of businesses is typically available in movable assets and only 22% in property.⁵ However, banks in these countries prefer fixed assets as collateral (figure 7.1). In economies with a modern secured transactions system, these movable assets could easily be used as collateral. But in most developing economies movable property would likely be unacceptable, in part because the law does not provide sufficient protection for creditors.

FIGURE 7.1 In developing economies, there is a mismatch between the types of assets owned by businesses and those accepted by creditors as collateral for loans

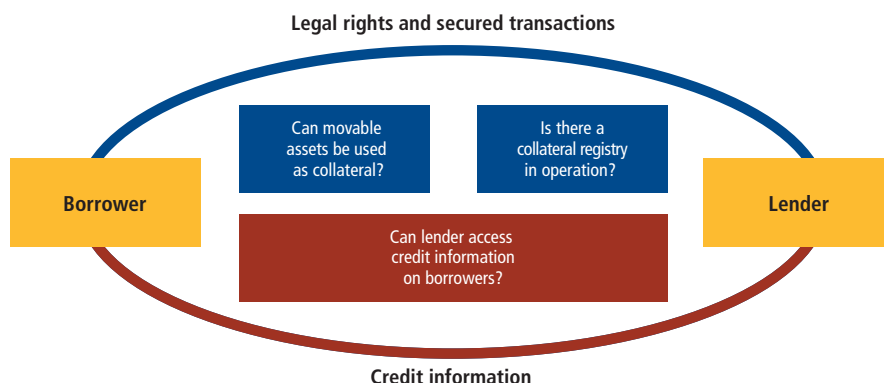


Source: Safavian, Mehrnaz, Heywood Fleisig and Jevgenijs Steinbuks, March 2006. "Unlocking Dead Capital: How Reforming Collateral Laws Improves Access to Finance." *Private Sector Development Viewpoint* 307. Washington, D.C.: World Bank Group.

WHAT DOES GETTING CREDIT MEASURE?

Doing Business measures the legal rights of borrowers and lenders with respect to secured transactions, as well as the sharing of credit information (figure 7.2). The first set of indicators describes how well collateral and bankruptcy laws facilitate lending. For example, does the law allow companies to keep the possession of the asset they grant as collateral? Is there a collateral registry or registration institution in operation for security interests over movable property? Do secured creditors have priority rights to the collateral in a bankruptcy procedure? The second set measures the coverage, scope and accessibility of credit information available through credit registries and credit bureaus. For example, do retailers or utility companies as well as financial institutions share credit information with credit registries or credit bureaus? Are data on both firms and individuals distributed in credit reports?

FIGURE 7.2 Do lenders have credit information on entrepreneurs seeking credit? Is the law favorable to borrowers and lenders using movable assets as collateral?



HOW DOES IT WORK IN HARGEISA AND HOW DOES IT COMPARE GLOBALLY?

There are no commercial banks in Somaliland. The Central Bank was originally a branch of the Bank of Somalia and its activities were limited to currency minting and paying public-sector payrolls.⁶ The new Central Bank Constitutive Act approved in April 2012 mandates that the Central Bank issue licenses for commercial banks. Several foreign banks have expressed interest in setting up activity in Somaliland. However, Somaliland lacks the basic institutions and regulations necessary for a formal financial system: the approval of a commercial banking bill is still pending. A draft is being discussed in the Parliament.

Today, loans are granted on the basis of trust and relationships, and they mostly take place within the social networks of clans. Money transfer companies have become the main vehicle for deposits, although they operate in a legal and institutional vacuum. They have started developing mobile banking in partnership with telecommunication companies, allowing clients to make payments and to check their accounts balance from a cell phone. Microfinance institutions are rare⁷ and they do not compensate for the lack of commercial banks.⁸ Credit information systems and a regulatory framework for secured transactions are almost nonexistent.

Hargeisa scores 0 out of 6 categories on the depth of credit information index. On the strength of legal rights index, Hargeisa also scores 0 out of 10 given the incomplete regulations on secured transactions. The

Sub-Saharan Africa average is 2 out of 6 on the depth of credit information and 6 out of 10 on the strength of legal rights (figure 7.3). Hargeisa would rank last on the ease of getting credit compared to 183 economies measured by *Doing Business 2012*, behind Sudan (166) and Djibouti (177). Kenya, one of the top performers in Sub-Saharan Africa, ranks 8 globally with scores of 4 out of 6 on credit information and 10 out of 10 on legal rights.

Hargeisa has no public credit registry or private credit bureau to share credit information on borrowers. In Sub-Saharan Africa 16 of 46 economies, including Eritrea and Sudan, lack any type of credit reporting systems to share credit information on borrowers. In Hargeisa, given the underdeveloped financial system, it is not surprising that a credit registry or a credit bureau does not exist. But the forthcoming adoption of a commercial banking bill will open the economy to commercial banks, and a well functioning credit information sharing system will become crucial. The recently adopted Central Bank Constitutive Act mentions the future creation of a credit bureau that could be operated by the Central Bank itself.

On the strength of legal rights, Hargeisa scores 0 out of 10 because the legal framework underpinning secured transactions is incomplete. The only applicable legislation is the Somali Civil Code of 1973, which is based on the Egyptian Civil Code of 1948. The civil code does not allow non-possessory secured transactions—the debtor must always relinquish control of the asset granted as collateral. The legal framework also does not allow a security right to extend into

future or after-acquired assets, and secured creditors are paid after general tax and employee claims in the case of insolvency proceedings.

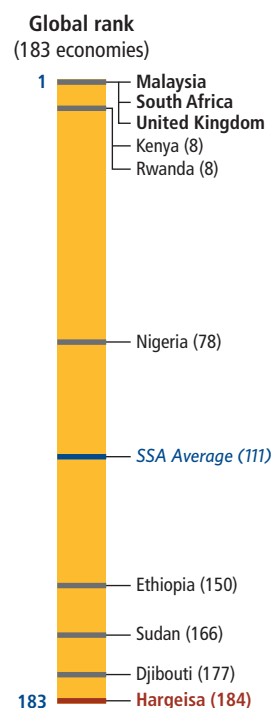
WHAT TO REFORM?

The financial system's legal framework in Somaliland is underdeveloped. In the short term, the priority is to allow commercial banks to set up. In this respect, the approval of a commercial banking bill is an essential step to be taken. In the longer term, implementing credit information sharing institutions and a regulatory framework for secured transactions—the two fields covered by this indicator—can facilitate access to finance and improve its allocation. The following reform recommendations are aimed at enhancing the financial system once commercial banks have started setting up in the economy.

Promote a system to exchange credit information

Today, no institution exists that collects and shares credit information on borrowers in

FIGURE 7.3 Hargeisa ranks last on the ease of getting credit, regionally and globally



Notes: SSA denotes the Sub-Saharan Africa region. 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.

Somaliland. When there are many lenders or when borrowers move geographically and no credit reporting system is available, borrowers can become over-indebted and it leads to asymmetries of information between lenders and borrowers limiting access to credit. Credit reporting addresses this problem, and the government should promote it. Credit information sharing started informally in most economies: tailors in London used to share information on defaulting debtors. More recently in 2002, Nicaraguan microfinance institutions began sharing information voluntarily through *Sin Riesgos*, a credit bureau promoted by the Nicaraguan microfinance association ASOMIF. At the time it was created, *Sin Riesgos* was the only privately held credit bureau operating in the country. Commercial banks were unable to share credit data except via the public credit registry due to the legal framework in place regarding bank secrecy.⁹

In the long term, there should be a competitive credit reporting system in Somaliland that allows for collection of negative and positive data from a variety of sources, is secure and efficient, operates within a framework that ensures borrower privacy rights are upheld, and provides an adequate mechanism for recourse in case of incorrect information or data breaches. A task force coordinated by the World Bank developed the “general principles for credit reporting,” which provide an agreed framework in the form of international standards for credit reporting systems policy and oversight.¹⁰

Of the economies benchmarked by *Doing Business*, 77% have a public or private credit information sharing system, although the type of information they collect and share varies widely. Since 2005, 20 new credit registries or bureaus have been established in economies that previously had no reporting system, many of them in Sub-Saharan Africa. In 2009 Liberia established its first database of credit information on borrowers at its central bank. In 2008 the Central Bank of Nigeria issued a guideline defining the licensing, operational and regulatory requirements for a private credit bureau. Ghana and Uganda granted operating licenses to private credit bureaus that began operations in 2010. Other economies in the region

strengthened access to credit information by improving their existing credit registries. For example, Rwanda’s private credit bureau started in 2010 to collect and distribute information from utility companies. Today, the bureau distributes historical information of more than two years. And in Zambia, access to credit information was improved by making it mandatory for banks and nonbank financial institutions registered with the Bank of Zambia to use credit reference reports and provide data to the credit bureau.

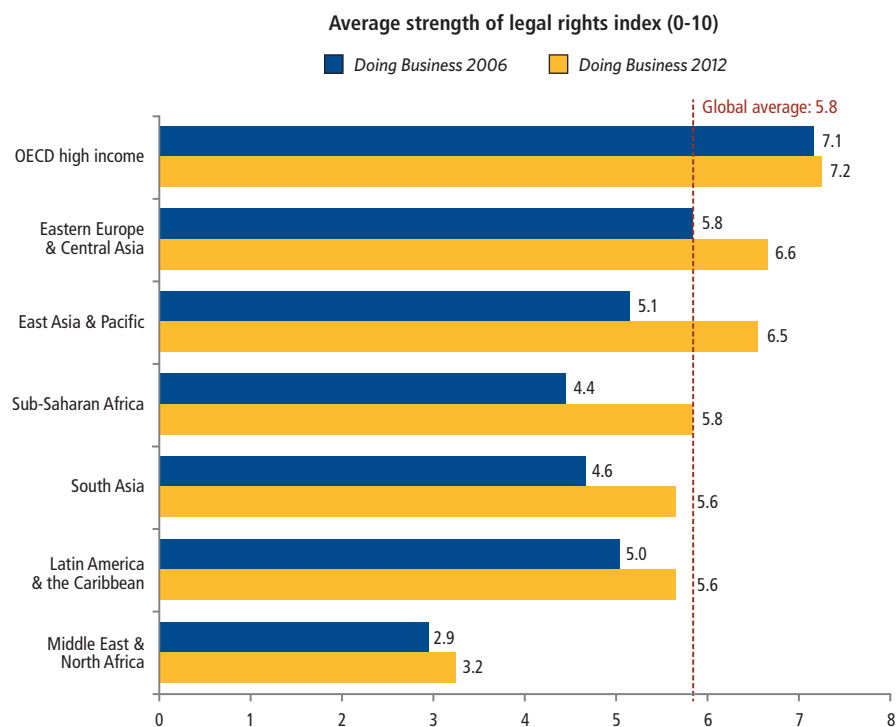
Enact a single comprehensive law concerning the use of movable assets as collateral

The United Nations Commission on International Trade Law (UNCITRAL) recommends that the same rules or principles guide all secured transactions.¹¹ A modern secured transactions system provides for the use of security interests in all types of movable assets—whether tangible or intangible, whether present, after-acquired or future assets, and wherever located—including both possessory and non-possessory interests.¹²

A modern legal framework for secured lending also establishes clear priority rules to resolve conflicting claims among secured creditors when a debtor defaults, whether in a bankruptcy procedure or not. One effective way to establish priority rights is to record the security interest in a centralized collateral registry. Somaliland has incomplete regulations regarding secured transactions, and they are scattered among the Somali Civil Code, the Company Law and possibly the commercial banking law currently being debated in Parliament—which, if passed, would represent a major opportunity to establish a favorable framework for secured transactions.

In Sub-Saharan Africa, several economies have recently improved their secured-transactions systems, strengthening legal rights in the region (figure 7.4). 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. The new law broadens the range of assets that can be used as collateral (including future assets), extends

FIGURE 7.4 Sub-Saharan Africa is among the regions that most strengthened the legal rights of borrowers and lenders from 2005 to 2011



Note: The data sample for *Doing Business in 2006* (2005) includes 174 economies. The sample for *Doing Business in 2012* (2011) also includes The Bahamas, Bahrain, Brunei Darussalam, Cyprus, Kosovo, Liberia, Luxembourg, Montenegro and Qatar, for a total of 183 economies. *Doing Business in 2006* data are adjusted for any data revisions and changes in methodology and regional classifications of economies. Source: *Doing Business* database.

the security interest to the proceeds of the original asset, and introduces the possibility of out-of-court enforcement. Liberia also passed a new commercial code in this direction in 2011. In Rwanda, getting credit was made easier with a new secured transactions act and insolvency act to make secured lending more flexible, allowing a wider range of assets to be used as collateral and a general description of debts and obligations. In addition, out-of-court enforcement of collateral has become available to secured creditors, who also now have top priority within bankruptcy. During the past 5 years, Rwanda improved its score on the *Doing Business* legal rights index from 2 to 8 points (out of 10 points).

Implement a system of registration of movable property with a collateral registry

Creditors need an effective mechanism to know whether the potential borrower has already granted a security interest in the collateral and, if so, what priority those rights have. A central collateral registry—recording interests in all types of movable assets—supports the use of movable collateral to secure loans. Somaliland does not have such a registry for movable assets. Good international practices suggest that such a registry should contain information on all types of loans and assets, unified in a centralized and electronic database—although specialized registries such as vehicles or intellectual property can also exist.

Setting up registries—or unifying and improving existing ones—is a common reform that has been implemented: Georgia, Ghana, Guatemala, Honduras, and Solomon Islands are economies that have established a collateral registry in recent years. Today 68 economies globally, including Kenya, have some sort of centralized registry for movable property used as collateral by companies. In only 15 of these 68 economies, however, can the collateral registries be characterized as modern, notice-based ones.¹³ These registries offer online access to registration and searches, register all types of encumbrances, establish clear parameters for priority, and maintain a central database searchable by the debtor's name or other unique identifiers. For example, online searches are possible in Cambodia, Guatemala, the Solomon Islands

and Vanuatu.¹⁴ Once registered, security interests immediately have effect against third parties.

NOTES

1. Two companies provide mobile banking services. One of them reported starting operating in this sector in September 2009 and having almost 200,000 clients in April 2012.
2. Demirgüç-Kunt, Asli and Leora Klapper. 2012. *Financial Inclusion in Africa: An Overview*. Washington, D.C.: The World Bank.
3. Nguyen, Ha and Rong Qian. 2012. *The Cross-Country Magnitude and Determinants of Collateral Borrowing*. Washington, DC: The World Bank.
4. Behr, Patrick, Entzian Annekathrin and Andre Guettler. 2011. "How Do Lending Relationships Affect Access to Credit and Loan Conditions in Microlending?" *Journal of Banking and Finance* 35: 2169–78.
5. Alvarez de la Campa, Alejandro, Yair Baranes, Sevi Simavi and Everett T. Wohlers. 2010. *Secured Transactions Systems and Collateral Registries*. Washington, D.C.: International Finance Corporation.
6. The Somaliland Central Bank Constitutive Act was signed by the President on April 12, 2012. http://www.somalilandlaw.com/banking___finance_laws.html
7. USAID. 2011. *Somaliland Private Sector Development Assessment*. According to the report, there are one microfinance institution and several international NGOs and multilateral organizations offering microcredit. However, most of the microfinance programs ran by international actors have stopped due to a low repayment rate.
8. According to interviews, remittance companies also started providing microcredit. One of the major remittance companies stated that around 100 loans had been given in two years of activities, 90% of them to individuals. These loans were usually under \$ 2,000 and for periods of two years maximum.
9. CGAP and International Finance Corporation (IFC). 2011. *Credit Reporting at the Base of the Pyramid: Key issues and Success Factors*. Washington, D.C.
10. <http://siteresources.worldbank.org/FINANCIALSECTOR/Resources/GeneralPrinciplesforCreditReporting.pdf>
11. United Nations Commission on International Trade Law (UNCITRAL). 2010. *UNCITRAL Legislative Guide on Secured Transactions*. New York. The Guide adopts what might be characterized as an integrated and functional approach. It takes the position that, to the maximum extent possible, all transactions that create a right in any type of asset meant to secure the performance of an obligation (that is, to fulfill security functions) should be considered to be secured transactions and regulated by the same rules or, at least, by the same principles.
12. World Bank Group. 2005. *Principles for Effective Insolvency & Creditor Rights Systems*. Washington, D.C.
13. Notice-based registration does not require documents to be registered, whereas document-based registration requires registering voluminous documentation as well as specialist review of the documents provided and the assets used as collateral. A notice registry also has lower administrative and archival costs than a document registry.
14. Alvarez de la Campa, Alejandro, Santiago Croci Downes and Betina Tirelli Hennig. 2012. *Making Security Interests Public: Registration Mechanisms in 35 Jurisdictions*. Washington, D.C.: World Bank Group.

Protecting investors

With Somaliland's government increasingly relying on the private sector, and in the absence of a functioning banking system, share ownership is the main source of financing for businesses in Hargeisa. Strong minority investor protections improve the ability of enterprises to raise the capital needed to grow, diversify, compete, and do business with others: companies can grow more quickly by raising capital, which normally can be achieved through 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 directors, they tend to invest in fewer companies in which they take majority stakes. In the long run, the lack of such legal and regulatory framework discourages investments and imposes growth barriers to these enterprises.

WHY DOES PROTECTING INVESTORS MATTER?

Economies that effectively protect minority investors tend to have dynamic capital markets. In these economies investors participate in major company decisions and directors are accountable to shareholders for oversight of managerial decisions. If the laws do not provide such protections, minority investors may be reluctant to invest, unless they become controlling shareholders.¹ Other research shows that corporate risk-taking and firm growth rates are positively related to investor protections. Better systems may lead corporations to undertake risky but value-enhancing investments.²

In the area of investor protection and corporate governance, an important issue is self-dealing—that is, 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 foster an environment in which controlling shareholders profit at the expense of minority shareholders and even the company's financial health—because the company sells assets at excessively low prices, buys assets at inflated prices, or gives loans to controlling shareholders on below-market terms. Empirical research shows that stricter regulation of self-dealing is associated with greater equity investment and lower ownership concentration.³ Another recent study shows that protecting minority shareholders is the key to boosting investment. In fact, the presence of legal and regulatory protections for investors explains up to 73% of the decision to invest. In contrast, company characteristics explain only between 4% and 22% of the decision to invest.⁴

WHAT DOES PROTECTING INVESTORS MEASURE?

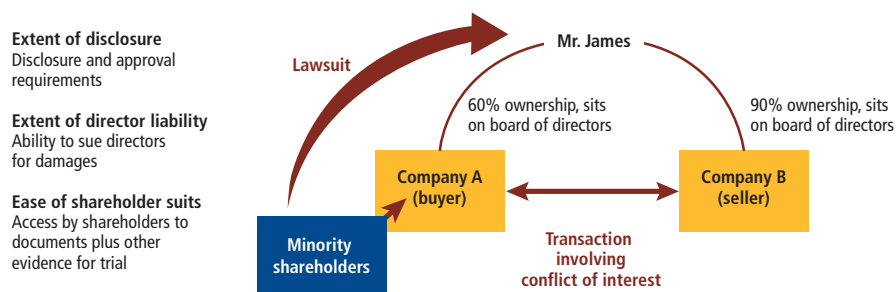
Doing Business measures the strength of legal protections of minority investors against misuse of corporate assets by company directors for personal gain. The indicators distinguish three dimensions of investor

protections: (a) rules on the approval and disclosure of related-party transactions (extent of disclosure index), (b) liability of company directors for self-dealing (extent of director liability index), and (c) shareholders' ability to access corporate information before and during litigation (ease of shareholder suits index) (figure 8.1). The data come from a survey of corporate and securities lawyers and are based on securities regulations, company laws, civil procedure codes and court rules of evidence. The ranking on the strength of investor protection index is the simple average of the percentile rankings of its component indicators.⁵

HOW DOES IT WORK IN HARGEISA AND HOW DOES IT COMPARE GLOBALLY?

In Hargeisa, corporate governance and protection of minority shareholders are regulated by the Companies Law of Somaliland (Law No. 25/2004).⁶ The law does not specifically address many issues affecting the protection of minority shareholders in related-party transactions, which is why Hargeisa scores only 2 out of 10 on the overall strength of investor protection index. This is similar to Djibouti (2.3), but outperformed by the majority of economies in Sub-Saharan

FIGURE 8.1 How well are minority shareholders protected against self-dealing in related-party transactions?



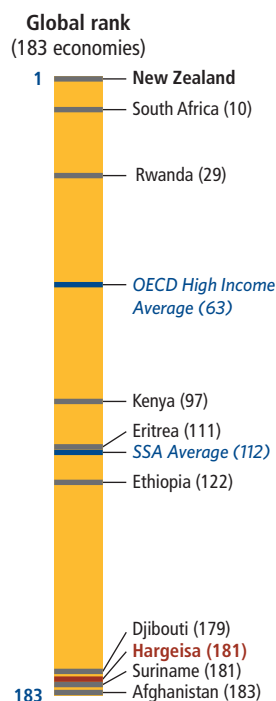
Africa, including neighboring Ethiopia (4.3), Eritrea (4.7) and Kenya (5). New Zealand is the global leader on this indicator, scoring 9.7. Compared with the 183 economies measured by *Doing Business 2012*, Hargeisa would rank 181, the same as Suriname and followed by Lao PDR and Afghanistan (figure 8.2).

On the extent of disclosure index, Hargeisa scores 2 out of 10. Related-party transactions are only approved by the board of directors and the interested parties have a say. The law requires interested parties to disclose any conflicts of interest; however, the law is silent on the content of the disclosure. Moreover, the law does not require any public disclosure of such transactions in the companies' annual reports.⁷ By contrast, in South Africa—the country in Sub-Saharan Africa with the highest score (8) on the disclosure measure—both the board of directors and minority shareholders must approve the transaction, an external body has to review it, and internal and external disclosure of conflicts of interest is required.

On the extent of director liability index Hargeisa scores 3 out of 10. Although shareholders can sue when the company's affairs have been conducted in a manner which is unfairly prejudicial to the interests of the company,⁸ the remedies are limited and directors can only be held liable in case of fraud.⁹ Unless the transaction is fraudulent—where directors are liable for imprisonment or fine, or both—there are no provisions for any remedies, such as damages from a related-party transaction or rescission of the transaction. In economies with more stringent investor protection regulations—such as New Zealand, the country that tops the rankings on the index—shareholders can sue for damages. In Singapore, minority stakeholders can hold the directors liable and have the transaction voided if it is unfair or prejudicial to other shareholders. Economies in Sub-Saharan Africa that allow director's liability for damages include Rwanda and South Africa.

Hargeisa receives only 1 out of 10 points on the ease of shareholders suits index, which measures the type of evidence that can be collected by minority shareholders before and during a trial. Provisions for this

FIGURE 8.2 Protecting investors in Hargeisa compared regionally and globally



Notes: SSA denotes the Sub-Saharan Africa region. 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.

are found both in the Companies Law of Somaliland (Law No. 25/2004) and the Somali Civil Procedure Code (Law No. 19 of July 27, 1974).¹⁰ Minority shareholders face difficulties when trying to collect and access documents to prove their case. The Companies Law allows shareholders to obtain copies only of annual accounts, director's report, auditor's report and minute books; copies of the contracts are not available for direct inspection.¹¹ In addition, only the Attorney General may appoint inspectors to investigate the transaction. There is no provision allowing minority shareholders to inspect the transaction documents before filing suit. Judicial proceedings are solely decided by the judge. Direct questioning is disallowed (although in practice the parties often suggest questions). Obtaining documents is also left to the discretion of the judge, who decides what information is required to decide the case.¹²

With an overall score of 2 out of 10, Hargeisa offers limited protection for shareholders against the misuse of corporate assets

through related-party transactions. But this is not the only challenge businesses face. The Companies Law is available only in English, making it difficult for local businesses, lawyers and judges to use it effectively.

Other economies in the region can serve as examples of successful reformers in this area—Sub-Saharan Africa has implemented some of the most comprehensive investor-protection reforms (figure 8.3). Botswana, Mozambique, Rwanda, Sierra Leone, Swaziland and Tanzania have updated their company laws, for example. Burundi has adopted a new company act that requires greater corporate disclosure and higher standards of accountability for company directors.

Rwanda in particular has steadily reformed its commercial laws and institutions since 2001. A new company law, adopted in 2009, 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—from 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. The reforms have started to reap benefits. In 2009 alone, in the midst of the global economic crisis, Rwanda attracted \$1.1 billion in investment, 41% more than in the previous year.¹³

WHAT TO REFORM?

The Companies Law of Somaliland contains only limited safeguards for minority shareholders. Although this might not be a priority in the short term, in the longer term authorities should undertake a comprehensive set of reforms regarding the transparency of related-party transactions and liability in cases of self-dealing. They should also establish shareholders' ability to sue officers and directors for misconduct, and increase shareholder access to corporate documents during trial. Any reform should start with a detailed analysis of the Companies Law, but 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 Law requires only that the interested party disclose his conflict of interest to the board and that the transaction be approved by the board of directors. However, directors are not obliged to undergo full or immediate disclosure of information on topics such as immediate stakes in related-party transactions, names, and all holdings in personally owned companies or services provided and received. Failure to require such disclosures allows 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. 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.

Involve shareholders in the approval of related party transactions

Several measures can be put in place to involve shareholders. Shareholders should be allowed to inspect substantially all of a company's documents (with some exceptions, such as for industrial secrets); an external body, for example an independent auditor, should review suspicious transactions before they take place; and minority shareholders should be allowed to sue insiders on behalf of the company (a "derivative suit").

Sixty economies worldwide, including Lebanon and the United Kingdom, currently require shareholder approval of large related-party transactions. In Rwanda, for example, related-party transactions representing less than 5% of company assets are approved by the board of directors. If the transaction involves more than 5% of company assets, it must be approved at a shareholders meeting. This dual model gives the company the necessary flexibility to conduct its daily activities, while ensuring that minority shareholders are involved in major decisions. Twenty-five of the sixty economies requiring approval of related-party transactions by disinterested shareholders also require review of the terms of these transactions by an independent body (such as an independent auditor) before their approval. The independent auditor

will provide an opinion on the terms of the transaction that will help shareholders make an informed decision.

Make directors accountable for their actions

In Hargeisa, neither a company's officers nor its board can be held liable in cases of prejudicial related-party transactions. With almost no incentives to include minority shareholders' interests into the decision-making process, directors 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.

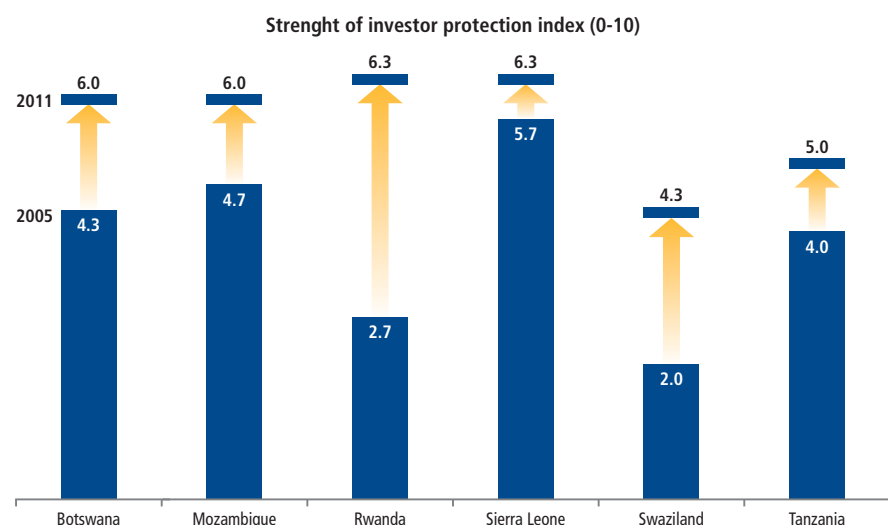
Grant shareholders greater access to corporate documents before and during trial

Without access to documentary evidence, minority investors may find it difficult to prove that directors have been managing the company's affairs improperly. Currently shareholders in Hargeisa do not have access to copies of the contracts and depend largely on the judge's discretion to obtain evidence.

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).

Of the 183 economies covered by *Doing Business 2012*, more than 30

FIGURE 8.3 Stronger investor protections in Sub-Saharan African economies since 2005



Source: Doing Business database.

economies—including Canada, the Dominican Republic and Hong Kong SAR, China—grant shareholders access to any corporate document they require, but only before the trial. El Salvador, Kazakhstan, New Zealand and South Africa require that all company documents related to the case be open for inspection during the trial. Mozambique and Rwanda grant 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. Mauritania, the Syrian Arab Republic and the Republic of Yemen permit limited or no access to evidence during the trial, making it virtually impossible for minority investors to prove their case.

Make the Companies Law available in Somali

The Companies Law is available only in English, making it difficult for local businesses, lawyers and judges to use it. With the law properly translated into Somali, shareholders will feel they have the framework in place to protect their rights, and the legal community will have a law they can actually use.

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 10. http://www.somalilandlaw.com/civil_procedure_law.html.
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8. Companies Law of Somaliland (Law No.

Paying taxes

Taxes are vital for every economy. Governments around the world rely on them to finance public infrastructure and provide services necessary to support economic and social development. The government of Somaliland's success with mobilizing tax revenue has been unstable over the years, ranging from \$20 million to \$40 million per year between 1999 and 2007.¹ Ineligible for most traditional aid programs, Somaliland's government relies heavily on loans from individuals and private firms² and on customs tariffs. Remittances, which constitute 40 percent of urban household incomes in Somaliland, help finance basic services that are covered by the state in other countries, such as health and education.³ In the future, the government's ability to raise funds through efficient taxation will be crucial.

WHY DOES PAYING TAXES MATTER?

The tax burden on businesses matters for investment and growth. High tax rates and burdensome tax administrations are consistently ranked among the main obstacles to doing business by entrepreneurs around the world.⁴ Keeping tax rates at a reasonable level encourages the development of the private sector and the formalization of businesses. This is particularly important for small and medium-size enterprises, which contribute to growth and job creation but usually do not add significantly to tax revenue.⁵ In Sub-Saharan Africa and the Middle East and North Africa micro, small and medium-size enterprises make up more than 90% of taxpayers but contribute only 25–35% of tax revenue.⁶

Some 235 years after Adam Smith proclaimed simplicity to be one of the pillars of any effective tax system,⁷ multiple taxation—where the same tax base is subject to more

than one tax treatment—increases the administrative burden and the number of payments firms must make. In Haiti, for example, a limited liability company is subject to the local tax on profit in addition to the corporate income tax and different forms have to be filled out, often requiring different methods for calculating the tax. Other economies in Sub-Saharan Africa with multiple taxation include Eritrea, Guinea, Nigeria, South Africa and Zimbabwe. Multiple taxation also complicates tax administration for tax authorities and increases the cost of revenue administration for governments. And it risks damaging investor confidence in an economy. In Sub-Saharan Africa businesses are required on average to make 37 payments to comply with their tax duties. Conversely, companies in the OECD make 13 payments on average.

WHAT DOES PAYING TAXES MEASURE?

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 required to prepare, file and pay three 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 9.1).

HOW DOES PAYING TAXES WORK IN HARGEISA AND HOW DOES IT COMPARE GLOBALLY?

The main law governing taxes is the Somaliland Direct Tax Law of 1996.⁸ A number of other laws regulate indirect taxation such as the Sales Tax Law (No. 84/96), the Registration Tax Law (No. 83/96), the Circulation Tax Law (No. 82/96), the Stamp Duty Law (No. 85/96) and the Stores Regulation (No. 88/96). The authorities that are involved in tax collection are the Municipality of Hargeisa at the local level, and the Office Inland Revenue Department under the Ministry of Finance at the central level.

FIGURE 9.1 What are the time, total tax rate and number of payments necessary for a local medium-size company to pay all taxes?

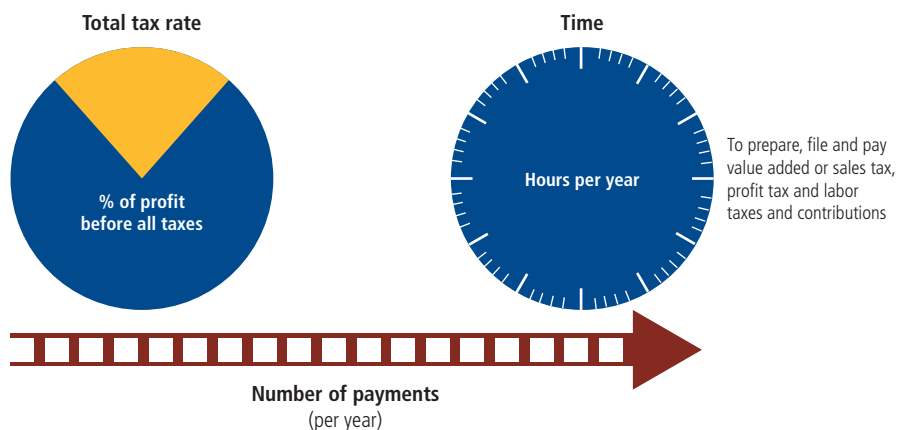
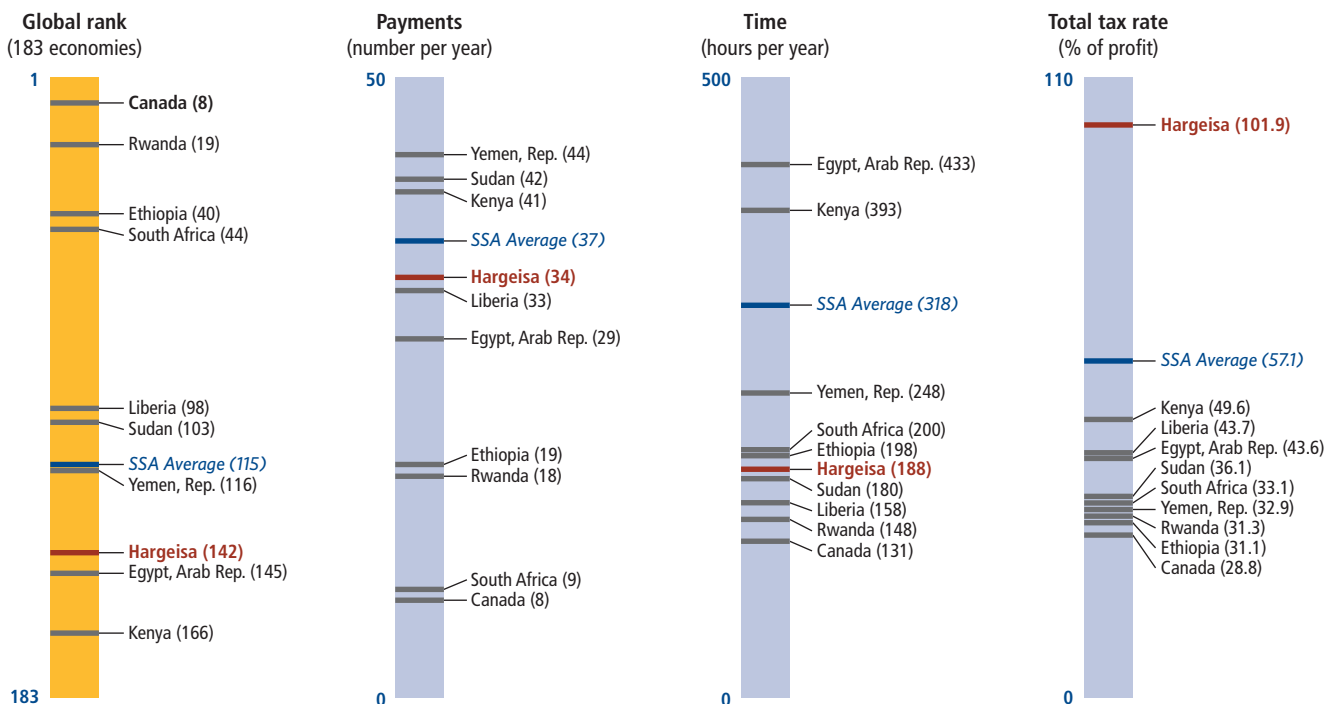


FIGURE 9.2 Paying taxes in Hargeisa compared regionally and globally



Notes: SSA denotes the Sub-Saharan Africa region. Rankings are based on the average economy percentile rankings on the payments, time and total tax rate. See the data notes for details. Source: *Doing Business* database.

Globally, Hargeisa would rank 142 compared with 183 economies on the ease of paying taxes as measured by *Doing Business 2012*—ahead of Egypt (145) and Kenya (166) but behind Sudan (103) and Liberia (98). In Hargeisa, the standardized case study company would spend 188 hours per year making 34 tax payments and pay 101.9% of its annual commercial profit in taxes (figure 9.2). The administrative burden is less cumbersome than Yemen, where the same company would spend 248 hours every year on 44 payments. But the total tax rate is more than three times higher than in Yemen, where the company would pay 33% of its profit in taxes. In Rwanda, among the easiest economies to pay taxes in Sub-Saharan Africa, a company needs to make 18 payments a year and pay 31.3% of commercial profits.

The administrative burden of complying with tax payments is slightly less cumbersome in Hargeisa than the average in Sub-Saharan Africa, where 37 tax payments are made per year on average. However, the number of payments could be lowered following the example of Ethiopia, where only 19 payments are required. Hargeisa’s number of payments

is driven by 2 taxes: the sales tax and the labor taxes and contributions. Both must be filed in and paid manually each month (12 times per year). The frequency of filing and the method of filing and payment make a difference in how many payments are recorded. For example, the United Arab Emirates has 3 taxes but 14 payments, whereas South Africa has 10 taxes but, because of online filing and ability to file and pay some taxes jointly, only 9 payments are recorded.

Compared globally, paying taxes in Hargeisa is fast. Companies in Hargeisa would spend on average 188 hours preparing tax returns and complying with other tax related requirements; this is below the average 318 hours spent in Sub-Saharan Africa economies. Of the total time, 36 hours are dedicated to corporate income taxes, 72 hours to sales taxes and 80 to labor-related taxes. But paying taxes in Hargeisa is also fast due to low compliance. Since only a small number of formal companies pay taxes, there are no significant backlogs at the Inland Revenue Department.

The total tax rate in Hargeisa is high compared globally (figure 9.3). Companies

would have to pay 101.9% of their profits to comply with their formal tax obligations. This is almost twice the regional average of Sub-Saharan Africa (57.1%), which is the region with the highest total tax rate. Some of Sub-Saharan Africa economies have a cascading-style tax system, which adds extra tax costs to each consumer so that an element of them is borne by each company in the supply chain. A total tax rate of over 100% means that a company in that economy with the 20% mark-up of the *Doing Business* case study could not make enough money just to pay all its taxes.⁹ The current tax law in Somaliland is broad in its scope and the general provisions do not provide sufficient detail.¹⁰ This makes implementation difficult. There are no general accounting principles. Businesses are not entitled to any deduction on the expenses they incur to generate income. Finally, the current tax law does not allow businesses to take into account capital asset depreciation in their tax statements. These factors make it difficult for businesses to comply with their tax obligations.

Given that Somaliland is ineligible for most traditional aid programs, the government relies on loans from the private sector. These

are often repaid via tax breaks, a factor that introduces a degree of arbitrariness in the country's taxation system. Even more, tax rates can be lowered based on oral agreements, introducing a level of negotiation.¹¹ In addition, the small state budget also has an impact on the capacity of the authorities to enforce tax compliance. Inspections and prosecution of violators can be costly, and are not substantially enforced in Hargeisa.

WHAT TO REFORM?

Educate entrepreneurs and train accountants on the taxation system

Often the biggest obstacles to paying taxes for small businesses are the lack of basic accounting skills as well as the gap between the tax law and its interpretation in practice. The government can fill this gap by providing capacity-building and training for small businesses. The benefits to tax training are mutual: if well-trained entrepreneurs are able to file returns and pay taxes more efficiently, the government can improve compliance with the tax regulation.

Creating a cadre of trained and certified tax professionals—essentially accountants—would

help small enterprises with tax compliance. A good example is Sierra Leone, where income tax professionals have been trained and certified for small businesses, which has helped improve tax compliance.

Launch a communications campaign

It is difficult to make businesses pay taxes if they are used to avoiding them. Communications efforts can help raise awareness and diffuse potential resistance. Somaliland can learn from other post-conflict economies that have successfully improved compliance through communications. Sierra Leone introduced a series of tax reforms in 2009. Sensing reluctance from the private sector, tax authorities knew they had to prompt a cultural shift to promote tax compliance. They designed a comprehensive communications strategy and conducted a countrywide campaign to communicate the role of taxes in re-building a post-conflict society. They held business forums to gather feedback on improving the tax system, and they communicated directly with businesses to encourage tax compliance. Thanks to the reforms and the communications efforts, in 2009 the National Revenue Authority

enrolled 11 percent more income tax registrants than in 2008 and 35 percent more than in 2007.¹²

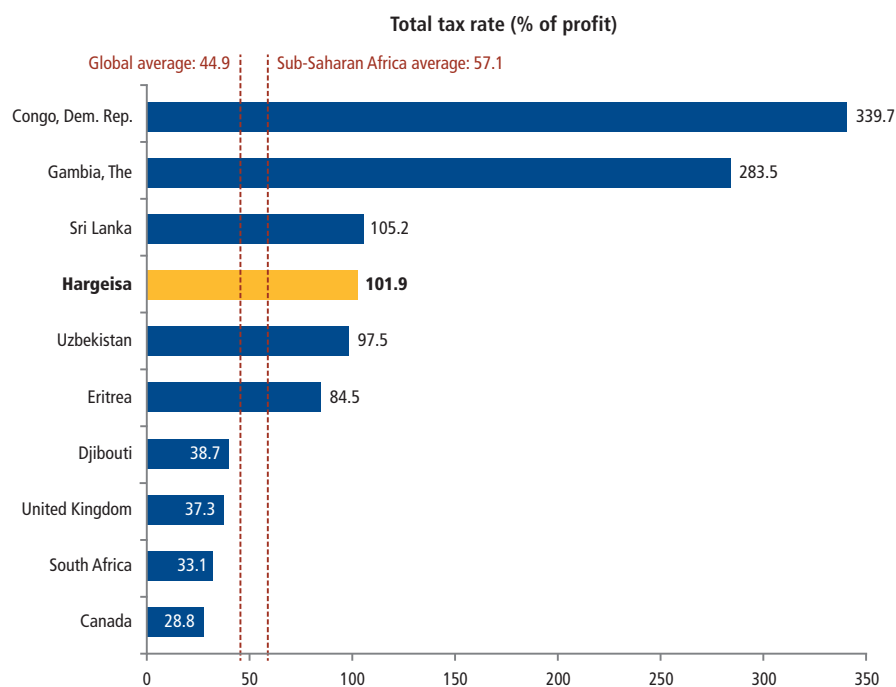
Adopt accounting standards and develop tax regulation

The lack of generally accepted accounting standards, including regulations on depreciations and deductions, makes it difficult for businesses to comply with tax requirements. The government should adopt accounting standards and develop detailed tax regulations, including deductions.

Ensure transparency and consistency in the implementation of the tax system

One of the main challenges of Somaliland's tax system are informality and arbitrariness. Ensuring that the tax provisions are transparent and implemented consistently is critical for the system to work efficiently. A first step in this direction can be to improve the audit capacity of tax authorities. Tax evasion cannot be properly tackled if companies suspected of "malfeasance" are not audited regularly. With risk-based audit systems, tax authorities audit only companies whose tax returns reveal an anomaly or a significant risk of fraud.¹³ Coupled with strict enforcement and a mechanism for appeal and review, a risk-based audit system would discourage tax evasion and increase the likelihood that fraud would be caught and punished.

FIGURE 9.3 The total tax rate in Hargeisa is high compared globally



Note: The global average is based on 183 economies measured by *Doing Business*. Due to the assumptions of the *Doing Business* case study, which assumes a very low profit margin, where the data show that taxes exceed profit, the company must apply a price markup of more than 120% of the cost of goods sold to be able to pay its taxes. See the data notes for more details.

Source: *Doing Business* database.

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Trading across borders

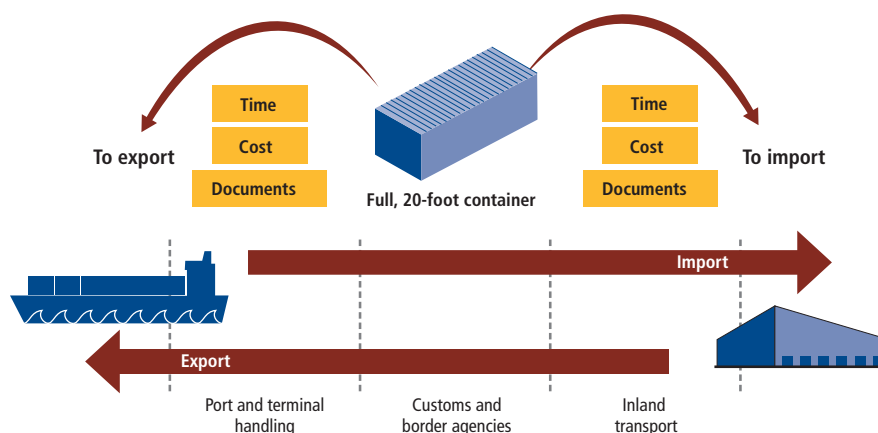
Trade is a key pillar of Somaliland's economy. Livestock exports are estimated to account for up to 80% of export earnings,¹ and customs duties represented 85% of the government's revenue in 2009.² Its main port, Berbera, is one of the oldest ports in the region and has an advantageous location on the south of the Gulf of Aden, one of the world's key trade routes. The main exports leaving the port of Berbera are livestock and dried animal skins going to the countries of the Arabian Peninsula. Improving customs and port operations will be vital to increasing trade flows and granting access to imported goods that are not available in the economy.

WHY DOES TRADING ACROSS BORDERS MATTER?

The benefits of trade are well documented. Limited access to international markets can prevent the growth of businesses and economies of scale. Local markets are often small, particularly in developing economies, and trade provides potential for greater output at lower cost. Trade also allows developing economies to become part of global supply chains. Access to imported raw materials and other inputs is often crucial for businesses, while delays or shortages can affect production. Trade can also lead to positive externalities such as the transfer of know-how.³

International trade plays an important part in the development of economies.⁴ Facilitating trade is therefore a natural concern for policy makers. Researchers find that streamlining customs and administrative procedures helps increase trade flows. A study in Sub-Saharan Africa estimates that reducing export costs by 10% through improvements in the efficiency of trade processes increases exports by 4.7%.⁵ Globally, improving port efficiency, the customs environment, the regulatory environment and the service sector could

FIGURE 10.1 What are the time, documents and cost to export and import a 20-foot container by sea transport?



increase trade in manufacturing by up to \$377 billion a year in all regions.⁶

WHAT DOES TRADING ACROSS BORDERS MEASURE?

Doing Business measures the time and cost (excluding tariffs) associated with exporting and importing a 20-foot container by sea transport, and the number of documents necessary to complete the transaction (figure 10.1). The indicators cover documentation requirements and procedures at customs and other regulatory agencies as well as at the port. They also cover logistical aspects, including the time and cost of inland transport between company warehouses and traders' ports.

HOW DOES IT WORK IN HARGEISA AND HOW DOES IT COMPARE GLOBALLY?

Hargeisa is an inland city. The primary port used by the local traders is the port of Berbera, on the south side of the Gulf of Aden, about 160 kilometers northeast of Hargeisa. The port's container-handling facilities present some insufficiencies. Due to

limited space, container cargo handling and other trade-related operations take place in the same area. Infrastructure limitations together with operational inefficiencies cause major delays in the peak season of livestock exports, when the presence of a high number of animals in the terminal makes container handling operations hard to perform. At the same time, container ships with imports have to wait up to one week outside the port for vessels exporting livestock to leave before they can enter and unload.

Compared globally to 183 economies measured by *Doing Business 2012*, Hargeisa would rank 127 on the ease of trading across borders—ahead of Benin (129), and Sierra Leone (132), but behind Liberia (116) and the Republic of Yemen (118). An entrepreneur in Hargeisa needs to submit 7 documents, wait 25 days, and spend \$1,920 to import a 20-foot standardized container of cargo through the port of Berbera. To export through the same port, an entrepreneur needs to submit 6 documents, wait 22 days, and spend \$1,940. This is slower and more expensive than the case of Djibouti where importing takes 18 days and costs \$911, while exporting

TABLE 10.1 Trading across borders in Hargeisa compared regionally and globally

Economy	Rank (183 economies)	Documents to export (number)	Time to export (days)	Cost to export (\$ per container)	Documents to import (number)	Time to import (days)	Cost to import (\$ per container)
Singapore	1	4	5	456	4	4	439
United Arab Emirates	5	4	7	630	5	7	635
Djibouti	37	5	18	836	5	18	911
Egypt, Arab Rep.	64	8	12	613	9	12	755
Liberia	116	10	15	1,220	9	14	1,200
Yemen, Rep.	118	6	27	890	9	25	1,475
Hargeisa	127	6	22	1,940	7	25	1,920
Benin	129	7	30	1,049	8	32	1,496
Sierra Leone	132	7	24	1,573	7	27	1,639
SSA (Average)	134	8	31	1,960	8	37	2,502

Notes: SSA denotes the Sub-Saharan Africa region. Rankings are based on the average economy percentile rankings on the documents, time, and cost to import and export. See the data notes for details. Source: Doing Business database.

takes 18 days and costs \$836. Compared to the average economy in Sub-Saharan Africa, the process is quicker and less expensive in Hargeisa. In fact in Sub-Saharan Africa, importing requires an average of 8 documents, takes 37 days and costs \$2,502, while exporting requires 8 documents, takes 31 days and costs \$1,960 (table 10.1).

Importing a container through the port of Berbera requires seven documents: the bill of lading, the packing list, the commercial invoice, the certificate of quality, the customs declaration form, the certificate of origin, and the boarding list. Exporting requires six documents: the bill of lading, the packing list, the commercial invoice, the certificate of quality, the customs declaration form and the delivery order.

In terms of time, the biggest bottleneck is the preparation of the documents due to the letter of credit.⁷ This is because there are no

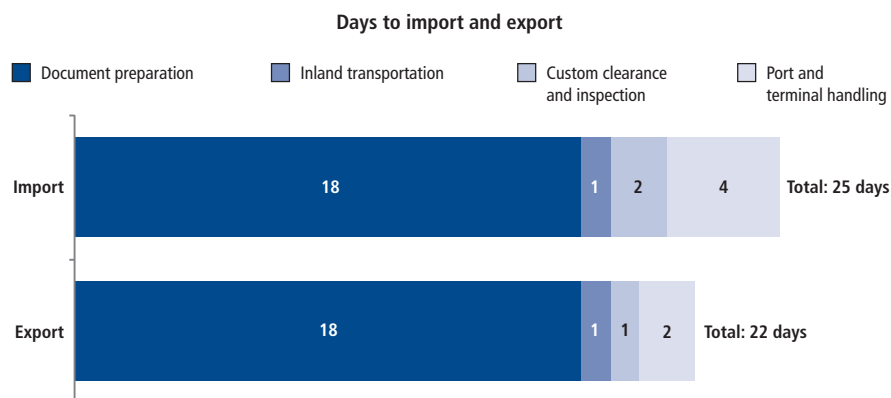
commercial banks in Somaliland that can issue such a document to traders. As a consequence, most businesses need to transfer funds through remittance companies to Djibouti or other economies where local banks are able to issue the required letter of credit. This is expensive and can add about two weeks to the process (figure 10.2).

Exporting a container to Hargeisa through the port of Berbera has a total cost of \$1,940, which is in line with the Sub-Saharan Africa regional average of \$1,960. Conversely, Hargeisa’s import costs, at \$1,920, are 30% lower than the Sub-Saharan Africa average of \$2,502. The biggest share of the cost for both imports and exports is represented by inland transportation (\$1,100) (figure 10.3). This is because of infrastructure limitations. The road that connects Hargeisa to the port of Berbera is narrow and not well paved, which prevents large container trucks from using it. Hargeisa’s urban infrastructure does not allow for the

free circulation of heavily laden or larger trucks. As a consequence, cargo for exports is typically manually loaded onto smaller trucks at the warehouse, taken to Berbera, and then manually loaded onto containers available at the port. Additionally, import containers are seldom released for transportation on land—or, if they are, it is against high deposits and the risk of detention charges. Because the shipping lines do not have empty-container depots near Hargeisa or any other inland destination, importers must either pay to return the empty container to port or unload the container in the port. This makes inland handling and transportation cumbersome, driving costs up.

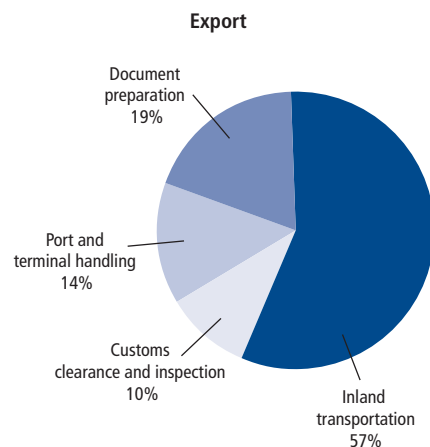
Recent reforms in many economies in Sub-Saharan Africa have made it easier to trade across borders. For example, Sierra Leone has adopted the Automated System for Customs Data (ASYCUDA), originally developed by the United Nations Conference on Trade and Development (UNCTAD),⁸ which allows customs declarations to be lodged electronically. Tanzania’s implementation of the Pre-Arrival Declaration (PAD) system eliminated duplication of documents by different authorities. Senegal opened the market for transport and delivery of containers going through the port of Dakar, which led to a significant increase in the number of certified container truck companies. Higher competition led to a decrease in the cost of inland transportation for containers.

FIGURE 10.2 Traders spend over 70% of their time obtaining documents



Source: Doing Business database.

FIGURE 10.3 Inland transportation represents the biggest share of the cost for exports



Source: Doing Business database.

WHAT TO REFORM?

Streamline document requirements and make information publicly available

Currently traders in Hargeisa must fill out and submit six documents to export and seven to import. The government should explore ways to streamline these requirements. Exports from good practice countries require only four documents: bill of lading, commercial invoice, customs declaration and packing list. Fewer documents reduce the hassle and delay for importers and exporters. Elimination of unnecessary documentation has proved popular in Latin America and Caribbean. The Dominican Republic, Ecuador and Honduras have eliminated notarization requirements.

Public information is also lacking regarding the official fees, procedures and documents required for trading in and out of Somaliland. This can result in misinterpretation of the regulation and, potentially, corruption. Publicizing customs procedures, fees and documents would promote transparency and help importers and exporters save time.

Introduce risk-based inspections

Currently 100% of the cargo going through the port of Berbera is inspected. This level of inspections is unwarranted. Generally, the vast majority of imports and exports is conducted by legitimate businesses and does not pose a threat to the country or its exchequer. Most modern customs systems are risk-based, allowing customs officials

to focus inspections on higher-risk cargo. Several countries in Sub-Saharan Africa, including Kenya, Madagascar, Mauritius, Rwanda, Senegal and Uganda, already have or are working on establishing such system. When Mauritius introduced a computerized risk management system in 2007, it reduced the physical inspections from 100% to just 30% of the cargo. A specific assessment of the port of Berbera could be conducted to determine which would be an appropriate risk-based inspection system while ensuring security.

Improve roads to speed inland transportation and invest in port infrastructure

More than one-half of the total cost of importing and exporting to and from Hargeisa is due to inland transportation and handling costs. The road connecting Hargeisa to the port is narrow and badly paved, which drives costs up and causes delays. Somaliland should consider improving the road as well as surrounding infrastructure. In Eritrea, for example, the infrastructure at Massawa port was upgraded, as were the roads between Massawa and the capital, Asmara.

Infrastructure investments should also focus on the container handling facilities of the port of Berbera. A port assessment should be carried out to determine infrastructure and capacity constraints and other areas in need of improvement. A larger terminal would likely facilitate port operations: livestock could be handled in one area of the terminal, for example, while a new area could be specifically destined to handle containers. This would decrease import time, especially during the peak livestock export season, since vessels entering the port of Berbera would not have to wait for export ships to leave the port first. Container handling operations would also be easier to perform if livestock were confined to a specific section of the terminal.

Computerize customs management and move towards exchanging trade information electronically

Adoption of electronic systems for filing, transferring, processing and exchanging customs information has become an important tool for managing flows of information. It has been one of the most popular trade

reforms in recent years. One of the most successful examples in Sub-Saharan Africa is Madagascar, which implemented an electronic data interchange system—Tradenet—in 2007. As a result, customs declarations can now be submitted electronically. Under the new system, payment of customs duties has also been made easier. Consequently, customs clearance time has fallen from seven to three days for exports and four days for imports.

As a first step, the port of Berbera could consider introducing a computerized system for customs management, allowing customs officers to electronically process documents related to customs clearance. Sierra Leone and other countries have successfully implemented the ASYCUDA system. Information technology offers several additional benefits to the government, including facilitation of compliance management, risk analysis, timely and accurate trade statistics, and revenue collection.

NOTES

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2. Government revenue comes from taxes on trade and transactions and data is for 2009. Ministry of Development and Planning 2010 Somaliland in figures.
3. Saggi, Kamal. 2002. "Trade, Foreign Direct Investment, and International Technology Transfer: A Survey." *World Bank Research Observer* 17 (2): 191-235.
4. Bolaky, Bineswaree, and Caroline L. Freund. 2008. "Trade, Regulations, and Income." *Journal of Development Economics* 87: 309-21.
5. Hoekman, Bernard, and Alessandro Nicita. 2009. "Trade Policy, Trade Cost and Developing Country Trade." Policy Research Working Paper 4797. Washington, D.C.: World Bank Group.
6. Wilson, John S., Catherine L. Mann and Tsunehiro Otsuki. 2004. "Assessing the Potential Benefit of Trade Facilitation: A Global Perspective." Policy Research Working Paper 3224. Washington, D.C.: World Bank Group.
7. One of the case study assumptions is that payment is made by letter of credit, so it is not contained in the list of documents. See Data notes for a detailed explanation of the methodology.
8. <http://www.asycuda.org/aboutas.asp>.

Enforcing contracts

Somaliland's judicial system was heavily affected by the civil war: the existing infrastructure was destroyed and judges and legal professionals fled. Things started improving a decade ago, however. A new constitution reestablished the legal framework in 2001. Legal professionals who were trained abroad have begun to return, and local universities have reopened their doors. Courts are being rebuilt and reorganized. While there is still much to be done, these are positive signs of recovery.

WHY DOES COMMERCIAL DISPUTE RESOLUTION MATTER?

Functioning courts in fragile and conflict-affected countries are important both for economic growth and state building.¹ Restoring public confidence in courts is a daunting task, especially in economies where conflict has weakened the judicial system and where traditional dispute resolution mechanisms have been the only option for a long time.² Although traditional justice will continue to play an important role, strengthening the formal court system is particularly important for businesses.

Effective commercial dispute resolution has many benefits. Courts are essential for entrepreneurs to protect their property rights and interpret the rules of the market. Efficient and transparent courts encourage new business relationships because firms know they have recourse to the courts if a customer fails to comply with contractual duties. Speedy trials are essential for small enterprises because they may lack the resources to stay in business while awaiting the outcome of a long court dispute.

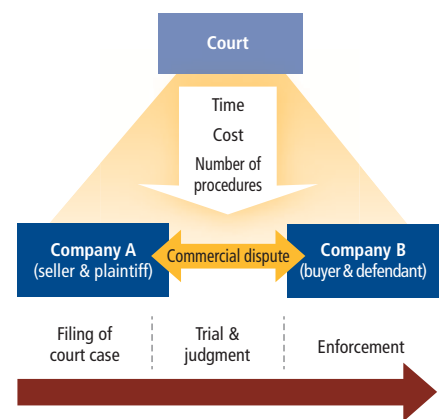
WHAT DOES ENFORCING CONTRACTS MEASURE?

Doing Business measures the time, cost and procedural complexity of resolving a commercial lawsuit between two domestic businesses (figure 11.1). The dispute involves the breach of a sales contract worth twice the income per capita of the economy. The case study assumes that the court hears arguments on the merits, and that an expert provides an opinion on the quality of the goods in dispute.

HOW DOES IT WORK IN HARGEISA AND HOW DOES IT COMPARE GLOBALLY?

Traditional dispute resolution systems were always important in Somaliland, but following the civil war in the 1980s and the collapse of the formal judicial system they became the only mechanism for conflict resolution. The existing legal system consists of civil and common law of different origins and languages (box 11.1). The constitution of 2001³ brought into effect all Somali laws existing prior to it. Besides statutory law, *Xeer*⁴—or customary law—and *Sharia* are also major sources of law. Some laws had

FIGURE 11.1 What are the time, cost and procedural requirements to resolve a commercial dispute through the courts?



been translated into Somali, but key pieces of commercial legislation, like the Companies Law of Somaliland, continue to only be available in English today. Since many judges do not speak English, these laws remain virtually unapplied. In addition, there are no uniform guidelines, and judges often differ in their application of the various sources of law.⁵

Human capacity remains a main challenge. In 2011 there were 136 judges and 135 registered lawyers in Somaliland. Only 7%

BOX 11.1 Somaliland's legal frameworkⁱ

Somaliland was a British protectorate from 1886 to 1960, during which time common law was introduced. Meanwhile, Somalia adopted Italian civil law. After independence from Great Britain and unification with Somalia in 1960, the resulting legal system was a blend of the two legal systems. After the end of the civil war in 1991 and the unilateral declaration of independence by Somaliland, there was no clear legal framework. A constitution was adopted in 1997 and ratified by public referendum in 2001. It legally validated all existing laws, vested the Parliament with the authority to issue new legislation, and proclaimed the independence of the judiciary. Currently, a collection of laws of different legal origins coexist. The 1973 Civil Code was inspired by the Egyptian Civil Code, thus indirectly by the French Napoleonic Code. The Civil Procedure Code from 1974 has its origins in the Italian equivalent. The 2004 Companies Law follows common law.

i. UN-HABITAT, UNHCR and the Norwegian Refugee Council. 2008. *Land, Property, and Housing in Somalia*.

of judges had a law degree and 10% had completed higher education studies.⁶ But positive developments over the past decade will start reaping benefits. New graduates are coming out of the University of Hargeisa Faculty of Law, established in 2002; and the Amoud University Faculty of Law and Islamic Sharia, established in 2008. The Somaliland Lawyers Association was created in 2004.

Enforcing a contract in Hargeisa takes 52 procedures over 281 days and costs 40.4% of the claim value. While this is more than twice as fast and 10 percentage points less expensive than the Sub-Saharan Africa average (655 days and 50% of the claim value), it is quite expensive compared globally. Compared to the 183 economies measured by *Doing Business 2012*, Hargeisa would rank 124—ahead of Sudan (148) and Djibouti (160) but behind Ethiopia (57). Contract enforcement in Tanzania—the top performer in Sub-Saharan Africa—requires 38 procedures, takes 462 days and costs 14.3% of the claim value (figure 11.2).

There are fifty court houses in Somaliland: the Supreme Court, six Appeals Courts, six

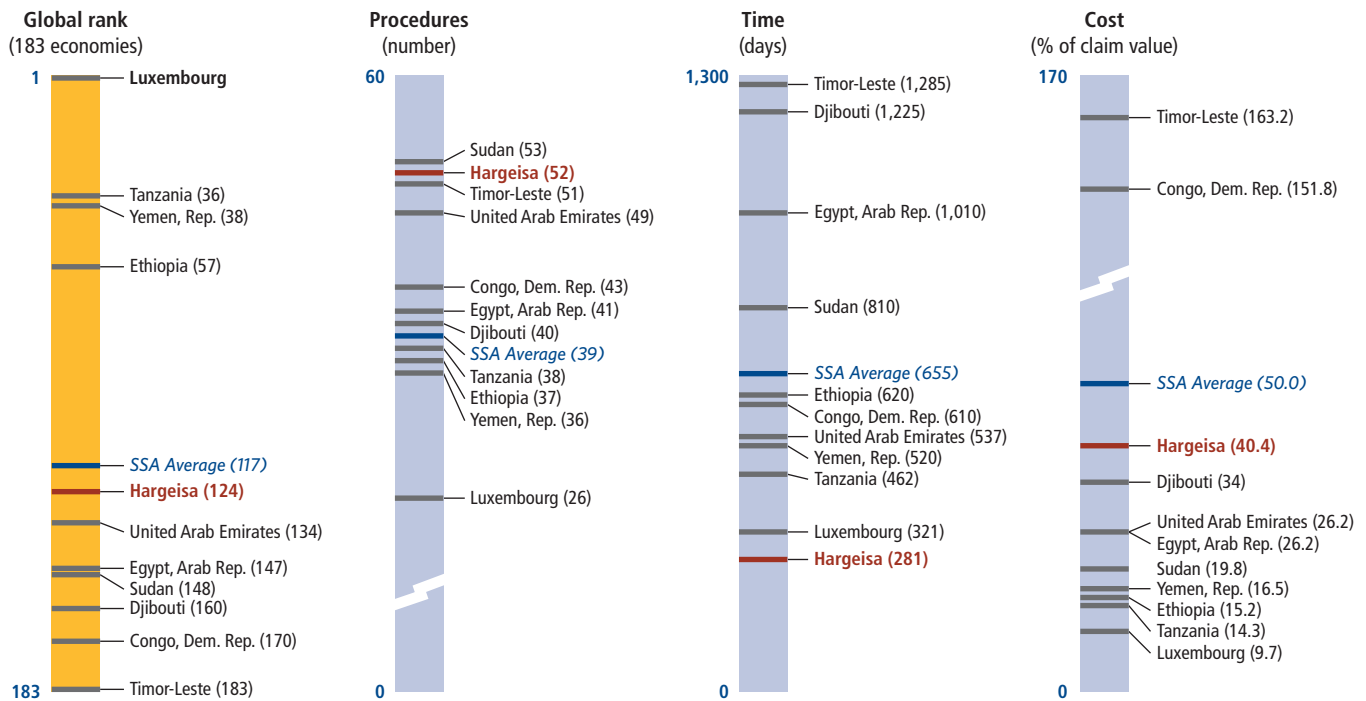
Regional Courts, and thirty-seven District Courts. The District and Regional Courts are the courts of first instance. Jurisdiction for commercial matters is determined on the basis of the claim value, and higher claims amounts are litigated at the Regional Court. Commercial cases are ruled mainly under the Civil Procedure Code of 1974. Following this law, enforcing a contract through Hargeisa's Regional Courts involves 52 procedures, which is high compared regionally and globally. However, the high number of procedures does not seem to have a high impact on the length of proceedings. One reason for this could be that judges do not follow all the formal steps required by the law, in part because many do not have formal legal training. If the law is applied, procedural complexity could become a hurdle in the future as the number of cases increases.

Enforcing a contract in Hargeisa takes 281 days, among the fastest economies compared globally. *Doing Business* tracks the time needed to resolve a commercial dispute through 3 stages of litigation: filing and service; trial and judgment; and finally, enforcement. In Hargeisa, most of the time

is spent during the trial stage (figure 11.3). Although the Chairman of Hargeisa's Regional Court has instructed judges to deal with cases promptly, cases are often interrupted while parties try to solve their dispute before clan elders, returning to the court only if they do not reach an agreement.⁷ Yet the main reason for the speedy resolution is that relatively few cases actually reach the courts in Somaliland (figure 11.4). There were 3,447 incoming civil cases in 2010 for a population of around 3.85 million inhabitants. This is very low: for example, Bosnia & Herzegovina, the Czech Republic and Spain had a similar number of cases for every 100,000 inhabitants in 2008.⁸ Similarly, within civil cases, Hargeisa's Regional Court deals with approximately 20 commercial cases per year.⁹ This may be explained by lack of trust in the judicial system. In fact, customary justice continues to be the most prevalent form of conflict resolution in Somaliland: 75–80% of conflicts are settled by elders or religious leaders.¹⁰

The cost to enforce a contract in Hargeisa is 40.4% of the claim value, similar to the cost in Côte d'Ivoire (41.7%) and in Madagascar

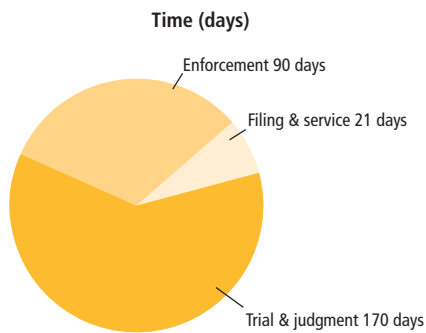
FIGURE 11.2 Enforcing a contract in Hargeisa is fast but expensive compared globally



Notes: SSA denotes the Sub-Saharan Africa region. Rankings are based on the average of city percentile rankings on the procedures, time, and cost required to resolve a commercial dispute through the courts. See the data notes for details.

Source: *Doing Business* database.

FIGURE 11.3 The trial and judgment phase takes the longest



Source: *Doing Business* database.

(42.4%). This is more expensive than the global average of 34.8% of the claim value, but less costly than the average cost in Sub-Saharan Africa (50%). Attorney and expert fees account for the largest percentage of the costs. Other costs include the advertisement fees for the public sale and court fees set and collected by the Ministry of Finance.

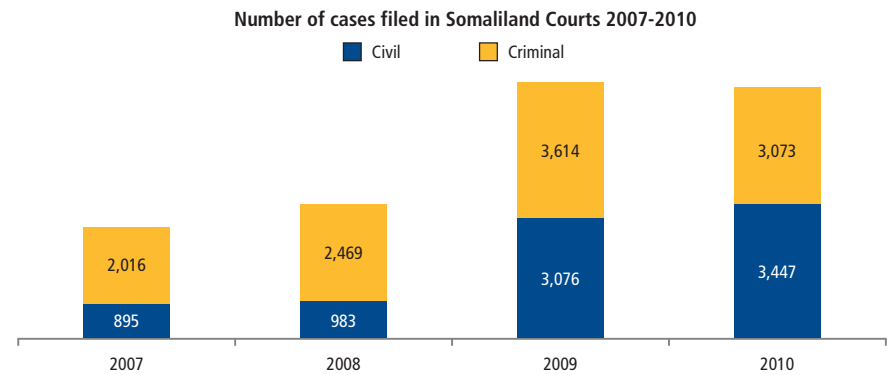
A number of recent and ongoing initiatives are working to strengthen the evolving judicial system. The 2011–2015 Judicial Reform Work Plan, developed by the Ministry of Justice in collaboration with local stakeholders and international partners, recognizes the importance of a functioning justice system for continued economic growth and social development in Somaliland.¹¹ Several national workshops on justice reform have taken place involving the relevant ministries as well as representatives of the justice sector and civil society.¹² A new hearing room was built in the Hargeisa Regional Court, the archives have been reorganized and court registrars are equipped with computers. Each judge has a court clerk tracking caseloads, which helps manage cases and workloads.

WHAT TO REFORM?

Make laws available in Somali and publish court fee schedules

Access to information is critical for legal certainty. It is essential that all applicable laws be made available in the local language, and accessible for judges and legal professionals. There should be one public institution responsible for this task. It could be the Chief State Counsel—which has been responsible for the publication of the

FIGURE 11.4 Only a low number of cases reach courts in Somaliland



Source: UNDP. "Somaliland Ministry of Justice Judicial Reform Work-Plan: 2011–2015." Draft. Somalia: UNDP.

official gazette since January 2012—the Law Reform Commission, or the Ministry of Justice. This institution should ensure that all laws are available in Somali, starting with the Companies Law. Laws and regulations should be made easily available for purchase or consultation in local shops and universities or the courts. Courts should publish fee schedules on public notice boards, thereby improving transparency and reducing opportunities for corruption.

Train legal professionals and introduce specialization among judges

Lack of human capacity is a common challenge in conflict-affected countries. Judges and legal professionals should receive adequate training. As the cadre of legal professionals increases, specialized training programs should focus on specific topics, including commercial legislation and judicial precedents, and promote the standard application of the law. The curriculum at the local universities should be carefully reviewed to make sure that new laws are studied and that professional training is included. Although training takes time, it does show results. In 2009 the West Bank and Gaza saw contract enforcement speed up as new judges were recruited and trained and specialized enforcement judges were appointed. In 2008 Mozambique's judiciary hired and trained more than 20 judges, introduced court administrators, and set up performance measurement for judges, decongesting the courts and prompting large efficiency gains.

Introducing specialization among judges can increase their expertise in specific matters. This in turn can help judges deal with cases more efficiently, contributing towards a more standard application of the law. Hargeisa's Regional Court could start by separating civil and criminal cases; eventually it could assign some judges to hear commercial matters specifically. A careful analysis of the court's caseload should precede the design of a specific solution. But specialization is not an exclusive feature of high-income economies: eighty-seven economies measured by *Doing Business 2012* have a specialized commercial court, section or judge. Specialized commercial courts started operating in the Democratic Republic of Congo in 2006, four years after their creation was approved by law. Kenya, Nigeria and Uganda have a commercial division within their courts. Lesotho, which started off by appointing and training one judge to hear commercial cases in 2010, has since launched a specialized commercial court.

Keep performance statistics

Keeping detailed statistics helps in tracking judges' caseloads. Statistics are also important for any judicial reform program because they help identify bottlenecks, track trends and allocate resources. Today the Regional Court of Hargeisa keeps track only of the total number of cases, distinguishing only between civil or criminal and pending or closed. As the number of cases grows, having accurate and detailed data about the types of cases that reach the court and the length of proceedings will be important for the organization of the court.

Courts across African economies are introducing different case management solutions. Uganda in 2009 introduced a case management software system that gives the court an electronic case register, a case calendar for monitoring deadlines, and readily available statistics. Magistrates can now easily spot cases that have not been served in a timely manner and dismiss them, putting pressure on the plaintiff to perform service promptly. In 2011, Zambia launched an electronic case management system that includes digitizing all court records and allows for electronic case referencing. In 2010, with the approval of new Civil Procedure Rules, Kenyan courts introduced a new case-track system in which cases are categorized as small claims, fast track or multi-track. While these are all electronic solutions, the Regional Court of Hargeisa can improve case management by other means that do not necessarily require the use of technology.

NOTES

1. Deval Desai, Deborah Isser and Michael Woolcock. November 21, 2011. "Rethinking Justice Reform in Fragile and Conflict-Affected States". *World Bank Legal Review*. Washington, D.C.; World Bank Group.
2. Le Sage, Andre. July 2005. *Stateless Justice in Somalia: Formal and Informal Rule of Law Initiatives*. Geneva: The Centre for Humanitarian Dialogue.
3. http://www.somalilandlaw.com/somaliland_constitution.htm
4. Xeer is a set of rules and obligations developed between traditional elders to mediate relations between Somalia's clans and sub-clans. It is not codified.
5. Academy for Peace and Development. April 2002. "The Judicial System in Somaliland." Workshop Report. Hargeisa, Somaliland.
6. United Nations Development Programme. "Somaliland Ministry of Justice Judicial Reform Work-Plan: 2011-2015." Draft. Somalia: UNDP.
7. UNDP. "Somaliland Ministry of Justice Judicial Reform Work-Plan."
8. Ministry of Planning and Development. Somaliland in figures. 2010. Also European Commission for the Efficiency of Justice (CEPEJ). 2010. "European judicial systems: Efficiency and quality of justice". p.143. Strasbourg, France.
9. Interview with Hargeisa's Regional Court Chairman. April 2012.
10. UNDP. "Somaliland Ministry of Justice Judicial Reform Work-Plan."
11. UNDP. "Somaliland Ministry of Justice Judicial Reform Work-Plan."
12. Interview with UNDP Access to Justice expert. May 2012.

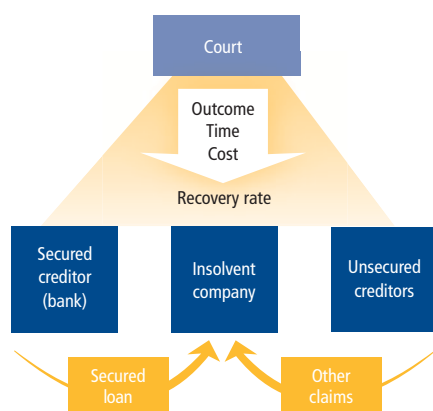
Resolving insolvency

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 file for bankruptcy, governments around the world see their insolvency regimes bending under difficult economic conditions. Good insolvency regimes maximize the total proceeds received by creditors, shareholders, employees and other stakeholders. They also rehabilitate viable businesses while closing unviable ones and establishing a clear priority ranking of creditors for repayment. Well-developed insolvency regimes address financial distress through both formal in-court mechanisms and out-of-court tools.

WHY DOES RESOLVING INSOLVENCY MATTER?

How insolvencies are resolved matters for the health of an economy. Keeping viable businesses operating is among the most important goals of bankruptcy systems. A good insolvency regime should prevent the premature liquidation of sustainable businesses.¹ It should also discourage lenders

FIGURE 12.1 What are the time, cost and outcome of insolvency proceedings involving a local company?



from issuing high-risk loans, and managers and shareholders from taking imprudent loans and making other reckless financial decisions.² A firm suffering from bad management choices or a temporary economic downturn may still be turned around. When it is, all stakeholders benefit. Creditors can recover a larger part of their investment, more employees keep their jobs, and the network of suppliers and customers is preserved.

WHAT DOES RESOLVING INSOLVENCY MEASURE?

Doing Business measures the time, cost and outcome of insolvency proceedings involving domestic entities (figure 12.1).³ Speed, low costs and the continuation of viable businesses characterize the top-performing economies. *Doing Business* does not measure insolvency proceedings of individuals and financial institutions.

HOW DOES IT WORK IN HARGEISA AND HOW DOES IT COMPARE GLOBALLY?

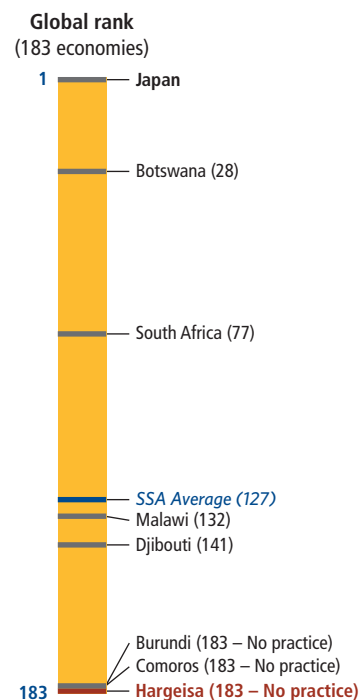
The Companies Law of Somaliland (Law No. 25/2004) regulates the winding up and liquidation procedures by the court, voluntary or subject to the supervision of the court.⁴ There are no specific reorganization provisions in the law. The law is only available in English, not in Somali, and not many judges speak English. This may be one of the many reasons why the law is not more often used in practice. In cases of corporate distress, it is more common for entrepreneurs to obtain out-of-court settlements through customary law applied by the elders.

Hargeisa is classified as a “no practice” economy according to the *Doing Business* methodology⁵ because, although there are no official statistics, judges report that very

few insolvency cases have reached court in recent years and there is no formal financial system (figure 12.2).⁶

This does not put Hargeisa far behind other economies in the region. According to *Doing Business 2012*, 7 of the 15 economies worldwide with “no practice” are located in Sub-Saharan Africa; these include Burundi, Cape Verde, the Comoros, Equatorial Guinea, Eritrea, Guinea-Bissau, and the Seychelles. Recognizing this shortcoming, economies in the region are taking steps to introduce

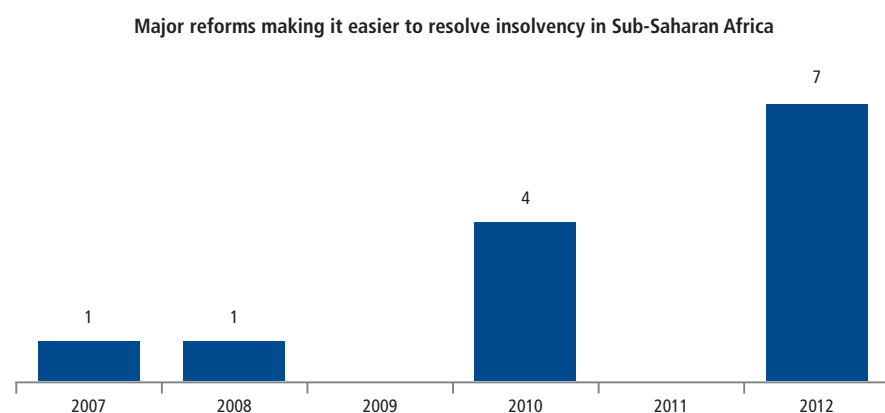
FIGURE 12.2 Resolving insolvency in Hargeisa compared regionally and globally



Notes: SSA denotes the Sub-Saharan Africa region. The ease of resolving insolvency indicator is based on the economy's percentile ranking on the recovery rate. The latter takes into account how many cents on the dollar claimants (creditors, tax authorities, and employees) recover from the insolvent firm as well as time and cost component indicators. See Data notes for details.

Source: *Doing Business* database.

FIGURE 12.3 The pace of bankruptcy reform has picked up in Sub-Saharan Africa



Note: An economy can be considered to have only one *Doing Business* reform per topic and year. *Doing Business* includes data for 46 economies in Sub-Saharan Africa.

Source: *Doing Business* database.

functioning insolvency frameworks or improve existing ones. As a result, the pace of bankruptcy reforms in Sub-Saharan Africa has picked up considerably in recent years (figure 12.3).

Somaliland can look to its neighbors and internationally for leading practices and reforms in the area of insolvency (table 12.1). In Botswana, for example, insolvency proceedings take less than two years and cost 15% of the estate value. Creditors are expected to recover 64.5% of the estate, which is slightly short of the OECD high-income economies' average of 68.2%, but significantly higher than the Sub-Saharan Africa average of 19.1%. Recent reform examples in the region include an insolvency law in Mauritius, which introduced a rehabilitation procedure for companies as an alternative to winding up, and defined the rights and obligations of creditors and debtors. Namibia has adopted new legislation establishing clear procedures for liquidation. Both Rwanda and South Africa have improved the process of dealing with financially distressed companies by streamlining reorganization procedures. Sierra Leone eased the process of insolvency with a new Companies Act that includes

provisions on reorganization and administration; the provisions encourage business to re-organize rather than go straight into liquidation.

WHAT TO REFORM?

An in-depth diagnostic would be needed to identify the most suitable reforms that could strengthen the insolvency regime in Somaliland. Below are some of the good practices by which other economies have made resolving insolvency easier across the world.

Increase confidence in the insolvency framework

Even though Somaliland has legislation in place to govern judicial proceedings for companies in distress, the law is rarely applied in practice. The low number of insolvency cases in Hargeisa shows that enterprises prefer to deal with insolvency through unofficial channels or to litigate their case in other jurisdictions such as Djibouti or Dubai instead of resorting to the local judicial system.

TABLE 12.1 Examples of regional improvements making it easier to resolve insolvency

Feature	Economy
Eliminate formalities or introduce or tighten time limits	Malawi
Regulate the profession of insolvency administrator	Botswana; Namibia
Establish or promote reorganization, liquidation or foreclosure procedures	Namibia; South Africa
Allow creditors' committees a say in relevant decisions	South Africa

Source: *Doing Business* database.

It is important that the business community trusts the insolvency regime and courts. One of the ways in which stakeholders could gain confidence in the law is through training programs and outreach efforts that explain the law and how to use it. In Rwanda, a no-practice country according to *Doing Business*, the complexity of the insolvency law hinders its use; however, along with the development of model orders that fill the gaps in the law and clarify its usage, officials have established a series of training courses for judges, lawyers and insolvency practitioners to promote understanding of and confidence in the law. It is also important that the law serves smaller businesses as well as the larger ones. One way of doing so is to put in place fast-track, simplified, less-expensive procedures for smaller businesses and individuals.

One of the difficulties stems from the fact that the Companies Law of Somaliland is available only in English. This makes it difficult for local businesses, lawyers and judges to use the law. Making the law available in Somali will facilitate its use in court and members of the business community will feel they have a law they can actually understand and use. In turn, this will increase confidence in the formal bankruptcy proceedings.

Revise insolvency legislation to conform to international leading practices and introduce reorganization provisions

A comprehensive evaluation of current legislation is recommended to identify measures that could bring Somaliland's insolvency legislation in line with international good practices. Among these measures could be provisions for the efficient reorganization or restructuring of distressed companies that would allow the companies to continue operating. It is important to separate unviable businesses from viable businesses, and the latter should be considered candidates for reorganization. Many jurisdictions, including Rwanda and South Africa, have reformed their insolvency legislation in recent years to improve such reorganization procedures.

Train insolvency practitioners

One of the main prerequisites for 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.

Consider adopting guidelines that facilitate out-of-court workouts

In some economies, until proper systems are put in place, a short-term solution is to develop alternative dispute resolution tools for resolving simpler debt disputes. Although an in-depth investigation would be required to assess the need for such structures, one possibility is to develop out-of-court guidelines. Out-of-court guidelines enable debtors and creditors to undertake an 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. Out-of-court workouts are most common in high-income OECD economies.

In Sub-Saharan Africa only 22% of the surveyed economies have rules on out-of-court settlement for bankruptcy. In Hargeisa out-of-court settlements are informally administered by clan elders. In the absence of explicit rules, creditors who do not participate in settlement negotiations cannot oppose a deal or become party to an ultimate agreement, nor is there a mechanism to enforce the agreements. Proper enforcement mechanisms are required for out-of-court settlements to succeed.

NOTES

1. Djankov, Simeon, Oliver Hart, Caralee McLiesh and Andrei Shleifer. 2008. "Debt Enforcement around the World." *Journal of Political Economy* 116 (6): 1105–49.
2. Claessens, Stijn, and Leora Klapper. 2003. "Bankruptcy around the World: Explanations of Its Relative Use." Policy Research Working Paper 2865. Washington, DC: World Bank.
3. 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).
4. Companies Law of Somaliland (Law No. 25/2004), Sections 211–24.
5. If an economy has had zero cases per year in the past five years involving a judicial reorganization, judicial liquidation or 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. See Data notes for more details.
6. Interview with the Chairman of the Hargeisa Regional Court. Hargeisa. April 2012.

Data notes

The indicators presented and analyzed in *Doing Business* 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 complexity of regulation, such as the number of procedures to start a business or to register and transfer commercial property. Second, they gauge the time and cost of achieving a regulatory goal or complying with regulation, 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 data covers different aspects of employment regulation.

The data for all sets of indicators in *Doing Business in Hargeisa 2012* are as of May 2012. The data for paying taxes refer to January–December 2010.

METHODOLOGY

The *Doing Business in Hargeisa 2012* data are collected in a standardized way. To start, the *Doing Business* team, with academic advisers, designs a questionnaire. The questionnaire uses a simple business case to ensure comparability across economies 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 Hargeisa. Surveys are administered through 83 local experts, including lawyers, business consultants, construction firms, engineers, freight forwarders, local and central-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 Hargeisa 2012* 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 a right of reply session conducted with 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; *Doing Business* is not a statistical survey, and 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 business but also identify their source and point to what might be reformed.

LIMITS TO WHAT IS MEASURED

The *Doing Business* methodology has limitations that should be considered when interpreting the data. First, the data often focus on a specific business form—generally a limited liability company (or its legal equivalent) of a

ECONOMY CHARACTERISTICS

Gross national income (GNI) per capita

Doing Business in Hargeisa 2012 reports 2009 income per capita for Somalia as published by the United Nations Statistics Division (<http://data.un.org/CountryProfile.aspx?crName=Somalia>). Income is calculated using the Atlas method (current US\$). For cost indicators expressed as a percentage of income per capita, 2009 GNI in US dollars is used as the denominator. Somalia's GNI per capita in 2009 = US\$211.4.

Region and income group

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

specified size—and may not be representative of the regulation on other businesses, for example, sole proprietorships. Second, transactions described in a standardized case scenario 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 Hargeisa 2012* would differ from the recollection of entrepreneurs reported in the World Bank Enterprise Surveys or other perception surveys.

CHANGES IN WHAT IS MEASURED

The methodology for 3 of the *Doing Business* topics was updated this year—getting credit, dealing with construction permits and paying taxes.

First, for getting credit, the scoring of one of the 10 components of the strength of legal rights index was amended to recognize additional protections of secured creditors and borrowers. Previously the highest score of 1 was assigned if secured creditors were not subject to an automatic stay or moratorium on enforcement procedures when a debtor entered a court-supervised reorganization procedure. Now the highest score of 1 is also assigned if the law provides secured creditors with grounds for relief from an automatic stay or moratorium (for example, if the movable property is in danger) or sets a time limit for the automatic stay.

Second, because the ease of doing business index now includes the getting electricity indicators, procedures, time and cost related to obtaining an electricity connection were

removed from the dealing with construction permits indicators.

Third, a threshold has been introduced for the total tax rate for the purpose of calculating the ranking on the ease of paying taxes. All economies with a total tax rate below the threshold (which will be calculated and adjusted on a yearly basis) will now receive the same ranking on the total tax rate indicator. The threshold is not based on any underlying theory. Instead, it is meant to emphasize the purpose of the indicator: to highlight economies where the tax burden on business is high relative to the tax burden in other economies. Giving the same ranking to all economies whose total tax rate is below the threshold avoids awarding economies in the scoring for having an unusually low total tax rate, often for reasons unrelated to government policies toward enterprises. For example, economies that are very small or that are rich in natural resources do not need to levy broad-based taxes

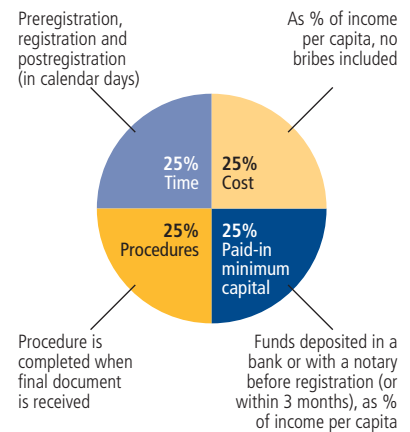
STARTING A BUSINESS

Doing Business records all procedures that are officially required for an entrepreneur to start up and formally operate an industrial or 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 13.1).

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 normal circumstances and the paid-in minimum capital requirements. Subsequently, local incorporation lawyers, notaries 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

FIGURE 13.1 Starting a business: getting a limited liability company up and running
Rankings are based on 4 indicators



function without corruption. If answers by local experts differ, inquiries continue until the data are reconciled.

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

Assumptions about the business

The business:

- Is a limited liability company (or its legal equivalent). 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. Information on the most popular form is obtained from incorporation lawyers or the statistical office.
- Operates in the economy's largest business city.
- 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 2010 (2009 in Hargeisa), paid in cash.
- Performs general industrial or commercial activities, such as the production or sale to the public of products or services. 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 founders 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 postincorporation procedures that are officially required for an entrepreneur to formally operate a business are recorded (table 13.1).

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 in practice 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 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 requirements 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 economy'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 economy's income per capita. The amount is typically specified in the commercial code or the company law. Many economies require minimum capital 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 2011 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 9.9% 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 8.4% of income per capital.

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 and others (2002) and is adopted here with minor changes.

TABLE 13.1 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)
Funds deposited in a bank or with a notary before registration (or within 3 months)

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* also records procedures for obtaining connections for water, sewerage and a fixed landline.¹ 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. The ranking on the ease of dealing with construction permits is the simple average of the percentile rankings on its component indicators (figure 13.2).

Information is collected from experts in construction licensing, 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 economy's largest business city.
- 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).
- Owns the land on which the warehouse is built.

Assumptions about the warehouse

The warehouse:

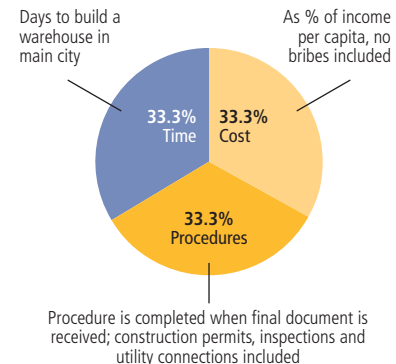
- Will be used for general storage activities, such as storage of books or stationery. The warehouse will not be used for any goods requiring special conditions, such as food, chemicals or pharmaceuticals.
- Has 2 stories, both above ground, with a total surface of approximately 1,300.6 square meters (14,000 square feet). Each floor is 3 meters (9 feet, 10 inches) high.
- Has road access and is located in the periurban area of the economy's largest business city (that is, on the fringes of the city but still within its official limits).
- 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 929 square meters (10,000 square feet) that is 100% owned by BuildCo and is accurately registered in the cadastre and land registry.
- Is a new construction (there was no 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 water and sewerage connection:

- Is 10 meters (32 feet, 10 inches) from the existing water source and sewer tap.

FIGURE 13.2 Dealing with construction permits: obtaining the necessary requirements to build a warehouse and connect it to utilities
Rankings are based on 3 indicators



- 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 landline.

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 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 13.2).

Time

Time is recorded in calendar days. The measure captures the median duration that local experts indicate is necessary to complete a 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

TABLE 13.2 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 water, sewerage and a fixed telephone landline	
Registering the warehouse after its completion (if required for use as collateral or for transfer of the 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	

clearances; receiving inspections 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.

GETTING ELECTRICITY

Doing Business records all procedures required for a business to obtain a permanent electricity connection and supply for a standardized warehouse. These procedures include applications and contracts with electricity utilities, all necessary inspections and clearances from the utility and other agencies and the external and final connection works. The survey divides the process of getting an electricity connection into distinct procedures and calculates the time and cost of completing each procedure. The ranking on the ease of getting electricity is the simple average of the percentile rankings on its component indicators (figure 13.3).

Data are collected from the electricity distribution utility, then completed and verified by electricity regulatory agencies and independent professionals such as electrical engineers, electrical contractors and construction companies. The electricity distribution utility surveyed is the one serving the area (or areas) where warehouses are located. If there is a choice of distribution utilities, the one serving the largest number of customers is selected.

To make the data comparable across economies, several assumptions about the warehouse and the electricity connection are used.

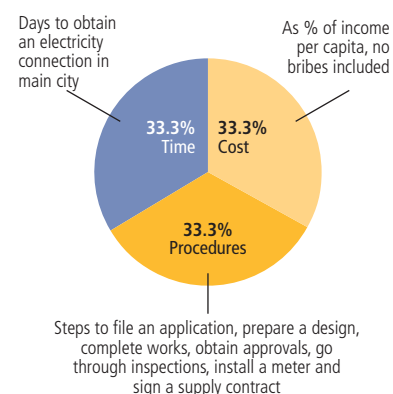
Assumptions about the warehouse

The warehouse:

- Is owned by a local entrepreneur.

FIGURE 13.3 Getting electricity: obtaining an electricity connection

Rankings are based on 3 indicators



- Is located in the economy's largest business city.
- Is located within the city's official limits and in an area where other warehouses are located (a nonresidential area).
- Is not located in a special economic or investment zone; that is, the electricity connection is not eligible for subsidization or faster service under a special investment promotion regime. If several options for location are available, the warehouse is located where electricity is most easily available.
- Has road access. The connection works involve the crossing of a road (for excavation, overhead lines and the like), but they are all carried out on public land; that is, there is no crossing onto another owner's private property.
- Is located in an area with no physical constraints. For example, the property is not near a railway.
- Is used for storage of refrigerated goods.
- Is a new construction (that is, there was no previous construction on the land where it is located). It is being connected to electricity for the first time.
- Has 2 stories, both above ground, with a total surface area of approximately 1,300.6 square meters (14,000 square feet). The plot of land on which it is built is 929 square meters (10,000 square feet).

Assumptions about the electricity connection

The electricity connection:

- Is a permanent one.

- Is a 3-phase, 4-wire Y, 140-kilovolt-ampere (kVA) (subscribed capacity) connection.
- Is 150 meters long. The connection is to either the low-voltage or the medium-voltage distribution network and either overhead or underground, whichever is more common in the economy and in the area where the warehouse is located. The length of any connection in the customer's private domain is negligible.
- Involves the installation of only one electricity meter. The monthly electricity consumption will be 0.07 gigawatt-hour (GWh). The internal electrical wiring has already been completed.

Procedures

A procedure is defined as any interaction of the company's employees or its main electrician or electrical engineer (that is, the one who may have done the internal wiring) with external parties such as the electricity distribution utility, electricity supply utilities, government agencies, electrical contractors and electrical firms. Interactions between company employees and steps related to the internal electrical wiring, such as the design and execution of the internal electrical installation plans, are not counted as procedures. Procedures that must be completed with the same utility but with different departments are counted as separate procedures (table 13.3).

The company's employees are assumed to complete all procedures themselves unless the use of a third party is mandated (for example, if only an electrician registered with the utility is allowed to submit an application). If the company can, but is not required to, request the services of professionals (such as a private firm rather than the utility for the external works), these procedures are recorded if they are commonly done. For all procedures, only the most likely cases (for example, more than 50% of the time the utility has the material) and those followed in practice for connecting a warehouse to electricity are counted.

Time

Time is recorded in calendar days. The measure captures the median duration that the electricity utility and experts indicate is

necessary in practice, rather than required by law, to complete a procedure with minimum follow-up and no extra payments. It is also 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 company does not waste time and commits to completing each remaining procedure without delay. The time that the company spends on gathering information is ignored. It is assumed that the company is aware of all electricity connection requirements and their sequence from the beginning.

Cost

Cost is recorded as a percentage of the economy's income per capita. Costs are recorded exclusive of value added tax. All the fees and costs associated with completing the procedures to connect a warehouse to electricity are recorded, including those related to obtaining clearances from government agencies, applying for the connection, receiving inspections of both the site and the internal wiring, purchasing material, getting the actual connection works and paying a security deposit. 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. In all cases the cost excludes bribes.

Security deposit

Utilities require security deposits as a guarantee against the possible failure of customers to pay their consumption bills. For this reason the security deposit for a new customer is most often calculated as a function of the customer's estimated consumption.

Doing Business does not record the full amount of the security deposit. If the deposit is based on the customer's actual consumption, this basis is the one assumed in the case study. Rather than the full amount of the security deposit, *Doing Business* records the present value of the losses in interest earnings experienced by the customer because the utility holds the security deposit over a prolonged period, in most cases until the end of the contract (assumed to be after 5 years). In cases where the security deposit is used to cover the first monthly consumption bills, it is not recorded. To calculate the present value of the lost interest earnings, the end-2010 lending rates from the International Monetary Fund's *International Financial Statistics* are used. In cases where the security deposit is returned with interest, the difference between the lending rate and the interest paid by the utility is used to calculate the present value.

In some economies the security deposit can be put up in the form of a bond: the company can obtain from a bank or an insurance company a guarantee issued on the assets it holds with that financial institution. In contrast to the scenario in which the customer pays the deposit in cash to the utility, in this scenario the company does not lose ownership control over the full amount and can continue using it. In return the company will pay the bank a commission for obtaining the bond. The commission charged may vary depending on the credit standing of the company. The best possible credit standing and thus the lowest possible commission are assumed. Where a bond can be put up, the value recorded for the deposit is the annual commission times the 5 years assumed to be the length of the contract. If both options exist, the cheaper alternative is recorded.

TABLE 13.3 What do the getting electricity indicators measure?

Procedures to obtain an electricity connection (number)
Submitting all relevant documents and obtaining all necessary clearances and permits
Completing all required notifications and receiving all necessary inspections
Obtaining external installation works and possibly purchasing material for these works
Concluding any necessary supply contract and obtaining final supply
Time required to complete each procedure (calendar days)
Is at least 1 calendar day
Each procedure starts on a separate day
Does not include time spent gathering information
Reflects the time spent in practice, with little follow-up and no prior contact with officials
Cost required to complete each procedure (% of income per capita)
Official costs only, no bribes
Value added tax excluded

In Honduras in June 2011 a customer requesting a 140-kVA electricity connection would have had to put up a security deposit of 126,894 Honduran lempiras (L) in cash or check, and the deposit would have been returned only at the end of the contract. The customer could instead have invested this money at the prevailing lending rate of 18.87%. Over the 5 years of the contract this would imply a present value of lost interest earnings of L 73,423. In contrast, if the customer chose to settle the deposit with a bank guarantee at an annual rate of 2.5%, the amount lost over the 5 years would be just L 15,862.

The data details on getting electricity can be found for each economy at <http://www.doingbusiness.org>.

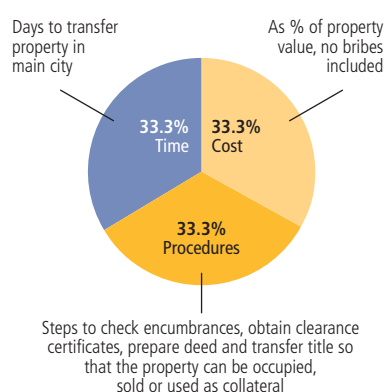
REGISTERING PROPERTY

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, use the property as collateral in taking new loans or, if necessary, sell the property 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 the ease of registering property is the simple average of the percentile rankings on its component indicators (figure 13.4).

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.

To make the data comparable across economies, several assumptions about the parties to the transaction, the property and the procedures are used.

FIGURE 13.4 Registering property: transfer of property between 2 local companies
Rankings are based on 3 indicators



Assumptions about the parties

The parties (buyer and seller):

- Are limited liability companies.
- Are located in the periurban area of the economy's largest business city.
- 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 557.4 square meters (6,000 square feet). A 2-story warehouse of 929 square meters (10,000 square feet) 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 13.4). 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 the buyer does not employ an outside facilitator in the registration process unless legally or in practice required to do so.

TABLE 13.4 What do the registering property indicators measure?

Procedures to legally transfer title on immovable property (number)
Preregistration procedures (for example, checking for liens, notarizing sales agreement, paying property transfer taxes)
Registration procedures in the economy's largest business city
Postregistration procedures (for example, filing title with municipality)
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

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. 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 requirements 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.

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 based on the percentile rankings on its component indicators: the depth of credit information index (weighted at 37.5%) and the strength of legal rights index (weighted at 62.5%) (figure 13.5).²

LEGAL RIGHTS

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. 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

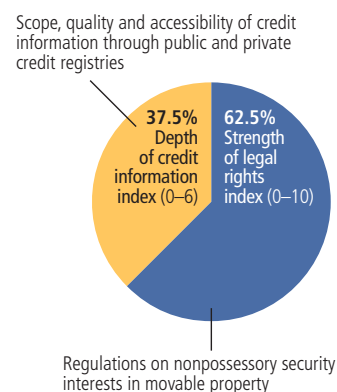
The strength of legal rights index measures the degree to which collateral and bankruptcy laws protect the rights of borrowers and lenders and thus facilitate lending (table 13.5). Two case scenarios, case A and case B, are used to determine the scope of the secured transactions system. The case scenarios involve a secured borrower, the company ABC, and a secured lender, BizBank. In certain economies the legal framework for secured transactions means that only case A or case B can apply (not both). Both cases examine the same set of legal provisions relating to the use of movable collateral.

Several assumptions about the secured borrower and lender are used:

- ABC is a domestic, limited liability company.
- The company has 100 employees.
- ABC has its headquarters and only base of operations in the economy's largest business city.
- 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

FIGURE 13.5 Getting credit: collateral rules and credit information
Rankings are based on 2 indicators



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

possession and ownership of the collateral. In economies where 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). The strength of legal rights index does not cover functional equivalents to security over movable assets (for example, leasing or reservation of title).

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 agreement 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 for security interests over movable property 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 either are not subject to an automatic stay or moratorium on enforcement procedures when a debtor enters a court-supervised reorganization procedure, or the law provides secured creditors with grounds for relief from an automatic stay or moratorium (for example, if the movable property is in danger) or sets a time limit for the automatic stay.³

TABLE 13.5 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 a 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

- 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.

CREDIT INFORMATION

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.

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, and 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 2010 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 other regulated 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 2010 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 creditors. 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.

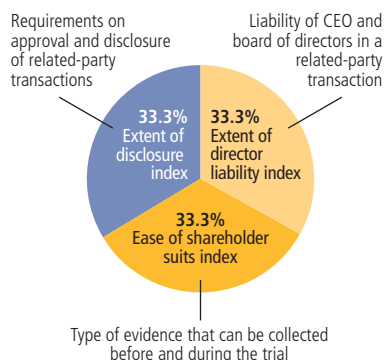
PROTECTING INVESTORS

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, civil procedure codes 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 13.6).

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

FIGURE 13.6 Protecting investors: minority shareholder rights in related-party transactions

Rankings are based on 3 indicators



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 manufacturing company.
- Has its own distribution network.

Assumptions 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 13.6):

- Which 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.⁴ 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:⁵

- Whether a shareholder plaintiff is able to hold Mr. James liable for the 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 the members of the board of directors) liable

TABLE 13.6 What do the protecting investors indicators measure?

Extent of disclosure index (0–10)

Who can approve related-party transactions

Disclosure requirements in case of related-party transactions

Extent of director liability index (0–10)

Ability of shareholders to hold interested parties and members of the approving body liable in case of related-party transactions

Available legal remedies (damages, repayment of profits, fines and imprisonment)

Ability of shareholders to sue directly or derivatively

Ease of shareholder suits index (0–10)

Direct access to internal documents of the company and use of a government inspector without filing suit in court

Documents and information available during trial

Strength of investor protection index (0–10)

Simple average of the extent of disclosure, extent of director liability and ease of shareholder suits indices

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 capital; 1 if direct or derivative suits 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 protection 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 and others (2008).

PAYING TAXES

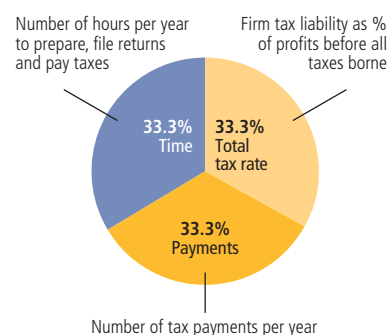
Doing Business records the taxes and mandatory contributions that a medium-size company must pay in a given year as well as measures of the administrative burden of paying taxes and contributions. The project was developed and implemented in cooperation with PwC.⁶ Taxes and contributions measured include 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, with a threshold being applied to one of the component indicators, the total tax rate (figure 13.7). The threshold is defined as the highest total tax rate among the top 30% of economies in the ranking on the total tax rate. It will be calculated and adjusted on a yearly basis. This year's threshold is 32.5%. For all economies with a total tax rate below this threshold, the total tax rate is set at 32.5% this year. The threshold is not based on any underlying theory. Instead, it is intended to mitigate the effect of very low tax rates on the ranking on the ease of paying taxes.

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. One main difference relates to labor contributions. The *Doing Business* measure includes government-mandated contributions paid by the employer to a required 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 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

FIGURE 13.7 Paying taxes: tax compliance for a local manufacturing company
Rankings are based on 3 indicators



statements and assumptions about transactions made over the course of the year. In each economy tax experts from a number of different firms (in many economies these include PwC) 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.

The methodology for the paying taxes indicators has benefited from discussion with members of the International Tax Dialogue and other stakeholders, which led to a refinement of the survey questions on the time to pay taxes, the collection of additional data on the labor tax wedge for further research and the introduction of a threshold applied to the total tax rate for the purpose of calculating the ranking on the ease of paying taxes (see discussion at the beginning of this section).

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 common among domestic firms is chosen. The most common form is reported by incorporation lawyers or the statistical office.
- Started operations on January 1, 2009. 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 2009, 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 2010, 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 the taxes and contributions

- All the taxes and contributions recorded are those paid in the second year of operation (calendar year 2010). 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 13.7). 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

TABLE 13.7 What do the paying taxes indicators measure?

Tax payments for a manufacturing company in 2010
(number per year adjusted for electronic and 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 mandatory tax accounting books, if required

Total tax rate (% of profit before all taxes)

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

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 Hargeisa 2012* reports the total tax rate for calendar year 2010. 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 required 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.

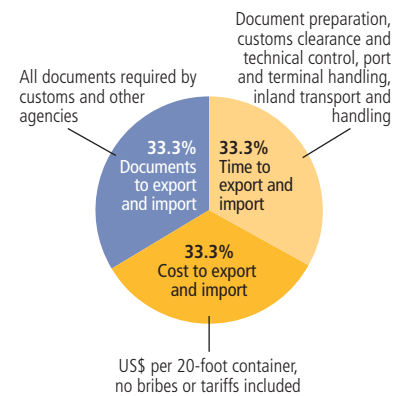
The methodology for calculating the total tax rate is broadly consistent with the Total Tax Contribution framework developed by PwC and the calculation within this framework for taxes borne. But while the work undertaken by PwC is usually based on data received from the largest companies in the economy,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

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, Ganser and others (2010).

TRADING ACROSS BORDERS

Doing Business measures the time and cost (excluding tariffs) associated with exporting and importing a standardized cargo of goods by sea transport. The time and cost necessary to complete every official procedure for exporting and importing the goods—from the contractual agreement between the 2 parties to the delivery of goods—are recorded. 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 into the container 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 sea 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

FIGURE 13.8 Trading across borders: exporting and importing by sea transport
Rankings are based on 3 indicators



percentile rankings on its component indicators (figure 13.8).

Local freight forwarders, shipping lines, customs brokers, port officials and banks provide 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 13.8). 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. Sea 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 sea 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

Indicators on enforcing contracts measure 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 13.9).

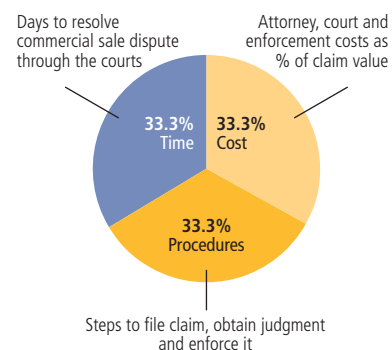
The name of the relevant court in each economy—the court in the largest business city with jurisdiction over commercial cases worth 200% of income per capita—is published at <http://www.doingbusiness.org/ExploreTopics/EnforcingContracts>.

Assumptions about the case

- The value of the claim equals 200% of the economy’s income per capita.

FIGURE 13.9 Enforcing contracts: resolving a commercial dispute through the courts

Rankings are based on 3 indicators



- 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. The court cannot decide the case on the basis of documentary evidence or legal title alone.
- A court in the economy’s largest business city with jurisdiction over commercial cases worth 200% of income 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

TABLE 13.8 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 sea 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	

adequate quality and that Buyer must pay the agreed price.

- Buyer does not appeal the judgment. Seller decides to start enforcing the judgment as soon as the time allocated by law for appeal expires.
- 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 13.9).

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 jurisdictions the judge can appoint an independent expert, while in common law jurisdictions 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,

TABLE 13.9 What do the enforcing contracts indicators measure?

Procedures to enforce a contract through the courts (number)

Any interaction between the parties in a commercial dispute, or between them and the judge or court officer

Steps to file and serve 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

and 1 procedure for economies that allow electronic filing of the initial complaint in 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 the judgment).

Cost

Cost is 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.

RESOLVING INSOLVENCY (FORMERLY CLOSING A BUSINESS)

Doing Business studies the time, cost and outcome of insolvency proceedings involving domestic entities. The name of this indicator set was changed from closing a business to

resolving insolvency to more accurately reflect the content of the indicators. The indicators did not change in content or scope. The data are derived from questionnaire 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 resolving insolvency is based on the recovery rate (figure 13.10).

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.
- 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.

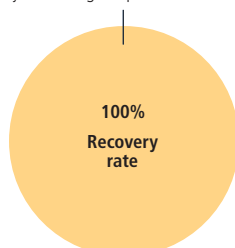
Assumptions about the case

The business is experiencing liquidity problems. The company's loss in 2010 reduced its net worth to a negative figure. It is January

FIGURE 13.10 Resolving insolvency: time, cost and outcome of bankruptcy of a local company

Rankings are based on 1 indicator

Recovery rate is a function of time, cost and other factors such as lending rate and the likelihood of the company continuing to operate



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

1, 2011. 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 2011 and 2012 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).

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 its employees' 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 13.10). 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 questionnaire responses and includes court fees and government levies; fees of insolvency administrators, auctioneers, assessors and lawyers; and all other fees and costs.

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.

TABLE 13.10 What do the resolving insolvency 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

Other related 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

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-2010 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 had zero 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 and others (2008) and is adopted here with minor changes.

NOT IN THE EASE OF DOING BUSINESS RANKING

EMPLOYING WORKERS

Doing Business measures flexibility in the regulation of employment, specifically as it affects the hiring and redundancy of workers and the rigidity of working hours. Since 2007 improvements have been made to align the methodology for the employing workers indicators with the letter and spirit of the 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. 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.

Since 2009 the World Bank Group has been working with a consultative group—including labor lawyers, employer and employee representatives, and experts from the ILO, the OECD, civil society and the private sector—to review the employing workers methodology and explore future areas of research.⁷

The guidance of the consultative group has provided the basis for several changes in the methodology. The calculation of the minimum wage ratio was changed to ensure that 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 paid annual leave and a ceiling for working days allowed per week to ensure that no economy benefits in the scoring from excessive flexibility in these areas. Finally, the calculation of the redundancy cost and of the annual leave period for the rigidity of hours index was changed to refer to the average value for a worker with 1 year of tenure, a worker with 5 years and a worker with 10 years rather than the value for a worker with 20 years of tenure.

A full report with the conclusions of the consultative group is available at <http://www.doingbusiness.org/methodology/employing-workers>.

This year *Doing Business* collected additional data on regulations covering worker protection. The data will serve as a basis for developing a joint analysis of worker protection by the World Bank Group and the ILO and for developing measures of worker protection.

Doing Business in Hargeisa 2012 does not present rankings of economies on the employing workers indicators or include the topic in the aggregate ranking on the ease of doing business. The report does present the data on the employing workers indicators in an annex. Detailed data collected on labor regulations are available on the *Doing Business* website (<http://www.doingbusiness.org>).

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:

- 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.

Rigidity of employment index

The rigidity of employment index is the average of 3 subindices: the difficulty of hiring index, rigidity of hours index and difficulty of redundancy index. Data and scores for Benin are provided as an example (table 13.11).

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.⁸ 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, Benin does not impose any restrictions either on night work (a score of 0) or 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 24 working days (a score of 0.5). Averaging the scores and scaling the result to 100 gives a final index of 10 for Benin.

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 a 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 Benin, for example, redundancy is allowed as grounds for termination (a score of 0). An employer has to notify a third party to terminate a single redundant worker (a score of 1) as well as to terminate a group of 9 redundant workers (a score of 1), although the approval of a third party is not required in either of these cases (a score of 0). The law does not mandate any retraining or alternative placement before termination (a score of 0). 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 40.

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 is assigned,

TABLE 13.11 What do the employing workers indicators measure?

	Data for Benin	Score for Benin
Rigidity of employment index (0–100)		29.66
Simple average of the difficulty of hiring, rigidity of hours and difficulty of redundancy indices		39 + 10 + 40
Difficulty of hiring index (0–100)		39
Fixed-term contracts prohibited for permanent tasks?	No	0
Maximum duration of fixed-term contracts	4 years	0.5
Ratio of minimum wage for trainee or first-time employee to value added per worker	0.58	0.67
Rigidity of hours index (0–100)		10
Restrictions on night work and weekend work?	No	0
Allowed maximum length of the workweek in days and hours, including overtime	6 days	0
Fifty-hour workweeks permitted for 2 months due to an increase in production?	Yes	0
Paid annual vacation days	24 days	0.5
Difficulty of redundancy index (0–100)		40
Redundancy allowed as grounds for termination?	Yes	0
Notification required for termination of a redundant worker or group of workers?	Yes	2
Approval required for termination of a redundant worker or group of workers?	No	0
Employer obligated to reassign or retrain and to follow priority rules for redundancy and reemployment?	Yes	2
Redundancy cost (weeks of salary)		11.66
Notice requirements, severance payments and penalties due when terminating a redundant worker, expressed in weeks of salary	Yes	11.66

Source: Doing Business database.

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 Benin, 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 1.68 months of wages. No penalty is levied and the workers cannot benefit from any type of unemployment protection. Altogether, the employer pays the equivalent of 11.66 weeks of salary to dismiss a worker.

The data details on employing workers can be found for each economy at <http://www.doing-business.org> by selecting the economy in the drop-down list. The Doing Business website provides historical data sets adjusted for changes in methodology to allow comparison of data across years. This methodology was developed in Botero and others (2004) and is adopted here with changes.

RANKINGS

The ease of doing business index ranks economies from 1 to 183. The aggregate ranking is calculated as the simple average of the percentile rankings on each of the 10 topics included in *Doing Business in Hargeisa 2012*: starting a business, dealing with construction permits, getting electricity, registering property, getting credit, protecting investors, paying taxes, trading across borders, enforcing contracts, and resolving insolvency.

If an economy has no laws or regulations covering a specific area it receives a "no practice" mark. Similarly, an economy receives a "no practice" or "not possible" mark if regulation exists but is never used in practice or if a competing regulation prohibits such practice. Either way, a "no practice" mark puts the economy at the bottom of the ranking on the relevant indicator.

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. There remains a large unfinished agenda 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.

NOTES

1. Because the ease of doing business index now includes the getting electricity indicators, procedures, time and cost related to obtaining an electricity connection were removed from the dealing with construction permits indicators.
2. The ranking is based on a straight average of points from the strength of legal rights index and depth of credit information index.
3. The scoring on this aspect was revised this year to bring it into line with UNCITRAL (2004, 2007) and World Bank (2011).
4. 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.
5. 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.
6. PwC refers to the network of member firms of PricewaterhouseCoopers International Limited (PwCIL), or, as the context requires, individual member firms of the PwC network. Each member firm is a separate legal entity and does not act as agent of PwCIL or any other member firm. PwCIL does not provide any services to clients. PwCIL is not responsible or liable for the acts or omissions of any of its member firms nor can it control the exercise of their professional judgment or bind them in any way. No member firm is responsible or liable for the acts or omissions of any other member firm nor can it control the exercise of another member firm's professional judgment or bind another member firm or PwCIL in any way.
7. For the terms of reference and composition of the consultative group, see World Bank, "Doing Business Employing Workers Indicator Consultative Group," <http://www.doingbusiness.org>.
8. The average value added per worker is the ratio of an economy's GNI per capita to the

working-age population as a percentage of the total population.

Doing Business indicators summary

	Global best practice	Hargeisa	Sub-Saharan Africa average
Ease of doing business (rank)	1-Singapore	174	
Starting a business (rank)	1-New Zealand	175	123
Procedures (number)	1	11	8
Time (days)	1	29	37
Cost (% of income per capita)	0.4	130.1	81.2
Min. capital (% of income per capita)	0.0	2,365.2	129.8
Dealing with construction permits (rank)	1-Hong Kong SAR, China	86	112
Procedures (number)	6	15	15
Time (days)	67	56	211
Cost (% of income per capita)	17.8	1,038.8	823.7
Getting electricity	1-Iceland	84	122
Procedures (number)	4	5	5
Time (days)	22	57	137
Cost (% of income per capita)	13.6	1,878.5	5,429.8
Registering property (rank)	1-Saudi Arabia / Georgia	79	119
Procedures (number)	2 / 1	6	6
Time (days)	2	25	65
Cost (% of property value)	0.0 / 0.1	5.7	9.4
Getting credit (rank)	1-United Kingdom / Malaysia / South Africa	184	110
Strength of legal rights (0-10)	10	0	6
Depth of credit information index (0-6)	6	0	2
Public registry coverage (% of adults)	0.0 / 49.4 / 0.0	0	3.2
Private bureau coverage (% of adults)	100.0 / 83.4 / 52.0	0	5
Protecting investors (rank)	1-New Zealand	181	112
Extent of disclosure index (0-10)	10	2	5
Extent of director liability index (0-10)	9	3	4
Ease of shareholder suits index (0-10)	10	1	5
Strength of investor protection index (0-10)	9.7	2	4.5
Paying taxes (rank)	1-Maldives	142	115
Payments (number per year)	3	34	37
Time (hours per year)	0	188	318
Total tax rate (% of profit)	9.3	101.9	57.1
Trading across borders (rank)	1-Singapore	127	134
Document to export (number)	4	6	8
Time to export (days)	5	22	31
Cost to export (\$ per container)	456	1,940	1,960
Document to import (number)	4	7	8
Time to import (days)	4	25	37
Cost to import (\$ per container)	439	1,920	2,502
Enforcing contracts (rank)	1-Luxembourg	124	117
Procedures (number)	26	52	39
Time (days)	321	281	655
Cost (% of claim)	9.7	40.4	50.0
Resolving insolvency (rank)	1-Japan	183	127
Time (years)	0.6	no practice	3.4
Cost (% of estate)	4	no practice	23
Recovery (cents on the dollar)	92.7	no practice	19.1

Indicator details

LIST OF PROCEDURES

Following are the list of procedures and indicator details for each indicator covered by *Doing Business in Hargeisa 2012*. All estimates are based on the case study assumptions as detailed in the Data notes.

Note: If a procedure is marked with an asterisk, it can be completed simultaneously with previous procedures.

1. STARTING A BUSINESS

Hargeisa

Standard company legal form: Limited Liability Company (LLC)

Minimum capital requirement: \$5,000

Data as of: May 2012

Procedure 1. Notarize incorporation documents

Time: 1 day

Cost: \$20

Comments: Although the Companies Law of Somaliland (Law No. 25/2004) does not require it, notarizing incorporation documents is common practice and is also required in dealings with the Ministry of Commerce and the Attorney General's Office. The incorporation documents are authenticated and formally witnessed by a notary public in order to verify identity of the company owners and their respective signatures. The average cost of authentication is \$20.

If a notary is to draft the memorandum and articles of association, the cost rises to \$200; however, most companies in Hargeisa prefer that lawyers draft the memorandum and articles of association, given their legal expertise. Section 13 of the Companies Law requires that the memorandum and articles of association be drafted either by a solicitor engaged in company formation (lawyer or notary public) or by a company secretary or company director/s.

Procedure 2. Open a bank account with the Bank of Somaliland and deposit the minimum capital

Time: 1 day

Cost: \$25

Comments: The following documents are required:

1. Completed application form;
2. List of company directors/owners and their notarized signatures.

Procedure 3. Obtain clearance from the Ministry of Commerce to incorporate with the Attorney General's Office

Time: 6 days

Cost: No cost

Comments: Before a company can be incorporated by the Attorney General, it needs to obtain clearance from the Ministry of Commerce. The company must submit the following:

- a. Application for clearance to incorporate (including information on the nature of business, ownership, and director identification and residence);
- b. Filled-out business categorization form (taken from the Ministry of Commerce);
- c. Notarized memorandum and articles of association; and
- d. Proof of an opened account with the Bank of Somaliland showing a deposit of the paid-in minimum capital.

The Director General or the Director of Commerce of Ministry of Commerce reviews the documents and verifies the identity of the company owners and their places of residence (he may suggest modifications or corrections if he judges the documentation incomplete). He/she also issues guidelines on next steps and clears the request to incorporate.

While the Ministry of Commerce is expected to forward the clearance to incorporate to the Attorney General's Office, most entrepreneurs pick up the documents themselves and submit them to the Attorney General's Office. Usually the ministry does not notify applicants when the permission to incorporate is ready for pick up, so applicants should follow up in order to find out the case status.

Procedure 4. Obtain certificate of incorporation from the Attorney General's Office

Time: 4 days

Cost: No cost

Comments: The company submits the following documents:

- a. Business categorization form and clearance from the Ministry of Commerce;
- b. Notarized memorandum and articles of association; and
- c. Proof of an opened bank account with the Bank of Somaliland showing deposit of the paid-in minimum capital.

The incorporation documents are reviewed and an incorporation certificate is issued once signed by the attorney general. When the attorney general is not present in the office, longer waiting time occurs.

Procedure 5. Apply for and obtain a commercial license at the Ministry of Commerce

Time: 5 days

Cost: No cost

Comments: According to Section 6 of the Companies Law, if a company's memorandum states that the company is to operate as a general commercial company "the company should apply for a commercial license at the Ministry of Commerce." Once incorporated, the company can apply for the commercial license.

The Director General of the Ministry of Commerce issues a registration bill that must be paid at the Ministry of Finance. The bill names the type of license for which the company has submitted an application. The commercial license fee depends on the type of business and the type of license requested. A detailed fee schedule is posted on the premises of the Ministry of Commerce.

The applicant shows the general receipt (GR) of payment from the Ministry of Finance and submits two photos of the company director. The commercial license is issued once the Minister of Commerce signs it. The Minister occasionally delegates signing power to the Director General of the ministry. The business registration number is displayed in the commercial license.

The Ministry of Commerce strongly recommends, and often requires, registration with the Somaliland Chamber of Commerce (see Procedure 8).

Procedure 6. Pay commercial license fee at the Ministry of Finance

Time: 1 day

Cost: \$21

Comments: The Ministry of Finance issues a general receipt (GR) of payment of the commercial license fee. The receipt displays a serial number that will be used to identify the business in future correspondence with authorities.

Procedure 7. Apply for local business license at the District Commissioner's Office and receive an on-site inspection of the business premises

Time: 3 days

Cost: No cost

Comments: In addition to the commercial license issued by the Ministry of Commerce, a business needs to obtain a local business license from the municipal authority of the city in which it intends to operate. The issuance of such license is mandated by the Regions and District Self-Administration Law (Law 23; amended in 2002). The following documents are required:

- a. Commercial license issued by the Ministry of Commerce;
- b. Certificate of incorporation; and
- c. Two photos of the company's Chief Executive Officer (CEO) or Director.

The applicant drafts an application letter stating the nature of business, location of the business premises and proof of the names of owners. Once the applicant submits these documents and the application letter, the District Office sends an inspector from the Municipal Department of Planning, but associated with the district, to inspect the business premises and ensure the description in the application form coincides with what is on the ground. The inspector also determines what category the business falls into.

Once the evaluation and business categorization is finished, the District Secretary signs a billing request form that is sent to the Geographical Information System (GIS) section of the municipality. The business location is entered into the GIS and a local municipal license bill is released. The bill is picked up by staff from the District Office.

Procedure 8*. Register with the Somaliland Chamber of Commerce

Time: 1 day

Cost: \$50

Comments: Although it is not required by law, most companies register with the Somaliland Chamber of Commerce. Applicants must submit the following documents:

- a. Two photos of the company CEO or Director;
- b. Application form; and
- c. Notarized copies of the company bylaws (memorandum and articles of association).

A membership card is issued to the applicant once the required documents are submitted and membership fees are paid. One copy of the membership card is kept in the Chamber of Commerce files and another is given to the applicant.

Procedure 9. Pay local business license fee at the District Office

Time: 1 day

Cost: \$140

Comments: The Hargeisa Single Business Permit Fee Schedule determines local business license fees based on business categories. Within each of the seven different categories there are different grades that affect the fee. Once the local business license fee is paid, the company can start business operations. The local license fees were increased significantly in 2006.

Procedure 10. Obtain local business license from the Mayor's Office

Time: 5 days

Cost: No cost

Comments: Once the local business license fee is paid at the District Office, the District Office notifies the Hargeisa Municipality Mayor's Office, which issues a business license. When the Mayor is out of town, signing power is occasionally delegated to the Deputy Mayor.

Procedure 11. Purchase a company seal

Time: 2 days

Cost: \$20

Comments: Although it is not required by law, purchasing a seal is common practice by most companies operating in Hargeisa. All transaction documents or contractual agreements between companies are stamped. In order to buy a seal from an authorized seal shop, the company has to present the commercial license obtained from the Ministry of Commerce and the local business license obtained from the Hargeisa Municipality. Within one month of the start date of operations, the company has to register its employees with the Department of Employee Affairs at the Ministry of Labor.

2. DEALING WITH CONSTRUCTION PERMITS

Hargeisa

Warehouse value: \$357,500

Data as of: May 2012

Procedure 1. Apply for land legalization certificate and obtain "check-in form" from the District Office

Time: 1 day

Cost: \$16

Comments: Since the end of the civil war, there have been major land disputes in Hargeisa. Obtaining proper ownership documents is a standard practice for the majority of building projects in Hargeisa because the majority of empty land is not owned through proper documentation. The interaction with the district office starts in order to obtain land ownership rights, define the land plot boundaries, and secure approval to build on it.

At this point, BuildCo submits any documents that prove ownership of the land, as well as all architectural and technical plans, which become part of the application file.

Procedure 2. Receive inspection by a district surveyor and obtain land legalization certificate approval from the District Office and the Municipal Land Planning Department

Time: 5 days

Cost: No cost

Comments: The surveyor (geometer) checks the site of the plot and makes sure that the land plot:

- a. Is not located in a public area;
- b. Does not interfere with public roads; and
- c. Has dimensions that coincide with the documents submitted for application.

Once the site surveyor has inspected the site, the Chief District Surveyor, District Secretary, and District Commissioner sign the land legalization certificate. The application file is then transferred to the Municipal Archives Section.

Procedure 3. Obtain land file number from the Municipal Archives Section and have application file forwarded to the Municipal Land Revenue Section

Time: 3 days

Cost: No cost

Comments: BuildCo obtains the land file number from the Municipal Archives Section. This file number is used in all future correspondence with various municipal and district departments.

Once BuildCo has obtained the file number, the Municipal Archives Section forwards the application file to the Municipal Land Planning Department, which checks the technical plans and verifies the location against current mapping of the plot; approves the application forms; and returns the documents to the Municipal Archives Section. The Municipal Archives Section then forwards the documents to the Municipal Land Revenue Section.

Procedure 4. Pay premium of land (building permit) fee at the Municipal Land Revenue Section

Time: 1 day

Cost: \$186 (approx. \$0.20 per square meter)

Comments: The premium of land (building permit) fee is fixed per square meter regardless of the type of building being built.

Procedure 5. Get building approval from Hargeisa Municipality

Time: 16 days

Cost: No cost

Comments: Once BuildCo has paid the premium of land (building permit) fee, the Municipal Land Revenue Section forwards the application file to the Municipal Internal Auditor. The Internal Auditor checks the documents (receipts and other documents) to make sure they are genuine and in order. The auditor also makes sure that all taxes on the property have been paid.

The documents are then sent back to the Archives Section, which forwards them to the Municipal Mapping Section for highlighting on the City Master Plan.

From the Mapping Section, the file is sent back to the Archives Section and then forwarded to the municipal executive officer for signature. The executive officer cannot delegate power so in his absence delays can occur.

Once the executive officer has signed, the file goes back to the Archives Section and is forwarded to the Deputy Mayor for signature. The Deputy Mayor cannot delegate power so in his absence delays can occur.

Once the Deputy Mayor has signed, the file is sent back to the Archives Section and forwarded to the Mayor's Office for signature. Once the Mayor has signed (or the Deputy Mayor in the Mayor's absence), the file is returned to the Archives Section.

BuildCo must now check with the Archives Section as to whether the signed application file is ready and pick it up.

Procedure 6. Notify the District Office of the intent to start construction and receive an on-site inspection by a District Surveyor

Time: 2 days

Cost: \$13

Comments: BuildCo submits the signed application file to the District Commissioner. The District Office sends a surveyor to inspect the site and ensure that the lining and corners of the plot match the technical plans.

Procedure 7. Obtain land permit (approval to start construction) from the District Commissioner

Time: 1 day

Cost: No cost

Comments: Once the inspection is conducted, the surveyor reports to the District Office and has all papers signed by the Chief Surveyor and the District Commissioner. Once the documents have been signed, BuildCo picks up the building approval and can start construction. If construction does not start within 90 days of receiving this approval, BuildCo has to re-apply for this permit and pay the \$13 fee again (see procedure 6).

Procedure 8. Receive on-site inspection by the District Inspectorate

Time: 1 day

Cost: No cost

Comments: The number of inspections is not regulated by law. There is no building code or construction administration law. Inspections are random in Hargeisa. Typically, only one inspection is conducted within two weeks of the start of construction. The inspectors check if the lining/markings and foundation of the building have been implemented in compliance with the initially submitted plans. Once the building passes the foundation phase, no more inspections occur. The inspectors are staff from the Land Planning Department of the municipality, but are associated with the corresponding district where the buildable land is located.

Procedure 9. Apply for property title deed at the District Commissioner's Office

Time: 1 day

Cost: \$16

Comments: BuildCo has to submit the following documents:

- Full application file (including drawings);
- All payment receipts;
- Two property title deed application forms; and
- Signatures and approvals (from the municipality: Executive Officer, Deputy Mayor, and Mayor).

The District Office checks the documents and forwards them to the Physical Asset and Land Tenure Department of the municipality for approval.

Procedure 10. Obtain property title deed from the Physical Asset and Land Tenure Department

Time: 4 days

Cost: No cost

Comments: BuildCo must submit two photos to the Physical Asset and Land Tenure Department of the Municipality. The Physical Asset and Land Tenure Department checks the documents received from the District Office and attaches the two submitted photos to the two property title deed application forms.

These documents are then forwarded to the Municipal Executive Officer for signature. The Municipal Executive Officer signs the deeds and sends the files back to the Physical Asset and Land Tenure Department, which forwards the documents to the Mayor for signature. Once the Mayor has signed, the documents are returned to the Physical Asset and Land Tenure Department and BuildCo can pick the property title deed. Two copies of the property deed are issued: one for BuildCo and another for municipal records. Unlike a land ownership document, the property deed includes detailed information on the building as well.

Procedure 11. Apply for water connection at the Hargeisa Water Agency (HWA)

Time: 1 day

Cost: No cost

Comments: BuildCo has to submit to the HWA (a) a request letter showing the location of the building and (b) a building approval file to prove ownership of the property.

The Hargeisa Water Agency is an autonomous agency under the President's Office. The water source for Hargeisa is in Geedeeble, an area 25 kilometers away from Hargeisa. There are 13 boreholes in Geedeeble. There are two main pumping stations, one in Geedeeble and another in a location 13 kilometers from Hargeisa. The transmission lines were built in the early 1970s and have depreciated significantly, so leaks are common. There are two main water reservoirs

in Hargeisa. The distribution network's current capacity is for 24,000 households. This covers only about 25% of the population of Hargeisa. The remaining 75% have no access to water. The 25% that are covered usually get limited water supply as heavy cuts are in place. In a best-case scenario, a typical household can have running water for 8 hours daily, while the majority of households have running water once in three to four days (information obtained from Hargeisa Water Agency management).

Procedure 12. Receive inspection by an HWA technical team

Time: 1 day

Cost: No cost

Comments: Each district in Hargeisa has an assigned foreman who is in charge of an HWA technical team that conducts inspections. The technical team inspects the site to determine the closest water connection point and estimate the installation costs.

Procedure 13. Pay installation fees and obtain water connection

Time: 8 days

Cost: US\$ 195 [(US\$ 86 deposit + \$30 for two 6-meter pipes (\$15 each) + \$4 for digging/excavation (\$5 per cubic meter - calculation: 10-meter length * 0.4-meter depth * 0.2-meter width = US\$ 4) + \$75 for meter (cost varies from \$50 to \$100)]

Comments: The physical labor work is done by HWA staff, while costs are fully covered by BuildCo.

Procedure 14*. Build a septic tank

Time: 18 days

Cost: US\$ 1,750

Comments: There is no sewerage system in Hargeisa - BuildCo has to build its own septic tank. A septic tank with 5 by 3 meter dimensions and a 6-meter depth is typical for large warehouses. BuildCo can build the tank within the premises of the plot. If the tank is built outside the plot, permission from the municipality needs to be obtained and a fee of US\$ 30 is charged.

Procedure 15*. Apply for and obtain telephone land line connection from the telephone company (Telsom)

Time: 2 days

Cost: \$20

Comments: The installation cost is \$20 for buildings that are no further than 200 meters from the connection point. For any connections beyond the 200-meter distance, there are extra charges for each additional meter.

3. GETTING ELECTRICITY

Hargeisa

Data as of: May 2012

Procedure 1. Submit application to the utility and await site visit

Time: 2 days

Cost: No cost

Comments: BuildCo must go to the utility to fill out, sign and file an application form containing information about (a) the power requirements of the electrical devices that will be connected and (b) the location of the property. The Manager of the utility generally signs the form on the same day, and sends it to the technical department. The utility will set a rate for consumption of electricity per KWh based on the total capacity needed. There is no official fee, although an electricity regulation is underway and it could set a rate.

Procedure 2. Receive site visit from technical expert and await an estimate

Time: 1 day

Cost: No cost

Comments: After BuildCo has submitted the application, a technician from the utility office visits the site in presence of BuildCo and estimates the conditions for connection, including nearest connection point, type of wires and poles to be installed, and whether a transformer is needed.

The technician then estimates the costs and decides how much will be paid by the utility and by BuildCo. Because there are no regulations or company rules in this regard, the division of the costs can vary from one client to another.

Procedure 3. Receive an estimate and make the payment

Time: 3 days

Cost: \$3,971 [(BuildCo pays 50% of the following items: \$800 wire + \$532.5 poles (2 poles in iron and 2 poles in cement) + \$110 meter + transformer \$6,500)]

Comments: The technician sends the estimate to the utility manager for signature. BuildCo is not notified of the signature, and has to call or go to the Utility Office to verify that the document is already signed. Once the estimate is signed, BuildCo pays at the cashier of the Utility Office. The utility will pay 50% of all the costs of material, including the transformer, and 100% of the works done by its employees.

Procedure 4. Utility officer carries out external connections works and installs the meter

Time: 50 days (45 days for import of transformer and 5 days for public works)

Cost: No cost

Comments: A transformer will be imported, probably from Dubai. Some transformers are in stock in Hargeisa, but their power capacity is usually lower than what is required for the case study assumptions. Public works can start as soon as the transformer arrives. They are carried out by the utility officer, including the installation of the poles, wires, transformer and meter. The connection is entirely overhead, and the transformer will be pole-mounted.

Procedure 5. Receive external and internal inspections, meter opening and electricity flow

Time: 1 day

Cost: No cost

Comments: When all the material is installed, the technical engineer inspects internal and external wiring, in presence of BuildCo. The content and the extent of the inspection are at the discretion of the technical engineer since there are no regulations or company rules in this regard. Electricity can start flowing on the same day.

4. REGISTERING PROPERTY

Hargeisa

Property value: \$10,570

Data as of: May 2012

Procedure 1. Prepare and notarize deed of sale and related documents

Time: 2 days

Cost: \$42

Comments: To issue a deed of sale, a notary must first make sure that the seller is the real owner of the land. A site visit is not strictly necessary, but is more likely to occur when the notary does not know any of the parties to the agreement. The notary usually asks the neighbors if they can confirm that the seller has been occupying the land plot, and if there is any conflict over the land. The signature of the deed of sale can take place one day after this verification.

The Somaliland Notaries Law (Law No. 18/2001) defines the procedures of the deed of sale. The following parties must be present: the buyer, the seller, a minimum of two witnesses, and the seller's guarantor. The guarantor lists the assets he owns in order to prove his capacity to refund the buyer if necessary, for example if a third party claims the land in the future.

The notary drafts the deed of sale on the same day. It must include the names of the parties listed above, the location and size of the plot, the description of the plot and property, the sale price and the terms of payment.

The seller must bring the following documents:

- A copy of the original piece of master plan, given by Hargeisa Municipality to the last

registered owner of the plot. It is not necessarily in the name of the current owner: the Mapping Office of the Municipality does not register the transfers of land and property, unless the new owner decides to go through this process;

- All the notarized deeds of sale for the plot of land that is going to be sold (if other transactions occurred on the land);
- All the official documents registering the previous transfers of the plot of land: form signed by the Municipality for the transfer fees, and receipts from the Municipality and the Ministry of Finance for the payment of transfer fees;
- All the receipts of the yearly taxes paid to the District.

These documents constitute the proof of ownership. They are opposable to a third party that would claim the plot of land.

The parties sign the deed of sale (the notary adding his fingerprints and stamp), the payment takes place between the buyer and the seller, and the parties pay the notary for the service. Article 25 of the Somaliland Notaries Law states that the fee for transfer of land should be Sh. 20,000 (around \$3.5), but notaries do not apply it. The notaries argue the fee was set in 2001, and it does not reflect the inflation in the country since then. The price is set freely by the notary, and it depends on the price of the transaction. For example, notaries in Hargeisa generally charge between \$40 and \$50 for a transaction of \$10,000, and around \$150 for a transaction of \$100,000.

Procedure 2. Pay the transfer tax at the municipal General Taxation Office and obtain a receipt

Time: 6 days

Cost: \$221 [\$211.4 municipality transfer tax (2% of the property value) + \$5.3 stamp duty (2.5% of transfer tax) + \$4.2 regional tax (2% of transfer tax)]

Comments: The buyer goes to the General Taxation Office of Hargeisa Municipality with the notarized deed of sale and the complete transfer file he obtained from the seller. The transfer file should contain a copy of the original piece of master plan, all the notarized deeds of sale, and all the receipts of yearly taxes paid since the first registration of the plot of land.

The buyer fills out a form with the Engineer of the General Taxation Office, stating the names of buyer and seller, the location and surface of the plot, the district, and the details of the transaction. The buyer deposits the form and the transfer file, then pays the transfer fees in the same office.

The Engineer of the General Taxation Office signs the form and forwards it to the Executive Officer of the Municipality, who signs the document. The Executive Officer then sends the form for signature by the Mayor, or by the Deputy

Mayor if the Mayor is not available. The Mayor signs the form and sends it back to the General Taxation Office.

After obtaining the Mayor's signature, the buyer goes to the General Taxation Office of the Municipality and picks up:

- a. The complete transfer file, which contains a copy of the original piece of master plan, all the notarized deeds of sale, and all the receipts of yearly taxes paid since the first registration of the plot of land;
- b. The form signed by the Engineer, the Executive Officer and the Mayor; and
- c. A receipt for his payment.

Procedure 3. Pay the transfer tax at the Revenue Office of the Ministry of Finance

Time: 1 day

Cost: \$217 [\$211.4 Ministry of Finance transfer tax (2% of property value) + \$5.3 stamp duty (2.5% of transfer tax)]

Comments: After picking up his file at the General Taxation Office, the buyer takes it to the Revenue Office of the Ministry of Finance, located within the municipality. The buyer pays two types of fees: the transfer tax of the Ministry of Finance and the stamp duty. The buyer is given a receipt on the spot.

Procedure 4. Apply for tax registration at the District Office

Time: 1 day

Cost: \$9

Comments: The buyer goes to the District Office of the Municipality with the notarized sale agreement. He files an application form that is submitted to the District Secretary. The buyer also pays a Land Visit fee of Sl. Sh. 51,000 in order to receive the visit from the Geometer of the District Office.

Procedure 5. Receive visit from the Geometer of the District Office to register the property with the Geographic Information System (GIS) Mapping Office

Time: 11 days

Cost: No cost

Comments: The Geometer of the District Office visits the land plot in the presence of the buyer and verifies that the location indicated in the form is in line with the general mapping of the city. After the verification, the Geometer goes to the GIS Mapping Office of the Municipality, where the staff records in a computerized system the name of the building occupant and location of the land plot. It does not record the size of the land plot or the name of the owner. The GIS Mapping Office sets the yearly property taxes to be paid by the buyer. The Geometer prints a map of the zone where the land plot is located, signs the map and brings it back to the District Office. Then, the Secretary of the District prepares a file with:

- a. The new form signed by the Secretary of the District and the Geometer;
- b. The form filed by the applicant;
- c. The notarized sale agreement;
- d. The map of the land plot signed by the Geometer; and
- e. The receipt for the Land Visit fee.

The Secretary of the District submits the file to the Municipal Archives Section, which assign a registration number. The Archives then send the file to the Director of Land Management of the Municipality, who signs the form signed by the Secretary of the District and the Geometer. The file is sent back to the Archives, which forward it to the GIS Office. After the GIS Office verifies the location of the land plot against the GIS digital map, it returns the file to the Archives. The buyer can pick up the complete file, although he is not notified when the documents are ready.

Procedure 6. Pay the registration fee to the Tax Authority and obtain a confirmation

Time: 4 days

Cost: \$112

Comments: After picking up the form from the Archives, the buyer goes to the General Taxation Office of the Municipality and pays a registration tax of Sl. Sh. 1,200 per square meter. The fee is set by the Municipality on the basis of its forecast tax income. The General Taxation Office keeps the form and sends it to be signed by both the Mayor (or Deputy Mayor) and the Executive Director of the Municipality. The signed document is sent to the Archives, where the buyer can pick it up.

Getting credit

Getting credit indicators	Private credit bureau	Public credit registry	Score
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)			0
Can any business use movable assets as collateral while keeping possession of the assets; and any financial institution accept such assets as collateral?			No
Does the law allow businesses to grant a non possessory security right in a single category of movable assets, without requiring a specific description of collateral?			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 collateral?			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; can all types of debts and obligations be secured between parties; and can the collateral agreement include a maximum amount for which the assets are encumbered?			No
Is a collateral registry in operation, that is unified geographically and by asset type, with an electronic database indexed by debtor's names?			No
Are secured creditors paid first (i.e. before general tax claims and employee claims) when a debtor defaults outside an insolvency procedure?			No
Are secured creditors paid first (i.e. before general tax claims and employee claims) when a business is liquidated?			No
Are secured creditors either not subject to an automatic stay or moratorium on enforcement procedures when a debtor enters a court-supervised reorganization procedure, or the law provides secured creditors with grounds for relief from an automatic stay?			No
Does the law allow parties to agree in a collateral agreement that the lender may enforce its security right out of court, at the time a security interest is created?			No

Protecting investors

Strength of investor protection index (0-10)	2
Extent of disclosure index (0-10)	2
What corporate body provides legally sufficient approval for the transaction?	1
Whether disclosure of the conflict of interest by Mr. James to the board of directors is required?	1
Whether immediate disclosure of the transaction to the public and/or shareholders is required?	0
Whether disclosure of the transaction in published periodic filings (annual reports) is required?	0
Whether an external body must review the terms of the transaction before it takes place?	0
Extent of director liability index (0-10)	3
Whether shareholders can sue directly or derivatively for the damage that the Buyer-Seller transaction causes to the company?	1
Whether shareholders can hold Mr. James liable for the damage that the Buyer-Seller transaction causes to the company?	2
Whether shareholders can hold members of the approving body liable for the damage that the Buyer-Seller transaction causes to the company?	0
Whether a court can void the transaction upon a successful claim by a shareholder plaintiff?	0
Whether Mr. James pays damages for the harm caused to the company upon a successful claim by the shareholder plaintiff?	0
Whether Mr. James repays profits made from the transaction upon a successful claim by the shareholder plaintiff?	0
Whether fines and imprisonment can be applied against Mr. James?	0
Ease of shareholder suits index (0-10)	1
Whether shareholders owning 10% or less of Buyer's shares can inspect transaction documents before filing suit?	0
Whether shareholders owning 10% or less of Buyer's shares can request an inspector to investigate the transaction?	0
Whether the plaintiff can obtain any documents from the defendant and witnesses during trial?	0
Whether the plaintiff can request categories of documents from the defendant without identifying specific ones?	0
Whether the plaintiff can directly question the defendant and witnesses during trial?	1
Whether the level of proof required for civil suits is lower than that of criminal cases?	0

Paying taxes

City: Hargeisa

Tax or mandatory contribution	Payments (number)	Time (hours)	Statutory tax rate	Tax base	Total tax rate (% of commercial profits)
Corporate income tax	1	36	10%	Taxable income	16.3%
Business license (central)	1		\$ 25		0.2%
Business license (local)	1		\$ 25		0.2%
Sales tax	12	72	5%	Sales	73.7%
Vehicle tax / Road tax	2		\$ 68		0.5%
Property rental tax	1		\$ 28		0.2%
Property transfer tax (central)	1		2%	Sale price	1.2%
Property transfer tax (local)	1		2%	Sale price	1.2%
Other labor taxes and mandatory contributions	12	80	6%	Gross salaries	6.8%
Advertising tax	1		\$ 7		0.1%
Stamp duty	1		3%	Transaction values	1.5%
Total	34	188			101.9%

Trading across borders

Hargeisa trading through the port of Berbera

	Time (days)	Cost (US\$ per container)
Export procedures		
Documents preparation	18	370
Customs clearance and technical control	1	200
Ports and terminal handling	2	270
Inland transportation and handling	1	1,100
Export total:	22	1,940
Import procedures		
Documents preparation	18	350
Customs clearance and technical control	4	200
Ports and terminal handling	2	270
Inland transportation and handling	1	1,100
Import total:	25	1,920

Export documents (6)

- Bill of lading
- Packing list
- Commercial invoice
- Certificate of quality
- Delivery order
- Customs declaration form

Import documents (7)

- Bill of lading
- Packing list
- Commercial invoice
- Certificate of quality
- Certificate of origin
- Customs declaration form
- Boarding list

Enforcing contracts

City: Hargeisa

Nature of procedure	Indicator
Procedures (number)	52
Time (days)	281
Filing and service	21
Trial and judgment	120
Enforcement of judgment	90
Cost (% of claim)	40.4
Attorney cost (% of claim)	10.0
Court cost (% of claim)	19.8
Enforcement cost (% of claim)	10.7

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

Annex: Employing workers data

	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)	No limit
What is the maximum length of fixed-term contracts, including renewals? (months)	No limit
What is the minimum wage for a 19-year old worker or an apprentice? (US\$/month)	0
What is the ratio of minimum wage to average value added per worker?	0
Rigidity of hours	
What is the standard workday in manufacturing? (hours)	8 hours
What is the minimum daily rest required by law? (hours)	One-half hour every 5 consecutive worked hours and 12 hours between working days.
What is the maximum overtime limit in normal circumstances? (hours)	48 hours/week
What is the maximum overtime limit in exceptional circumstances? (hours)	48 hours/week
What is the premium for overtime work? (% of hourly pay)	25%
Are 50-hour workweeks allowed for 2 months a year in case of increase in production?	No
What is the maximum number of working days per week?	6
What is the premium for night work? (% of hourly pay)	25%
What is the premium for work on weekly rest day? (% of hourly pay)	N/A
Are there restrictions on night work and do these apply when continuous operations are economically necessary?	Yes
Are there restrictions on "weekly holiday" work and do these apply when continuous operations are economically necessary?	Yes
What is the paid annual vacation (in working days) for an employee with 1 year of service?	24
What is the paid annual vacation (in working days) for an employee with 5 years of service?	24
What is the paid annual vacation (in working days) for an employee with 10 years of service?	24
Paid annual leave (average for workers with 1, 5 and 10 years of tenure, in working days)	24
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?	No
Does the employer need the approval of a third party to terminate one redundant worker?	No
Must the employer notify a third party before terminating a group of 9 redundant workers?	No
Does the employer need the approval of a third party to terminate a group of 9 redundant workers?	No
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 1 year of continuous employment? (weeks of salary)	0
What is the notice period for redundancy dismissal after 5 years of continuous employment? (weeks of salary)	0
What is the notice period for redundancy dismissal after 10 years of continuous employment? (weeks of salary)	0
Notice period for redundancy dismissal (average for workers with 1, 5 and 10 years of tenure, in salary weeks)	0
What is the severance pay for redundancy dismissal after 1 year of employment? (weeks of salary)	13
What is the severance pay for redundancy dismissal after 5 years of employment? (weeks of salary)	13
What is the severance pay for redundancy dismissal after 10 years of employment? (weeks of salary)	13
Severance pay for redundancy dismissal (average for workers with 1, 5 and 10 years of tenure, in salary weeks)	13

Acknowledgments

Doing Business in Hargeisa 2012 was produced by a team led by Pilar Sanchez-Bella. The team comprised Raian Divanbeigi, Aikaterini Leris, Tramor Mici and Romain Svartzman, with the strong support of Najeeb Hashi, regional coordinator of the Somaliland Re-engagement Phase II Program. The report was prepared under the general direction of Mierta Capaul. The report was produced as a component of the World Bank Group Somaliland Re-engagement Phase II Program, led by Michael O. Engman under the direction of Peter Mousley.

The team is grateful for valuable comments provided by colleagues across the World Bank Group. Peer review comments were received from Ricardo Arias, Reynaldo Bench, Thilasoni Benjamin Musuku, Alexander S. Berg, Frederic Bustelo, Dobromir Christow, Jaqueline Coolidge, Laurent Corthay, Santiago Croci, Nuria de Oca, Alejandro Espinosa-Wang, William John Gain, Heike Gramkow, Iva Hamel, Ankur Huria, Joyce Antone Ibrahim, Herve Kaddoura, Marcus Njehiah Kimani, Jean Michel Lobet, Frederic Meunier, Ian W. Mills, Thomas Moullier, Joana Nasr, Mikiko Imai Ollison, Madalina Papahagi, Nina Pavlova, Maria Camila Roberts, Anjum Rosha, Pilar Salgado-Otonel, Valentina Saltane, Shalini Sankaranarayanan, Rachel Shahidsaless, Heidi Stensland, Susanne Szymanski, Tea Trumbic, Julien Vilquin, Barry Raymond Walsh, and Alessio Zanelli. Ndeye Anna Ba, Claudia Contreras, Jade Elena Garza Ndiaye, Mulu Woche and Yucheng

Zheng provided valuable support at different stages of the project.

The dissemination and media campaign were led and coordinated by Nadine Shamounki Ghannam, Sushmitha Malini Narsiah and Hyun Kyong Lee. The website (<http://www.doingbusiness.org/Hargeisa>) was developed by Preeti Endlaw, Graeme Littler, Hashim Zia and Kunal Patel. The report was edited by Christopher A. Marquardt and designed by Luis Liceaga.

The study was produced thanks to the support of the Ministry of Planning and Development of Somaliland and financed through a World Bank executed trust fund with contributions from the U.K. Department for International Development (UKAID), the Danish International Development Agency (DANIDA) and the World Bank's State and Peace-building Fund (SPF).

Doing Business in Hargeisa 2012 would not be possible without the expertise and generous input of the over 80 lawyers, engineers, business consultants, utility providers, entrepreneurs, freight forwarders, judges, international experts and public officials who contributed to the report. The team wants to extend its special gratitude to the government officials and members of the judiciary who participated in the project. The names of those wishing to be acknowledged individually are listed on the following pages.

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