Chapter 2:

THE LEGAL AND REGULATORY ENVIRONMENT

Africa’s legal and regulatory environment ranks amongst the least business friendly in the world. Excessive business regulations, complicated permit procedures, and opaque tax assessment rules are among the major business regulatory issues noted. This chapter assesses the key challenges facing businesses, including impartiality of the court system, predictability of regulatory changes, building efficient and transparent institutions, simplifying business registration and start up, as well as for property registration and titling. It then assesses private sector competitiveness and the regulatory environment in Africa and discusses reforming the business environment. The chapter concludes that introducing one-stop shops for entrepreneurs, making the minimum capital requirement to start a business affordable, simplifying taxes, promoting fair competition, and strengthening insolvency laws would significantly help the private sector develop and thrive.

Historical Evolution

To develop, the private sector requires a legal and regulatory environment that fosters business and is backed by strong institutions with effective monitoring and enforcement powers. In such an environment, informal enterprises become formal; formal enterprises expand and employ more people; tax payments are affordable; property rights are respected, and lenders accept these properties as collateral; innovation picks up, spurred by inventions that can be patented and protected legally; and once the law protects investments against arbitrary expropriation, entrepreneurs have greater access to capital. When business entry, property registration, trading, and tax payments are simplified and streamlined, businesses have more incentives to invest, expand, create jobs, and respect the rules. Countries with heavy regulations of business entry, on the other hand, have higher levels of corruption and informal economic activities.

Over the past few years, African countries have adopted an increasing number of reforms seeking to transform the legal and regulatory environment and encourage competition, free trade, and FDI. Yet the business climate in the region still remains less attractive than in others parts of the world. The reform momentum therefore needs to be intensified and focus on an appropriate policy framework: transparent legal, regulatory, and administrative institutions.

Challenges Facing Private Sector Development in Africa

Africa’s legal and regulatory environment indeed ranks amongst the least business-friendly in the world. African entrepreneurs face more hurdles to register businesses and obtain various permits than in other regions. Twenty of the bottom 25 countries ranked in the 2010 Doing Business report are in sub-Saharan Africa. According to the 2011 Doing Business

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22 Djankov, and others 2002.
Business report, the average ranking of African countries on overall ease of doing business is 137 out of 183 economies, compared with 72 in Eastern Europe and Central Asia, 96 in Latin America and the Caribbean, and 87 for East Asia and the Pacific. Business registration and start-ups in sub-Saharan Africa cost almost 20 times that in OECD countries (relative to per capita income), which helps explain why many enterprises in the region remain informal (see Chapter 1). Similarly, out of the 10 countries in the world where starting a business is the easiest, there is only one African country (Rwanda). Moreover, there is no single African country among the 10 economies where getting construction permits or registering property is easiest. African countries are in the bottom 10 in several indicators: 7 of the most difficult countries to register a business, 4 of the most difficult for getting construction permits, and 5 of the most difficult countries in the world for registering property.

When asked about the major constraints to their operation and growth, almost two-thirds of African businesses rate at least one regulatory issue as a serious concern. The top reasons cited were perceived corruption; customs and trade regulations; tax administration and rates; labor regulations; ease of getting operating permits and licensing; or the judiciary (Figure 2.1). Collectively, overall regulatory challenges are perceived as more severe than even infrastructure and access to finance.

**Figure 2.1: Major Business Obstacles in Africa**

(Percentage of firms rating the constraint as severe)

<table>
<thead>
<tr>
<th>Constraint</th>
<th>Percentage</th>
</tr>
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<tbody>
<tr>
<td>Regulation</td>
<td>55%</td>
</tr>
<tr>
<td>Infrastructure</td>
<td>45%</td>
</tr>
<tr>
<td>Access (Finance &amp; Land)</td>
<td>20%</td>
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Excessive business regulations, complicated procedures to get permits, and lack of transparent rules in tax assessment are among the major business regulatory issues that enterprises complain about in Africa. Because of weak judiciary systems and weak enforcement mechanisms, enterprises do not feel confident that they will get efficient court services in case business disputes arise. Businesses also feel that these rules and regulations are subject to varying interpretations and seem to change from time to time without their knowledge. This section will briefly discuss confidence on court impartiality and policy predictability as perceived by African businesses.

**Impartiality of the Court System**

Court impartiality is essential to business confidence. When courts are believed to be impartial and court decisions are properly enforced, businesses are more likely to engage in contractual transactions such as credit with suppliers and clients, confident that they can rely on a fair and timely legal resolution in case of dispute. In addition, confidence in an impartial judiciary able and willing to penalize wrongdoing also discourages business corruption.
Less than a fifth of businesses surveyed in Africa believed that their court system was fully impartial. Perceptions differ across the continent, however. A majority of businesses in ADB countries (61%) rated courts in their countries as fully or somewhat impartial, compared with only 41% of businesses in ADF countries and 34% in Fragile States (Figure 2.2). A majority of respondents in East Africa trusted their court system. Perceptions in Central African and oil-exporting countries, however, were significantly worse than elsewhere on the continent.

Figure 2.2: Court Impartiality
(Percentage of firms who rated courts as fully or somewhat impartial)

These averages obscure significant variations at the country level: while about 70% of businesses surveyed in Botswana, Namibia and Malawi felt fully or somewhat confident about the courts’ impartiality in their countries, only less than a quarter felt the same way in Benin, Guinea Bissau, Mozambique Togo, DRC, Chad, and Madagascar. In fact, only 5% or less of respondents rated courts in their countries as ‘fully impartial’ in Chad, Benin, Madagascar, Mozambique, and Guinea Bissau. Only in nine of the 36 African countries for which this indicator is available did 20% of respondents or more rated their courts as fully impartial; and only in 12 of them did a majority feel that courts were fully or somewhat impartial (Annex 2.1).

Repeated rounds of data collection in four countries (Cameroon, Cape Verde, Malawi, and Niger) reveal that business perceptions of court impartiality in their countries have in fact substantially worsened, except in Niger (Figure 2.3).

Predictability of Regulatory Changes

Perceptions that regulations are unpredictable are likely to have a negative impact on long-term business planning and investment, confuse interpretations of the rules, and increase the potential for corruption. In 20 out of the 26 African countries for which comparative data are
available, less than a fifth of respondents believed that regulations affecting their operations were fully predictable. For all 26 countries, the average percentage of respondents who rated regulations as fully predictable was 17%.

Results vary greatly across countries. The percentage of firms that think that regulations are fully or somewhat predictable ranges from 13% in Guinea Bissau to 70% in Rwanda and Ghana. In six countries more than 60% of respondents rate changes in business regulations as fully or somewhat predictable (see Annex 2.1).

The majority of businesses in ADB countries (63%) rated regulatory changes in their countries as fully or somewhat predictable compared with 47% of businesses in ADF countries and 43% in Fragile States. Central Africa and oil exporting countries rate significantly worse than the rest of the region (Figure 2.4).

Building Efficient and Transparent Institutions

Besides impartial courts and predictable regulations, strong, efficient and transparent institutions not only contribute to business confidence and facilitate transactions, they also reduce transaction costs and opportunities for corruption. The strength of institutions relies on appropriate skills and equipment, a well-functioning judiciary and robust enforcement mechanisms. Such institutions ensure that procedures such as customs clearance and export/import documentation are streamlined and efficient, while detecting unlawful operations. They need to be coupled with well-functioning courts and appropriate legal penalties that discourage wrongdoing.

Efficient institutions play an important role in improving a country’s business climate. Comparing the impact on businesses of Brazil’s relatively complex and opaque legal and regulatory institutions with Chile’s suggests that business transactions in Chile benefit from legal simplicity and more consistent enforcement compared to those in Brazil. Moreover, cumbersome regulations raise business transaction costs in Brazil due to greater uncertainty and frequent renegotiation of orders23.

The institutional environment in Africa is, in most cases, weak. Africa’s institutional environment compares poorly to other regions according to the Capital Access Index (Figure 2.5). Moreover, 13 out of the bottom 20 institutional environments in the Index are in Africa24.

Figure 2.5: Institutional Environment (IE) Score

![Figure 2.5: Institutional Environment (IE) Score](image)

Source: Barth and others 2010.

Other business climate indicators also show that Africa’s laws and regulations are more restrictive than other regions. Starting and running a business are, for example, hindered by multiple factors, including lack of capacity and burdensome bureaucracy.

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24 The Capital Access Index, published by Milken Institute, is a composite index aggregating the following seven components: macroeconomic environment, institutional environment, financial and banking institutions, equity market development, bond market development, alternative sources of capital, and international funding. The institutional environment score measures the extent to which institutions support and enhance business financing activities, based on variables that include the enforceability of property rights, the impartiality of the judicial system, the efficiency of bankruptcy procedures, and levels of corruption. The 2009 index ranks 122 countries on six continents (Barth and others 2010).
Businesspersons’ first contact with the legal and regulatory environment is when they decide to formally register and open a business. Business registration and start-up processes vary significantly in complexity and cost across Africa. Overall, however, starting a business generally takes longer and is more costly in Africa than in any other region (Figure 2.6). In Australia, for example, the process requires two procedures that can be completed in just two days at a cost equivalent to 0.8% of the country’s per capita income. An entrepreneur in Djibouti, on the other hand, needs to go through eleven procedures requiring 37 days and costing the equivalent of 195% of the local per capita income to complete the process. In addition, the minimum capital requirement in Djibouti is equivalent to about 500% of per capita income.

Ease and costs of registration procedures have significant implications for business. Business registry modernization (often a component of broader private sector reforms) eases business registration, and quick, efficient, and cost-effective business registration processes are critical for fostering formal sector entrepreneurship. In contrast, cumbersome registration and business dispute settlement procedures impede business transactions and contribute to informality. According to a World Bank study based on enterprises surveyed in 82 countries, fewer procedures for dispute resolution are associated with improved fairness and impartiality in the legal system. The speed and ease with which businesspersons are able to register and formally establish their businesses has been directly linked with economic performance. Expensive business registration and high minimum capital requirements for starting a business also lower entrepreneurship.

Minimum capital requirements to start a business in Africa range from 12% of per capita GNI in Lesotho and Equatorial Guinea to a crippling 614% in Niger and 780% in Guinea Bissau. Almost two-thirds of the 43 countries worldwide where starting a business costs more than 50% of per capita GNI are in Africa. On the other hand, some 21 African countries require no minimum capital to start a business. In addition, registering a business in Africa takes time (Figure 2.7). Almost half of the 24 countries worldwide where it takes more than two months to register a business are in Africa. This partly explains why informality

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26 Klapper and others 2009.
28 Djankov and others 2002.
29 Van Stel and others, 2006.
30 The countries with no capital requirement are: Botswana; Burundi; Congo, Dem. Rep.; The Gambia; Kenya; Liberia; Madagascar; Malawi; Mauritius; Mozambique; Namibia; Nigeria; Rwanda; São Tomé and Principe; Seychelles; Sierra Leone; South Africa; Sudan; Tanzania; Uganda; and Zimbabwe (see Annex 2.1).
31 World Bank 2009.
on the continent is high relative to other regions, and why competition from informal businesses is perceived as a threat to the growth and performance of the formal sector (see Chapter 1).

**Figure 2.7: Business Startup: Number of Procedures and Days**

While the number of procedures does not vary significantly across sub regions or income level, it takes almost twice as long to register a business in Fragile States countries than in ADB and other ADF economies. It takes almost four times as long in Central African countries and almost twice as long in other regions than in Northern African countries. It takes almost twice as long to register a business in net oil exporting African countries than in net oil importers.

**Property Registration and Titling**

Securing formal ownership through efficient and simple property registration encourages long-term investment and facilitates access to finance. Complications and costs discourage business and create opportunities for corruption to expedite the registration process. Without property registration and title, banks are reluctant to extend credit due to the lack of proper collateral. Registering property in Africa is relatively costly, time consuming, and complicated (Figure 2.8). An entrepreneur in the Netherlands, for example, can check ownership records as far back as 1832, register property online in just a few minutes by completing two procedures, and receive a registration certificate within five days, after paying the equivalent of 6.2% of the property value. In Nigeria, completing property registration requires about 13 procedures, close to three months, and 21% of the property value.

Property registration is significantly less time-consuming and cheaper in ADB countries than elsewhere in Africa (Figures 2.8, 2.9). Registering a property costs over twice as much in Central and West Africa, compared to North and East Africa. West Africa, where it takes over three months to register property, trails the rest of the region. Although registration is cheaper in oil-importing countries than in exporting ones, delays are not significantly different.

Figure 2.8: Property Registration: Cost (Percentage of property value)


Figure 2.9: Property Registration: Time (Number of days)

Unnecessary procedures weigh heavily on the cost and length of property registration in Africa. Rwanda, for example, was able to reduce the total registration cost from 9.4% of property value to just 0.6% between 2007 and 2008 by eliminating one procedure that used to take 35 days and by reducing the time required to complete another from 60 to 10 days (Figure 2.10).

**Figure 2.10: Time, Cost, and Procedures for Property Registration in Rwanda**

![Image of Figure 2.10](image)


**Private Sector Competitiveness and Regulatory Environment in Africa**

There is a relationship between the legal and regulatory environment in Africa and the region’s competitiveness (Box 2.1). The proxies for measuring the legal and regulatory environment are the 10 indicators from the World Bank’s Doing Business report measuring the overall ease of doing business; each of these rankings/indicators is derived from sub-indicators that measure different aspects of a country’s business legal and regulatory environment. The indicator used as a proxy for competitiveness is the Global Competitiveness Index rankings from the biennial African Competitiveness Report.

**Box 2.1: Relationship between Legal and Regulatory Environment and Competitiveness**

In order to determine whether Africa’s competitiveness is correlated with its business environment, AfDB performed a simple regression using selected indicators from the two data sources as follows:

\[ \text{CI (Africa)} = \alpha + \beta \text{ DBI (Africa)} \]

Where CI (Africa) = Competitiveness Index or ranking of a country within Africa; DBI (Africa) is Doing Business Index or ranking of a country within Africa; \( \alpha \) is a constant and \( \beta \) is the coefficient to be estimated. The average of both the DBI scores and rankings for each country were used separately to determine if and how the results differ.

The regression line was calculated based on the average of the 10 Doing Business scores for each country and the competitiveness score for the 26 African countries for which data are available as follows:

\[ \text{CI (Africa)} = 41.8 + 0.34 \text{DBI (Africa)} \]

with a corresponding \( R^2 = 0.47 \).

Source: AfDB calculations based on data from World Bank 2009 and World Economic Forum and others 2011.
Despite the fact that the two sets of indicators were produced in two separate exercises using different methodologies, the regression analysis carried out by AfDB staff reveals that there is a strong relationship, regardless of whether scores or rankings are used. In other words, implementing key legal and regulatory reforms will not only improve the country’s business environment, it is also associated with its overall level of competitiveness. As highlighted in Figure 2.11, African countries whose regulatory environment for businesses rank high (according to the Doing Business Report) also perform better in terms of their relative competitiveness rankings.33

**Figure 2.11: Competitiveness and Ease of Doing Business in Selected African Countries**

![Graph showing the relationship between competitiveness and ease of doing business in African countries.](image)


The strength of the association between each of the 10 Doing Business categories and competitiveness varies. Employing workers, registering a property and protecting investors were weakly associated with competitiveness, while starting and closing a business, dealing with construction permits, trading across borders, and accessing credit were strongly correlated to competitiveness scores. Reforms in the latter areas are therefore likely to have a greater impact on competitiveness.

Further research is required to determine whether an improved regulatory environment leads to greater competitiveness, or vice-versa. Most studies to date, however, have concluded that the causality is more likely to run from improved regulatory regimes to competitiveness. The U.S. General Accounting Office, for example, has found that a nation’s competitiveness depends primarily on its productivity, which, in turn, is influenced heavily by different aspects of the business environment, including the interactions of government policies, corporate structures, governance, and business practices.34 Similarly, deregulation in product and labor markets has been found to be critical in fostering productivity growth and in opening up the economy.35 Finally, a study on EU countries concluded that macroeconomic and microeconomic governance mechanisms have a direct impact on both domestic and international economic competitiveness.36

33 The rankings in both datasets were inverted and standardized (so that the best performer scores 100 and the least performer gets 0).
36 Cuckovic and Jurlin 2009.
Reforming the Legal and Regulatory Environment in Africa

Over the past few years, African countries have adopted an increasing number of reforms seeking to transform the legal and regulatory environment and encourage competition, free trade, and FDI. For example, Joseph Kabila, President of the Democratic Republic of the Congo, publicly noted: “The private sector initiative is limited, or even discouraged, by the investment climate. We need to change this situation urgently. I have decided that the improvement of the investment climate should be a priority objective.”

Reforms include revamping tax codes, improving tax administration procedures and easing tax burdens, adopting insolvency laws, simplifying procedures for construction permits, improving contract enforcement, streamlining property registration, facilitating business start-up, and removing trade barriers. This wave of reforms has resulted in investors’ renewed interest in Africa’s emerging economies. In most African economies, it is easier and more affordable to start and run a business today than a decade ago (Box 2.2). In 2005, for instance, registering and starting a new business in Ghana would have required 12 procedures, 81 days, and the equivalent of 78% of the per capita Gross National Income (GNI); today, it takes only 8 procedures, 33 days and 26% of the per capita GNI to do so. As a result, Ghana’s Doing Business ranking on the ease of starting a business has improved from 145th in 2006 to 99th in 2010 (out of 183 economies). Similarly, a Rwandan entrepreneur would have needed to complete 9 procedures, spend 43 days and about 232% of the per capita GNI to start a formal business in 2004; to do the same today involves only two procedures that take less than three days and cost 9% of the per capita GNI. Rwanda’s ranking has improved substantially from 58th easiest country in which to start a business in 2007 to 9th in 2011. In addition, the country is among the top 10 global reformers.

Box 2.2: A Rwandan Businessman’s Point of View

“… Of course some people I know would not probably have registered their businesses, but did so after and because of Rwanda’s streamlined process. These days, you can just go to the one-stop center at the Rwandan Development Board (RDB), where people guide you through the whole process. Et voila! You complete registration almost right there and then. That was not the case when I started my business more than a decade ago. Not only has the complexity and the time has been dramatically reduced, but the cost has dramatically gone down. You can now complete the registration process by yourself, without a lawyer. Also, the reforms by the Rwandan government are succeeding in providing incentives to entrepreneurs like me because they are discussed with private sector representatives. We have a say and we also feel that we co-own the reform process, too.

As a businessman in this country and as a private sector representative who interacts with different types of business owners, I can tell you that the complaints from the private sector are not as bad as they used to be. I used to hear several and harsh complaints from friends who own businesses like me about land and property registration, as well as the bureaucracy. Now there is a lot of improvement in land and property registration, and the mapping exercise throughout the country is to be completed within a year. Of course, I am not saying that things are completely satisfactory to everybody. There may be complaints here and there. This shows you that there are still things to be done; but clearly there are substantial improvements in our business environment. We were rated as among the best reformers in the world during the last two years according to the World Bank, and I strongly hope that improvements in our rankings will also appear in the next report as well.”

Source: AfDB discussions with a Rwandan businessman and private sector representative, September 8, 2010.

Ghana and Rwanda are not alone in embracing reform. According to the *Doing Business* reports, 24 African countries implemented 49 regulatory reforms in 2006/07, 28 countries implemented 58 reforms in 2007/08, and 29 countries implemented 67 reforms in 2008/09. In 2009/10, about 60% of sub-Saharan African countries undertook at least one reform to facilitate doing business, compared with 47% of the developing countries in Latin America and the Caribbean. Out of the 10 countries in the world that most improved requirements to start a business in 2009/10, four were in sub-Saharan Africa—Zambia, Cameroon, Mozambique, and Cape Verde. Similarly, three African countries (Rwanda, Cape Verde, and Zambia) were named among the top 10 global reformers in the 2011 *Doing Business Report* (Box 2.3). In addition, four of the world’s top 10 economies that made the largest strides in making their regulatory environment more favorable to businesses over the last five years are from Africa—Rwanda, Burkina Faso, Mali, and Ghana—and each of them implemented more than a dozen business reforms during this period.

**Box 2.3: Top African Business Environment Reformers and Reforms, 2011**

<table>
<thead>
<tr>
<th>Rwanda</th>
<th></th>
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<tbody>
<tr>
<td>Dealing with Construction Permits: Passed new building regulations and mandated new time limits for the issuance of various permits.</td>
<td></td>
</tr>
<tr>
<td>Getting Credit: Allowed borrowers to inspect their own credit report and mandated that loans of all sizes be reported to the central bank’s public credit registry.</td>
<td></td>
</tr>
<tr>
<td>Trading Across Borders: Reduced the number of trade documents required and enhanced its joint border management procedures with Uganda and other neighbors, thereby facilitating trade logistics.</td>
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</table>

<table>
<thead>
<tr>
<th>Cape Verde</th>
<th></th>
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</thead>
<tbody>
<tr>
<td>Starting a Business: Eliminated the mandatory municipal inspection before a business begins operations and computerized the system for delivering municipal licenses.</td>
<td></td>
</tr>
<tr>
<td>Registering Property: Switched from fees based on a percentage of the property value to lower fixed rates.</td>
<td></td>
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<tr>
<td>Paying Taxes: Abolished the stamp duties on sales and checks.</td>
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<table>
<thead>
<tr>
<th>Zambia</th>
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<tbody>
<tr>
<td>Starting a Business: Eliminated the minimum capital requirement.</td>
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<tr>
<td>Trading Across Borders: Set up a one-stop border post with Zimbabwe, launched web-based submission of customs declarations and introduced scanning machines at border posts.</td>
<td></td>
</tr>
<tr>
<td>Enforcing Contracts: Introduced a court-case management system that provides electronic referencing of cases, a database of laws, real-time court reporting and public access to court records.</td>
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</tbody>
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38 World Bank 2010.
Most of the recent reforms in Africa have focused on trade facilitation. According to the 2011 Doing Business report, more than a third of all trade facilitation reforms in 2009/10 took place in sub-Saharan Africa (with 9 such reforms). The majority of these reforms were motivated by regional integration initiatives, such as the Southern African Customs Union and the East Africa single border control.

These efforts are paying off. Mauritius, for example, was ranked 10th and 17th out of 183 economies in ease of doing business both in the 2010 and 2011 Doing Business reports. It has become number one in Africa for ease of paying taxes, while at the same time raising tax revenues. The 2010 Doing Business report noted the country “adopted a new insolvency law, established a specialized commercial division within the court, eased property transfers, and expedited trade processes”. As a result, Mauritius became the top Sub-Saharan country for four consecutive years (2008 to 2011) on overall regulatory ease of doing business.

Some Fragile States are also actively improving the regulatory framework for business. Liberia was the second-fastest reforming economy in the region according to the 2010 Doing Business report. The country eased procedures for business start-up, reduced fees for construction permits, and facilitated trade with a new one-stop center. Coming out of a devastating civil war, the country has been able to cut business start up time from 99 days to 22 days, and the time required to get construction permits from 398 days to 77 days in one year. Similarly, Sierra Leone introduced a law that strengthened investor protection, enhanced access to credit, and provided for the reorganization of troubled firms. It also established a one-stop center for business registration.

Egypt was also among the global top 10 reformers in the 2010 Doing Business report and in 4 of the previous 7 years. Mali and Burkina Faso each reformed 5 of the 10 areas covered by the 2010 Doing Business report, including easing business start-up, property registration, and improving contract enforcement. In Senegal, small businesses now pay a single tax that is less than the aggregate total tax they paid a few years ago.

The pace of reforms is thus gathering momentum with a continuous increase in the cumulative number of reforming countries and the number of reforms implemented in Africa over the years to improve the legal and regulatory environment. Africa’s regional ranking regarding the pace of reforms as well as the cumulative number of African countries regarded as top reformers is also rising over the years: there were four African countries among the top 10 global reformers in the 2009 Doing Business report, and there were three in each of the 2010 and 2011 Doing Business reports.

Despite all the efforts and achievements, however, Africa’s business environment, particularly south of the Sahara, remains amongst the least business friendly, as noted earlier in this chapter. The depth of problems in the regulatory environment itself seems to be the main reason, as most African countries lag in terms of several indicators, lack of capacity both in terms of human capital and resources to undertake the required reforms, and have insufficient continuous political commitment to the reform process. More, therefore, remains to be done to build up on the achievements to date. Reforms need to be accelerated and intensified. Prioritizing areas where African countries lag the most would result in the greatest impact, therefore maximizing scarce financial and human resources: indeed, simulation exercises using the World Bank’s Doing Business data confirms that a single reform in the worst performing area can improve a country’s rankings significantly (Box 2.4), thus making it more attractive as an investment destination.

### Box 2.4: Impact of a Reform on a Country’s Doing Business Ranking

Targeted changes can make a big difference.

The 2010 Doing Business report ranked Ghana 135th in the world in terms of starting a business. Yet if Ghana reduced the number of procedures required to start a business from the current eight to just four (other things remaining constant), its ranking would improve to 113th; and if it reduced the number of days it takes to start a business from 33 to 15, its global ranking would improve to 119th. Most strikingly, if the country scrapped the
minimum capital requirement (currently at 13.4% of per capita income), it would rank 91st on the ease of starting a business.

On the other hand, if the country reduced the number of procedures required for construction permits from 18 to just nine, its ranking in terms of dealing with construction permits would substantially improve from the current 153rd to 99th; while by reducing the number of taxes from 33 to 10, and the number of hours required to pay them from 224 to 90, its ranking on paying taxes would improve from the current 79th to 36th and 39th, respectively.

Similarly, if Djibouti scrapped its minimum capital requirement (currently equivalent to 500% of the country’s per capita GNI), its global ranking on the ease of starting a business would improve from 178th to 135th. If, at the same time, it took 15 days to start a business instead of the current 37, Djibouti’s ranking would improve to 115th. If the number of procedures required was also reduced from 11 to 5, the country’s global ranking would become 62nd.


Conclusion

The legal and regulatory environment is critical for PSD in any country. Businesses can thrive and drive economic growth only when there is a sound legal and regulatory environment characterized by a level playing field, transparent and supportive rules and regulations, as well as strong enforcement institutions and mechanisms. Such a legal and regulatory environment reduces transaction costs and non-commercial risks and helps to create fair competition for businesses.

Over two-thirds of businesses in Africa rated at least one or a combination of regulatory issues as major or severe business constraints. Other indicators confirm that the legal and regulatory environment in Africa is relatively restrictive. Starting a business in most African countries is complicated and costly compared to other developing regions, as is obtaining construction permits and property registration. Corruption also weighs on doing business. If Africa’s private sector is to become more competitive, the region’s legal and regulatory environment needs to make starting and doing business easier.

Introducing one-stop shops for entrepreneurs, making the minimum capital requirement to start a business affordable, simplifying taxes, promoting fair competition and strengthening insolvency laws would significantly help the private sector develop and thrive. In addition, perceptions that doing business in Africa is riskier than anywhere else are greatly influenced by whether regulations are believed to be unpredictable and unclear, courts unreliable and contracts hard to enforce. Reducing such non-commercial risks requires clear and transparent regulations that foster and safeguard innovation and property rights, together with the ability to detect and punish illegal business practices.

Unwavering commitment from, and cooperation amongst, policy makers, the private sector and civil society are essential for the necessary reforms to succeed. Crafting and enforcing supportive business rules, while essential for Africa’s private sector to thrive is not sufficient. Developing the continent’s private sector and boosting its performance also require tackling additional challenges, particularly poor infrastructure (Chapter 3) and inadequate access to finance (Chapter 4).
Annex 2.1: Competitiveness and Doing Business Rankings (Individual indicators)

- **Starting a business**:
  - Equation: \( y = 0.374x + 40.19 \)
  - \( R^2 = 0.2012 \)

- **Dealing with Construction Permits**:
  - Equation: \( y = 0.4745x + 24.824 \)
  - \( R^2 = 0.2167 \)

- **Employing Workers**:
  - Equation: \( y = 0.125x + 56.486 \)
  - \( R^2 = 0.0282 \)
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- **Graph 1**: Competitiveness Ranking vs. DB Ranking score (Registering Property)
  - Equation: $y = 0.0946x + 51.852$
  - $R^2 = 0.0135$

- **Graph 2**: Competitiveness Ranking vs. DB Ranking score (Protecting Investors)
  - Equation: $y = 0.2821x + 42.906$
  - $R^2 = 0.0948$

- **Graph 3**: Competitiveness Ranking vs. DB Ranking score (Paying Taxes)
  - Equation: $y = 0.2158x + 63.229$
  - $R^2 = 0.1465$
**Competitiveness Ranking vs. DB Ranking score (Getting Credit)**

The graph shows a positive correlation between Competitiveness Ranking and DB Ranking score (Getting Credit). The equation for the line of best fit is:

\[ y = 0.4872x + 34.701 \]

The coefficient of determination, \( R^2 \), is 0.2762, indicating that 27.62% of the variability in Competitiveness Ranking can be explained by the relationship with the DB Ranking score (Getting Credit).