Doing Better: Civil Society recommendations for building on the findings of the Doing Business Review

Introduction

The independent panel of experts nominated by World Bank President Jim Yong Kim to review its flagship "Doing Business" project proposed a wide range of areas for reform.

In some cases, their recommendations for addressing short-comings were clear, for others they gave options to tackle deficiencies, and for yet others they called for more fully elaborated reforms to be developed as part of an ongoing process. In all cases, their recommendations are simply that: recommendations from nominated experts – and all final decisions on ways forward remain subject to undefined decision-making processes at the World Bank. This is particularly significant as Doing Business has been cited recently as a core implementation tool of the World Bank Group's newly approved Corporate Strategy, to achieve the twin goals of eradicating extreme poverty and promoting shared prosperity.

This brief gives initial reactions to the review findings from global civil society groups working on issues relevant to the Doing Business project, and also presents our recommendations on next steps for their implementation.

Increasing its relevance to the World Bank's poverty mandate and broader development thinking

The panel points out that whilst most observers recognise the importance of private sector development in reducing poverty and of the role of effective government regulation within that, the usefulness of the *Doing Business* approach is highly contested[1].

In particular Doing Business needs to become better aligned with moves towards greater country-owned and led development and an appreciation of the importance of country's circumstances, stage of development and political choices:

"The Bank's views on the objectives of growth and development and the best approach to attain these objectives, are evolving – and with it, the approach of the *Doing Business* report will have to adapt. Increasingly, the Bank seems to regard its main role as being one that enables governments to find their own solutions."[2]

The panel also note the importance of helping SMEs to flourish and thereby to contribute to job creation and poverty eradication[3]. However, their analysis indicates that Doing Business is not fit for purpose, in this regard. The hypothetical company used by Doing Business to produce data that is more easily comparable across countries, is of limited relevance in many developing countries with a large informal sector and a predominance of MSEs[4]. The panel conclude that:
"To be meaningful and comparable, measures have to be representative of a country and the types

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[1] P19 Independent Panel Review of the Doing Business Report, June 2013, available at: http://www.dbrpanel.org/sites/dbrpanel/files/doing-business-review-panel-report.pdf
[2] P28 ibid
[3] P10 ibid
[4] P22: "being a limited liability company that has 60 employees, is based in the country's largest business city and exports more than 10 per cent of its sales, among other characteristics."

of businesses that operate there."[5]

Doing Business will never by itself be a sufficient tool to help governments to harness private sector development for sustainable poverty eradication – and this is not its purpose. It is still important that it is coherent with and contributes to this objective.

To this end, we:

- Endorse the panel's key recommendation to move the project from the IFC to the research department of the Bank under the Development Economics Vice-Presidency, to ensure greater coherence with broader thinking and mandate of the Bank and to provide oversight of methods and analysis used.
- Call on the Bank to transparently review the relevance of the current indicators to the poverty eradication and inclusive growth objectives of the Bank, so as to cease the use of indicators for which there is no robust correlation with those objectives. As the panel notes, current indicators are not chosen according to any robust scientific analysis and there is scant evidence of their usefulness to socioeconomic performance[6].
- Call on the Bank to increase the relevance of the Doing Business project to the majority of firms in developing countries, given their key role in poverty eradication and inclusive growth, including by reviewing definitions of "model" firms and through consultation with representatives of these firms.

Improving its use in policy making

The panel starkly concludes that Doing Business is a "poor guide" for policy formulation and have rightly emphasized that the Doing Business report should not be viewed as a one-size-fits-all template for development. Instead, Doing Business should aim to "provide each country with the ability to measure itself against its own stated 'ease of doing business' and economic growth objectives"[7].

They give several reasons for this conclusion:

- The reforms that it promotes cannot be causally linked to improved development outcomes.
- The indicators have limited scope and much will depend on "auxiliary factors not captured by *Doing Business..*"
- The real business world is very different to the one "on paper" that Doing Business measures.
- The report only measures regulations applicable to particular categories of business, whose "representativeness and [therefore] the relevance of these regulations, varies greatly from country to country"[8].
- The report does not acknowledge the possibility that its prescriptions might not be universally appropriate or that other (including non-legal) solutions might be used to achieve the same goal.

[5] P28 ibid
[6] See esp. P24 ibid
[7] P3 ibid
[8] P2 ibid

- The report still has a deregulatory bias, which does not offer information on legitimate social, environmental or even other economic objectives that might be behind such regulation.

Whilst some of these can be at least partially addressed by improvements to methodology (see section below), others are inherent to the nature of the Doing Business tool, which can therefore only ever have a limited role in policy-making.

The panel warn about using changes to Doing Business scores to guide policy:
"Any correlation between changes in Doing Business indicators and changes in an economy is necessarily tenuous, as economic changes are likely to be the result of a complex interaction of variables over time that may nor may not include the indicators presented in the report."

As an example, the panel note the discrepancies between high country scores on indicators such as Getting Credit, with the persisting struggle for the majority of firms to access credit and concludes: "If the Indian government were to be guided by Doing Business rankings, it would focus on constraints that pull down the country's overall ranking and not on the availability of credit. The report is therefore not an accurate instrument for broader policy considerations".

We agree with the panel's analysis that it is not appropriate to use Doing business as a template for policy-making, and therefore:

- Endorse the panel's recommendation to triangulate Doing Business with other tools that "better guide readers about the need to strengthen how the law is implemented or to signal which regulations in a given country are poorly designed".
- In addition, the Bank needs to do more to ensure that appropriate national consultations on regulatory reform with a broad range of stakeholders take place and are strengthened by, rather than undermined by Doing Business.
- Finally, the panel highlighted that Doing Business is used in conditional lending practices (for example, by the US Millennium Challenge Account), the Bank itself uses the Doing Business indicators for CPIA and in setting terms and conditions for its lending strategy and several international aid agencies use the report in their approach to official development assistance. Such practices should be ended.

Improving its communication

Closely linked to ensuring appropriate use in policy-making, is the issue of how *Doing Business* is communicated. Wrong communication can undo usefulness for policy making, if it incentivises governments inappropriately.

"Doing Business users should fully understand the report's sphere of relevance and importantly its limitations. These caveats, which do appear in small print on page 17 of the 2013 *Doing Business* report, should be emphasised more prominently within the first few pages, and throughout the supporting communication strategy." In this regard, the panel recommends a prominent "health warning" at the beginning of the report.

The panel also recommend changing the report's title so that it no longer "implies that it provides a comprehensive measure of the business environment".

The panel single out the Doing Business rankings for particular attention.
"It is important to remember that the report is intended to be a pure knowledge project. as such its role is to inform policy, not to prescribe it or outline a normative position, which the rankings to some extent do."

We strongly agree that it is imperative that Doing Business is communicated effectively and therefore:

- Endorse the panel's recommendation to include a prominent and appropriate "health warning".
- Recommend to clearly define the purpose of the report and to rename the report to better reflect this purpose.
- Call for a large reduction of the communication budget accorded to Doing Business and for it to not form a significant part of the Bank's communication's or publication strategy.
- Agree with the Panel's recommendation that the ranking of countries implies a misleading value judgement and should therefore be scrapped.

Improving its methodology

The panel highlighted various problems with the methodology used in Doing Business that undermined its usefulness.

As already mentioned, they underscored the problems with the "model firm" used in Doing Business and its relevance to the reality especially of developing countries. They also only present the picture of the country's largest business city, which can create a distorted picture in many countries.

They also criticise the narrow information source used by the project, relying particularly on law firms. This means that they can only really reflect whether "a specific rule does or does not exist in different countries" and not its impacts on small firms or on broader society.

They question the robustness of several indicators in relation to what they purport to measure. Many of the indicators assume that less regulation is better, which will not be the case in all contexts or examine a very narrow number of features which may not even be important reforms in some countries. There is no rigorous analysis that has resulted in these indicators being chosen.

They question the methodology of using overall aggregate rankings. Because of how the rankings are constructed, a country's position in the rankings can change dramatically with only small reforms or even with no reforms at all. They go on to note that there is no strong justification for averaging scores across the rankings to produce the "Ease of Doing Business" index and that the cardinal scores, rather than positions in the rankings, provide more useful information to reform-minded policy-makers.

Finally they call for improvements to data-collection and transparency. There is currently no cross-checking of data from Doing Business with data from other studies. There is no way to take account of country's different circumstances and starting points.

We agree with this analysis and therefore recommend:

- That review of all these methodological elements form part of an ongoing process, as discussed below.
- The definition of a model firm be reviewed to assess its relevance especially in poorer client countries.
- The relevance of indicators used should be reviewed and only those correlated to poverty eradication and other outcomes relevant to the Bank's mandate should be used.
- Since an overall ranking is of limited meaning and may give inappropriate signals it should be scrapped.

Improving its governance

The Panel notes the lack of external review or internal feedback process for Doing Business. *Doing Business* requires "a governance process that draws on lessons learnt and considers feedback and criticism from various sources". The panel recommends a peer review process with external representation. It also recommends that the Bank's senior management group be tasked with approving the report before publication.

As a key publication of the World Bank that is highly influential among policy makers in developing countries, in particular, it is important that Doing Business is robust. Doing Business reforms can have a wide range of impacts not only on businesses - for example on workers, on public revenue and on consumers. Therefore it is important that these groups are consulted on its design. Finally, Doing Business will need to be updated as learning and as business realities change.

For these reasons:

- We endorse the panel's recommendation for an external review panel to oversee a process of ongoing change to ensure that Doing Business remains robust and fit-for-purpose.
- This panel should have a mixed representation, including equal representation from civil society groups, business groups and academics and should consult widely with affected groups on a regular basis.

Improving the guidance on taxation

The Panel was mandated to specifically review the Paying Taxes (PTI) and Employing Workers (EWI) inidcators.

Whilst acknowledging the importance of the topic of taxation for the Doing Business report, the panel highlights several conceptual and methodological problems with the existing indicator:

- It does not provide a robust tool for assessing the administrative burden of taxation on SMEs, because of the nature of the model firm used and flaws in the current indicators.
- It does not take account of other “considerations” that are important in designing taxation systems.
- It presents only the notional taxations paid by companies, as it does not take into account their use of tax planning.
- The data relies on a narrow source of data and key actors are not involved in its collection and verification.
- It assumes that a low rate of taxation is better for business.
- The three sub-indicators are diverse and aggregation into a total ranking score is therefore

not meaningful.

We agree with this analysis. For example, the issue of tax planning: there is strong evidence[9] that notional corporate tax rates have only a tenuous link to the corporate taxes effectively paid, especially for the bigger, international companies. The World Bank must keep pace with agendas of the G20 and the OECD, that have decided to address this topic.[10] The total tax rate indicator thus has little connection to the business reality and is a poor indicator of the "ease of doing business". There is certainly no good reason or evidence to support that reducing corporate tax rates towards a level of 25.7% is somehow desirable[11]. This is particularly concerning if it means that the burden of taxation is shifted from business to workers, investors or consumers. The optimum taxation rate will depend on many factors and be context specific.

We also agree with the Panel's concerns relating to the collaboration with PWC and the conflict of interest that can arise from working with a leading player in the industry of tax planning, tax accounting and tax advice. This also has implications for the neutrality and perception of the data collected.

Therefore:

- We endorse the recommendation that the total tax rate indicator be scrapped.
- We support the call for broadening the information source to collect data and to reconsider joint presentation of tax data with PWC.
- We believe that there be no aggregation of sub-indicators.
- The collection methodology should be refined.
- There should be an external tax panel that periodically reviews the methodology and presentation.
- The Bank should work towards an alternative set of tax sub-indicators for small enterprises. Developing indicators that measure the complexity of tax legislation, the nature and scale of the administrative burden and the effectiveness of tax administrations in their interaction with these enterprises.

Improving the guidance on labour regulation

The Panel noted that the one-sided view of labour market regulations embodied in the indicator parameters could encourage governments, especially those that are World Bank clients, to engage in major deregulatory reforms. These would be based on expected positive outcomes but would not sufficiently consider the cost of depriving workers of protection.

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[9] On ABF in Zambia, see Lewis, M., « *Sweet nothings. The human cost of a British sugar giant avoiding taxes in Southern Africa* », Action Aid, February 2013, http://www.actionaid.org/sites/files/actionaid/sweet_nothings.pdf ;on SAB Miller in Ghana, see Hearson, M. & Brooks, R., « *Calling time.Why SAB Miller should stop dodging taxes in Africa* », Action Aid, November 2010, http://www.actionaid.org.uk/doc_lib/calling_time_on_tax_avoidance.pdf; on tax planning in India see Janský, P. & Prats, A., «*Multinational corporations and the profit-shifting lure of tax havens*», Christian Aid, Occasional paper n°9, March 2013, http://www.christianaid.org.uk/Images/CA-OP-9-multinational-corporations-tax-havens-March-2013.pdf

[10] http://www.oecd.org/forum/what-the-beps-are-we-talking-about.htm

[11] In fact evidence suggests that low tax rates do little to attract investors and are not cost effective, see for example: http://www.imf.org/external/pubs/ft/wp/2008/wp08257.pdf

The Bank’s World Development Report 2013: Jobs (WDR 2013) calls for a more balanced approach to labour regulation that recognises that appropriate levels of regulation can vary among countries.

The panel criticised unsubstantiated assertions that countries that improve their indicator ranking through deregulatory measures obtain superior economic outcomes. The Bank’s own Independent Evaluation Group found no evidence of such a relation. Similarly claims that the World Bank needs to focus on labour market regulations because enterprises in the Bank’s client countries tend to consider these major obstacles to investment and job creation are not borne out by evidence. On the contrary, the WDR 2013 on Jobs found that labour regulations did have impacts on inequality and that a weakening of labour market institutions and social protection mechanisms, along with several other factors, account for the growth of inequality in most countries over the past two to three decades.

We agree with the panel’s recommendation that

- The EWI be permanently removed from *Doing Business* and that, instead, the Bank should develop a balanced approach towards labour market regulation that recognises the benefits as well as the costs of such regulation, and that this should be outside of the Doing Business project.

- The Bank should no longer include annexes on “Employing Workers” and “Employing Workers Data”, which *Doing Business* has produced since 2009 despite the suspension of the EWI. These annexes continue to promote a purely deregulatory view of labour regulations, presenting them out of context and making unsubstantiated assertions about their negative impacts while ignoring the findings of the Bank’s WDR 2013 that appropriate levels of labour regulation play an important role in protecting workers.

- The Bank, but not *Doing Business*, should pursue work on quantifying both the benefits and costs of labour market regulation jointly with the International Labour Organisation and in consultation with interested stakeholders. The latter should include trade unions and other civil society organisations. The Bank’s specialised team on labour market issues would be the appropriate group to move this work forward.

Conclusion

"The Doing Business report is a flagship knowledge product of the World Bank. As such, it needs to be an authoritative, rigorous and well-crafted publication that provides meaningful input into policy discussions on how to improve the regulatory climate for business around the world."[12]

The plans for implementing the new World Bank Group Strategy’s twin goals on eradicating extreme poverty and promoting shared prosperity will have a strong emphasis on the role of the private sector. Given this importance of private sector development and of the role of regulation, getting Doing Business right is an important discussion that should not end with the review panel's report.

We present the recommendations in this brief as part of this ongoing process of reform and look forward to the opportunity to contribute more systematically and directly to it.

[12] P1, Independent Panel Review of the Doing Business Report, June 2013

Having a balanced and intelligent debate on the next phase for the project will be possible only if decisions are made in an open and inclusive manner.

On behalf of the following organisations:

11.11.11, Belgium
ActionAid International
BOND, UK
Bretton Woods Project, UK
CAFOD, UK
Center of Concern, USA
Christian Aid, UK
CNCD-11.11.11, Belgium
European Network on Debt and Development (Eurodad)
IBIS, Denmark
International Trade Union Confederation
Red Latinoamericana de Deuda, Desarrollo y Derechos (Latindadd)
JCTR, Zambia
Oxfam International
Urgewald, Germany