

Starting a business

Starting a business in India has become considerably easier over the last two years. It now takes 35 days to register a company in Mumbai, compared with 71 days a year ago and 89 days in January 2004. The improvements are a result of computerizing the process for obtaining tax registration numbers—both Personal Account Numbers (PANs) and Tax Account Numbers (TANs). Additionally, the stamp duty can now be paid through authorized dealers (banks) as well as through the stamp office.

There is still room for improvement, however. India lags behind best practices when compared with other countries. Start-up takes 2 days in Australia. The OECD

average is 17 days. The number of procedures to start a business in India (11 procedures) is also high compared with the OECD average of 7 procedures and the South Asia average of 8.

Although India does not impose a minimum capital requirement, the official costs to start a business are high, at 74% of income per capita. This has risen from 62% last year following increases in VAT registration fees. Costs are far above global benchmarks—such as 0% of income per capita in Denmark and 9% of income per capita in China—and are even high in comparison to the South Asia average (47%) and the East Asia average (43%).

Although all Indian cities have sped business start-up, large sub-national variations remain. Within India the shortest time to start a business is 35 days in Mumbai. It takes the longest in New Delhi and Bhubaneshwar (52 days). It costs the least to start a business in Bhubaneshwar (41% of income per capita) and the most in Mumbai (74%) (figure 2.6).

FIGURE 2.6
Time and cost to start a business in India

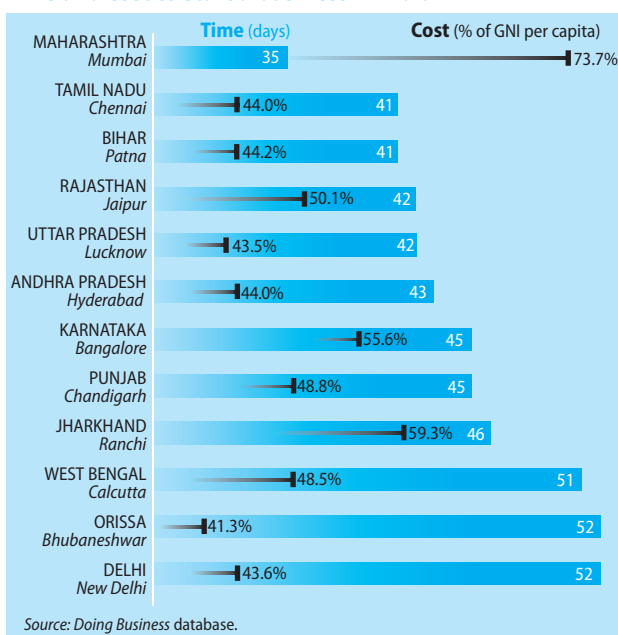


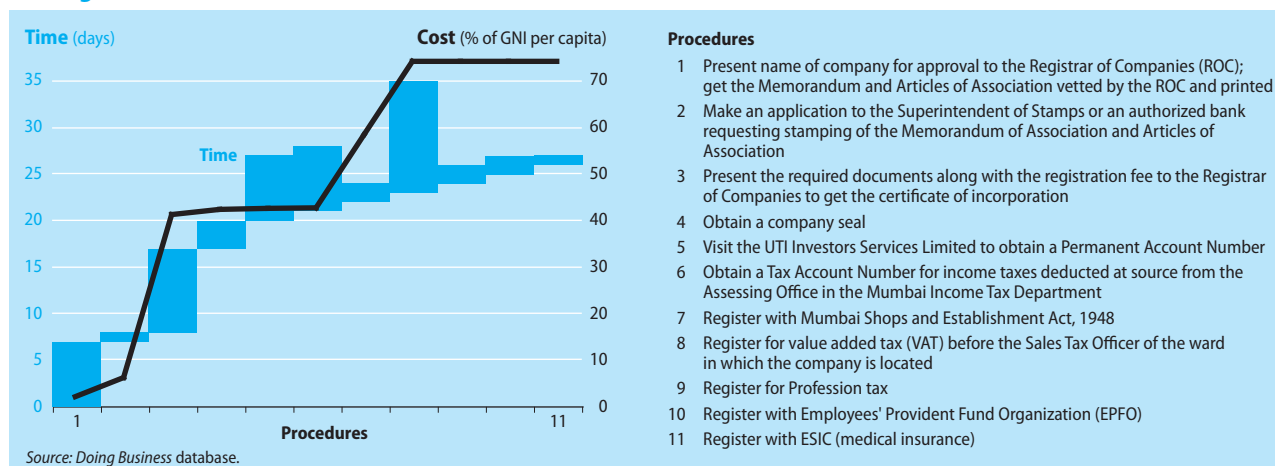
TABLE 2.4
Subnational rankings on the ease of doing business in India

- | | |
|----------------|--------------|
| 1 Hyderabad | 7 Chandigarh |
| 2 Bangalore | 8 New Delhi |
| 3 Jaipur | 9 Patna |
| 4 Chennai | 10 Ranchi |
| 5 Bhubaneshwar | 11 Mumbai |
| 6 Lucknow | 12 Calcutta |

Note: The rankings for all cities are benchmarked to April 2006 and reported in Appendix III. The ease of doing business averages rankings across the 10 topics covered in *Doing Business*. This excludes variables such as macroeconomic policy, quality of infrastructure, currency volatility, investor perceptions, or crime rates.

Source: Doing Business database.

FIGURE 2.7

Starting a business in India**Procedures**

- 1 Present name of company for approval to the Registrar of Companies (ROC); get the Memorandum and Articles of Association vetted by the ROC and printed
- 2 Make an application to the Superintendent of Stamps or an authorized bank requesting stamping of the Memorandum of Association and Articles of Association
- 3 Present the required documents along with the registration fee to the Registrar of Companies to get the certificate of incorporation
- 4 Obtain a company seal
- 5 Visit the UTI Investors Services Limited to obtain a Permanent Account Number
- 6 Obtain a Tax Account Number for income taxes deducted at source from the Assessing Office in the Mumbai Income Tax Department
- 7 Register with Mumbai Shops and Establishment Act, 1948
- 8 Register for value added tax (VAT) before the Sales Tax Officer of the ward in which the company is located
- 9 Register for Profession tax
- 10 Register with Employees' Provident Fund Organization (EPFO)
- 11 Register with ESIC (medical insurance)

What to reform

In the future, the ongoing e-governance initiative of the Ministry of Company Affairs (MCA), referred to as the MCA-21 project, will further reduce the time to complete all procedures for which the ministry is responsible, such as the approval of company names, the vetting of Memorandum and Articles of Association and registration. The main goal of this project is to make electronic filing available through the MCA website so that Indian entrepreneurs can register their companies online. Still, other steps must be completed to legally start operating a business (figure 2.7).

A big reason why it takes so long to start a business in India is the large number of separate registrations a company must complete. A new business in India must register for a tax account number (TAN) and a permanent account number (PAN) and must also register to pay VAT or sales tax. The new business must, in addition, register with the Labor Department's Employees' Provident Fund Organization (EPFO) and with the Employee's State Insurance Corporation (ESIC). It must furthermore complete a registration under its state's Shops and Establishments Act.

The total time to start a business varies across Indian cities mainly because of differences in the number of days required to file with the EPFO and the ESIC and under the Shops and Establishments Act. For example, the filings with the EPFO and ESIC take one or two days in Mumbai, but can take up to 30 days in New Delhi. Registration under the Shops and Establishment Act takes 2 days in Mumbai but 7 days in New Delhi. Such results show there is potential for Indian cities to learn from each other. The number of days it takes to obtain the TAN and the PAN numbers also varies across

regions. In Mumbai it takes 8 days to complete both procedures, while in New Delhi and Bhubaneswar it takes between 15 and 20 days. This is due to variations in efficiency with which the private companies that issue the PANs and TANs operate in the various Indian states.

To further reduce complexity, the government can introduce a single unique company number that a new business could use for company, tax and social security registrations. As a next step, the company registry could forward the relevant registration information directly to the tax administration offices, the EPFO and the ESIC. In this way, 7 steps could be reduced to one.

Dealing with licenses

Obtaining the necessary licenses to construct a warehouse remains extremely costly in India, at 606% of income per capita. It is also complex and time consuming, requiring 20 procedures and 270 days. India fares poorly when compared with the South Asia average of 16 procedures and 226 days, costing 375% of income per capita. India ranks 155th in the world on the ease of licensing.

Requirements vary considerably across states. It takes 159 days to fulfill all regulatory requirements to build a warehouse in Bhubaneswar—the shortest within India. At the other end of the spectrum it takes 522 days in Ranchi. The cost is lowest in Patna—277% of income per capita—and highest in Calcutta—1,999% of income per capita. The number of procedures is lowest in Bhubaneswar (16) and highest in Patna and Ranchi (25).

What to reform

Reform of licensing regulations is needed at both state and municipal levels. The procedures that cause the greatest bottlenecks are obtaining land use approvals, building permits, power connections, water and sewerage connections and final occupancy certificates. Various municipal and state-level institutions are responsible for monitoring these steps. Among them are the city Development Authority, the Municipal Corporation, the State Electricity Distribution Company and the Water and Sewerage Board. The difference in the time and number of procedures required across states suggests that there are considerable gains to be had from adopting best practices from other states. As an example, obtaining a building permit takes nearly 120 days in Patna, 60 days in New Delhi and 30 days in Mumbai and Bangalore. Obtaining the land use approval takes nearly 90 days in Ranchi, 60 days in Lucknow and Patna, 50 days in Jaipur and Bhubaneswar, 45 days in Chennai, 37 days in Chandigarh, 30 days in New Delhi, 25 days in Bangalore and only 3 days in Hyderabad.

Employing workers

India ranks 112th worldwide on the ease of employing workers. On the rigidity of hours index, India's score—at 20 out of 100—compares relatively well with global benchmarks. Performance is somewhat worse on the difficulty of hiring index (33 out of 100), due to restrictions on term contracts. But regulations make it virtually impossible to fire a worker, in particular for companies employing 100 or more employees. Those companies must obtain the state government's prior approval. India scores 70 out of 100 on the difficulty of firing index, relative to the regional averages of 38 in South Asia, 20 in East Asia and 27 for OECD countries. Firms must pay 56 weeks of salary in notice, severance and penalties to dismiss a worker—slightly less than the South Asian regional average of 72 weeks, but more than the East Asian average of 41 weeks and the OECD average of 31 weeks.

India's labor regulations are also unusually complex. There are currently 47 national laws and 157 state regulations that directly affect labor markets. These are often inconsistent and at times overlapping. As a result it is almost impossible for firms and workers to fully understand their rights and obligations, or for enforcement authorities to ensure compliance.

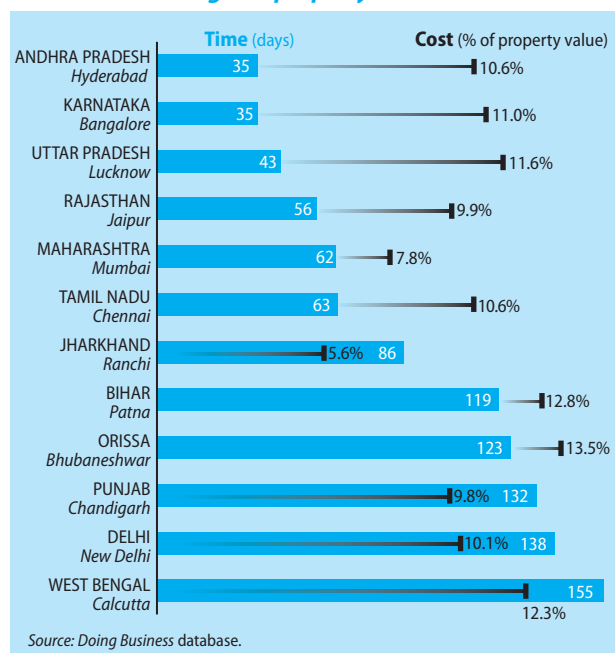
What to reform

Reforming labor regulations is a priority for India. The current rigidities impose significant costs in terms of lost jobs. Recent World Bank research measuring both de jure and de facto applications of the Industrial Disputes Act (IDA) has shown that manufacturing value added, employment and the number of factories are all lower in states with more restrictive labor laws. Estimates suggest that India failed to create almost 3 million formal manufacturing jobs due to just two clauses in the IDA—on retrenchment barriers and dispute-related regulations. The retrenchment clauses make layoffs due to changing market conditions costly. And they hinder the closure of firms with more than 100 workers. This makes firms more reluctant to hire in the first place. The dispute-related clauses create incentives for adjudication rather than reconciliation. The result is an overloaded disputes resolution system. About 533,000 labor disputes are pending, 28,000 of them for more than 10 years.

Reforms should have two main goals. First, they should simplify regulations—with special emphasis on improving industrial relations, facilitating dispute resolution and removing ambiguity. Second, reforms should reduce rigidities in labor markets. Specifically 4 main reforms will increase flexibility: (i) consolidating and simplifying labor laws from the current 47 laws to about 4 covering the main areas of conditions of work and welfare, wages and benefits, social security and dispute resolution; (ii) modernizing the Industrial Disputes Act to

FIGURE 2.8

Time and cost to register property in India



reduce the bias towards the adjudication of disputes and to increase flexibility in hiring and firing while still protecting workers' rights; (iii) resolving ambiguities concerning the Contract Labor (Regulation and Abolition) Act to introduce greater flexibility; and (iv) improving the labor law enforcement and inspection system.

Registering property

India ranks 110th on the ease of registering property. The process takes 6 procedures and 62 days, placing India among the upper half of South Asia countries. By contrast it takes only 1 day in Norway, 32 in China and 47 in Brazil. Costs are also high. Entrepreneurs must pay 8% of the property value to register a transfer of ownership. On average in South Asia property registration costs 5% of the property value. It is only 3% in China, and there is no cost in Saudi Arabia.

Within India, it takes the least time to register property in Bangalore and Hyderabad (35 days) and the most time in New Delhi (138 days) and in Calcutta (155 days) (figure 2.8). It costs the least in Ranchi (6% of property value) and the most in Bhubaneswar (14%). The difference in time across cities is due to the different amounts of time needed in each city to mutate a property title and to register the transfer at the sub-registrar. The different rates of stamp duty and transfer charges account for the differences in costs.

What to reform

Reducing the high rates of stamp duties is an important step toward making property registration easier. India's high costs discourage formal transactions and promote rampant evasion. Government revenues are lower as a result. And businesses turn to cumbersome and less secure alternatives to selling property because they want to avoid paying the stamp duties that are part of legally transferring property ownership. For example, a business may try to lease a property long-term or work out a cooperative housing arrangement. The state of Maharashtra experienced a 20% jump in revenues after halving stamp duties in 2004. At 7.8%, there is considerable room for further reduction in cost. And other states should follow Maharashtra's example and reduce fees.

Delays can be reduced by computerizing and rationalizing procedures at the property registry. Indian states can learn from Karnataka's reforms in these areas. In Karnataka mutation takes less than 20 days, compared with 60 to 90 days in most cities. Similarly the execution of the sale deed takes only 2 days in Karnataka as compared

with a month in Orissa. Other states can also follow Karnataka's efforts to simplify procedures by amending their Stamp Acts. Karnataka has discontinued using stamp paper for paying stamp duty. Instead, stamp duty is payable by the Demand Draft at the time of registering.

Getting credit

India ranks 65th on the ease of getting credit, with no variation across cities. On the legal rights index, which measures the degree to which collateral and bankruptcy laws facilitate lending, India scores 5 out of 10. Within South Asia only Bangladesh has a higher score (7). In the broader Asian region, India fares better than China (2) but worse than Malaysia (8). On the credit information index, which measures rules affecting the scope, access and quality of credit information, India has a score of 3 out of 6—same as Sri Lanka but behind Pakistan (4 out of 6). Internationally, India is in the middle of the range for this index, with Brazil scoring 5 and China 4.

Over the last few years several reforms have improved the environment for getting credit. The Credit Information Bureau of India Ltd. (CIBIL), a private partnership between several commercial banks and credit information service providers, has started to increase the amount of credit information available in the country. CIBIL's coverage has more than doubled in the last year. As of December 2005 it had a database of 44 million borrowers. Most records are on consumers, since the commercial bureau has only just been launched. Further, the Credit Information Companies (Regulation) Act, 2005, has been approved by both houses of parliament and has received the president's assent. All that remains is the official notification for implementation.

Creditors' rights have improved after a recent Supreme Court decision upheld the right of banks to take possession of collateral without court involvement. The backlog of cases pending before the Debt Recovery Tribunals (DRTs) was reduced in recent years. In early 2005, the Enforcement of Security Interest and Recovery of Debts Law was amended to improve the rights of secured creditors. The DRTs are now required to decide appeals within 60 days. The amended law allows borrowers to contest a bank's actions before a DRT without having to deposit 75% of the claim as a guarantee. After a DRT renders a decision, any party can appeal the decision to the Debt Recovery Appellate Tribunal. The amended law also allows banks and financial institutions to withdraw a claim before a DRT and instead bring an action under the Securitization Act.

What to reform

India can increase access to loans by reforming its collateral and insolvency regimes. In particular, creditors need to have clear priority to their collateral in and outside bankruptcy, as well as the ability to enforce collateral agreements without resorting to the courts. The government is currently revamping the creditors' rights regime in bankruptcy in its draft amendments to the Companies Act. In addition, the time necessary to enforce collateral has dropped significantly since the implementation of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act (SARFAESI). However, some problems remain. SARFAESI is mainly effective in bringing recalcitrant debtors to the negotiating table and reworking payment obligations. Banks and financial institutions still need to enforce their secured and unsecured claims through DRTs, which for a long time have functioned at less than full capacity. Other secured creditors have to resort to enforcing their security through ordinary civil courts, which can take more than 5 years.

Expanding the amount and quality of credit information also increases access to credit. India can improve credit information sharing by allowing non-financial institutions—such as retailers and utilities—to participate in the credit bureau. Data on both individuals and firms should also be included. The quality of information can be further enhanced by giving borrowers the legal right to inspect and correct their data. And the bureau will be of most use when it expands its coverage of the population. CIBIL is taking steps in these directions.

Protecting investors

India performs relatively well on the protecting investors indicator. It ranks 33rd worldwide and has a strength of investor protection score of 6 out of 10 across all cities. This beats the South Asia and East Asia averages of 5 and is equal to the OECD average of 6. Regulations provide for relatively high levels of disclosure surrounding transactions involving company insiders and also make it easy to sue in cases of misconduct. But rules on directors' liability for self-dealing are weak in India. Within the region, only Bhutan, Nepal and Afghanistan have scores lower than India's on the director liability index. Internationally, India's score on this measure is lower than all regional averages. Brazil and most countries in East Asia (except China) also score higher than India on the director liability index.

The Indian capital markets regulator, the Securities

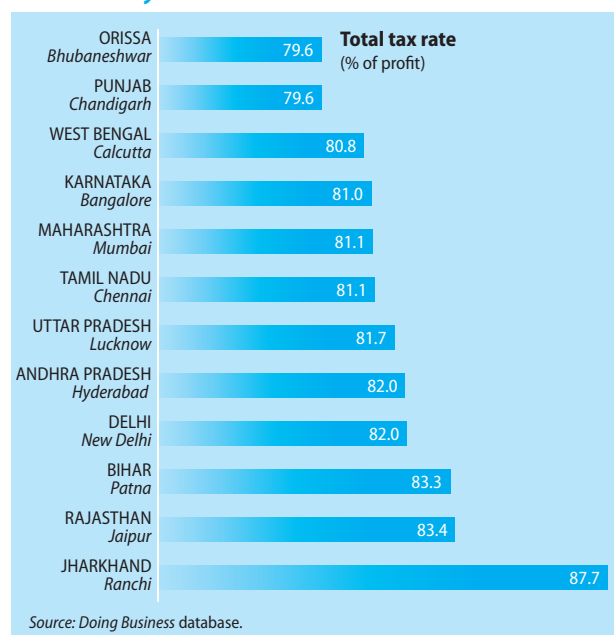
and Exchange Board of India (SEBI), has continually raised the bar on corporate governance of listed entities. As of January 1, 2006, Indian companies listed on a stock exchange must comply with numerous new standards. The new requirements include: more independent directors on boards and audit committees, even greater responsibilities for audit committees, and mandatory certification by a company's chief executive officer and chief financial officer of the company's financial statements and of the effectiveness of internal accounting controls. These requirements track closely the obligations included in the U.S. Sarbanes-Oxley Act.

What to reform

India can improve its investor protections in four main areas: (i) enhancing a plaintiff's ability to hold a director liable for damage to the company caused by a related-party transaction, even where the director meets the disclosure requirements surrounding his personal interest in the deal; (ii) requiring immediate disclosure of transactions involving a company insider; (iii) permitting shareholders to inspect the internal documents of a company; and (iv) lowering the ownership thresholds for minority shareholders to sue derivatively for damages to the company. Each of these actions will strengthen investors' trust in the Indian market—first, by providing greater transparency in companies' operations and, second, by providing a means of redress for any misconduct.

FIGURE 2.9

Tax rates vary across India



Paying taxes

India ranks 158th on the ease of paying taxes, well below the South Asia average. It fares better than most of its South Asian peers in the time spent on complying with tax requirements, at 264 hours per year. But the tax regime is cumbersome, requiring 59 separate payments per year. It is still very expensive, with over 81.1 percent of commercial profits payable in tax. The result is significant tax evasion and avoidance. Compared with countries outside the region, India's tax regime is less burdensome than China's—where businesses spend 872 hours per year—as well as Brazil's—which requires businesses to spend 2,600 hours per year. However, India's tax rate of 81 percent is higher than Brazil's (71.7%) and China's (77.1%).

The number of payments and time spent in complying with tax formalities did not change over the last year. However, the total tax payable declined from 95.2 % of commercial profits in fiscal year 2004 to 81.1% for fiscal year 2005—largely as a result of the shift from sales tax to VAT and also because the Finance Act in 2005 reduced the corporate income tax from 36.59% to 33.66%.

At the sub-national level, the tax payable as a percentage of commercial profit varies from 79.6% in Chandigarh and Bhubaneswar to 87.7% in Ranchi (figure 2.9). The variations in tax rates can be explained by the differences in the implementation of VAT across Indian states, the levy of additional taxes and the different rates and methods for calculating property taxes. Similarly, the number of tax-related payments is 59 in Mumbai and 63 in Chennai and Patna. Time spent on making tax payments does not vary by city however.

What to reform

Simple, moderate taxes and fast, cheap administration can attract investors. The Investment Climate Surveys conducted in India have consistently identified tax compliance as a significant obstacle to business, especially small firms. India has made improvements recently. In particular, a VAT was introduced in April 2005. Of the 12 Indian states covered in *Doing Business in South Asia*, 8 states implemented a VAT in April 2005, 2 did the same in April 2006, another followed suit in January 2007 and one state has yet to schedule a date for VAT implementation. Although the implementation of a VAT is an improvement, there remains an urgent need to harmonize the classification of goods across states under the new VAT regime.

Another major challenge for India is to coordinate the sales taxes and VAT collected at different levels of

government. Having different taxes on the same tax base and collecting the taxes through different government agencies considerably increases the hassle of complying with tax regulation. Companies have to pay taxes on their sales on a monthly basis to both state and the federal tax authorities. Not only is this process burdensome for business, but it effectively doubles the enforcement work that the government needs to carry out—with activities at both the state and federal levels. These taxes can be consolidated into one. The revenues from the consolidated tax could then be distributed appropriately to the different government agencies.

Two other taxes are priorities for reform. The introduction of the Fringe Benefit Tax in the Union Budget in March 2005 has increased the burden of tax compliance—as well as tax rates—with small firms being the hardest hit. Clarity on its applicability and removal of subjectivity in this process is needed. Finally, the administration of the Central Sales Tax (CST) regime—which accounts for more than 50% of the time spent by firms on tax compliance—needs to be streamlined until the CST is phased out as planned.

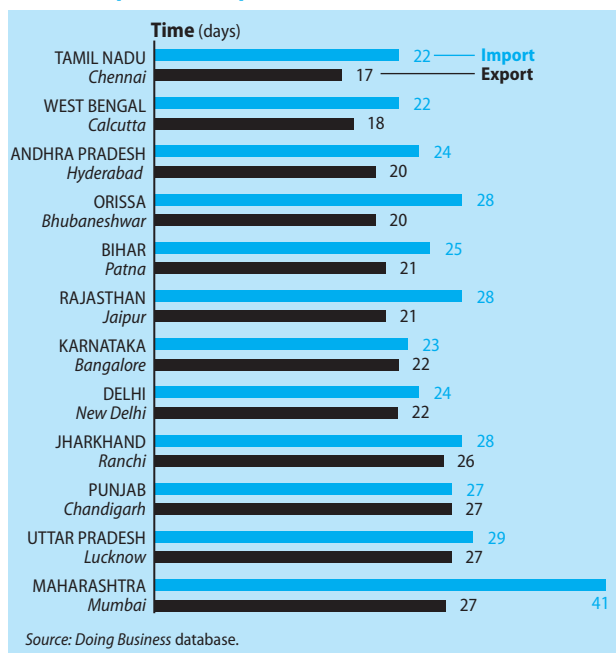
Trading across borders

India ranks 139th on the ease of trading across borders, above only Afghanistan (152nd) and Bhutan (150th). Exporting goods takes 27 days, a significant improvement on last year's time of 36 days. Even so, India lags behind the East Asia average of 24 days and is also slower than China, where it takes 18 days to export goods. Indian exporters submit 10 documents, compared with the regional average of 8 documents and the East Asia average of 7 documents. Importing in India is even more cumbersome. It takes 15 documents and 41 days to complete import procedures. Contrast this with East Asia, where importing requires 9 documents and 26 days. It takes 22 days to import in China. Last year, it took 43 instead of the current 41 days to complete import procedures in India (figure 2.10).

Within India, it is fastest to import and export from Chennai's port—17 days to export and 22 days to import. Calcutta is close behind. There it takes 18 days to export and 22 days to import. The most time is needed in Mumbai, 27 days to export and 41 days to import. Chennai requires the fewest documents—7 to export and 5 to import. The most paperwork is needed in Bhubaneswar, New Delhi, Patna, Ranchi and even Calcutta where importing and exporting involves 11 documents.

Chennai is also among the cheapest Indian cities with which to trade. For example, businesses pay \$1,030

FIGURE 2.10

Time to import and export in India

in fees to export a 20-foot container from Chandigarh and New Delhi, compared to only \$580 in Chennai. Calcutta has the lowest export cost (\$505). Importing in India costs less if the goods enter via Hyderabad and Chennai, with fees of \$850 and \$892 respectively. It is most expensive to import through Mumbai (\$1,244), Jaipur (\$1,163) and Bhubaneswar (\$1,166).

What to reform

India's export-import regime is a significant bottleneck to sustaining its recent growth in international trade and GDP. Simple reforms can have a big impact. Contrary to popular belief, inadequate port infrastructure, although important, is not the greatest obstacle to trade. Nearly 50% of delays are caused by cumbersome pre-arrival procedures. India can speed the process by establishing a single window for traders, linking all government agencies involved in the clearance process. Next, India can develop computerized risk management inspection systems. These will reduce the incidence of physical inspection of cargo, allowing customs staff to focus on cargo with a higher risk of a faulty declaration. Further reducing the number of documents for trading and publishing regulations on customs clearances will improve transparency and efficiency in customs clearances. Finally, India needs to improve its physical infrastructure—roads, ports and rails—which remain a considerable drag on trade. For example, in India loading export cargo onto a vessel takes 8 days in terminal handling and

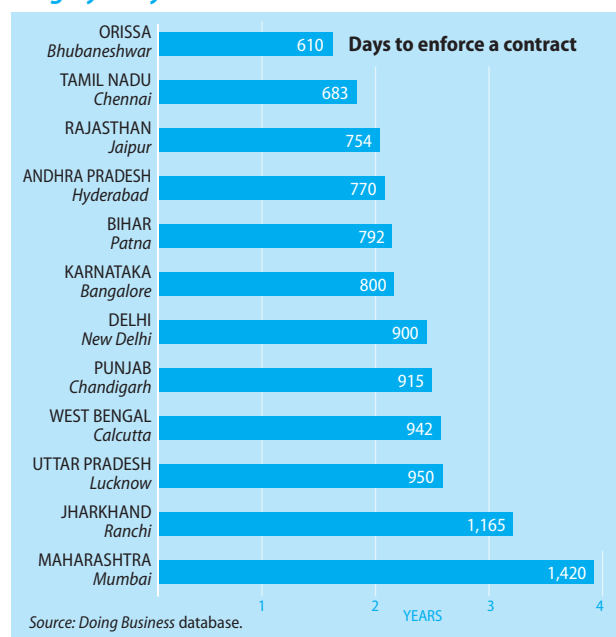
waiting, compared with 2 days in Pakistan and only a few hours in more efficient ports around the world.

Recent initiatives are improving the ease of trading across borders, but need to be expanded and accelerated. Risk management techniques focusing customs inspections on higher-risk cargo have begun to speed trade. A new 24-hour online container tracking system in Chennai enables traders to monitor container movement from the port to inland depots, thereby reducing delays in processing transshipment requests. Under the National Highways Development Project a major effort is underway to connect New Delhi, Mumbai, Calcutta and Chennai (the "Golden Quadrilateral") via express highways. In Bangalore, the Customs Commissioner introduced an e-payment gateway allowing corporate customers to pay customs duties online as of 2006. All these efforts are steps in the right direction, but to have greater impact these changes need to cover more geographical territory and their implementation needs to be accelerated.

Enforcing contracts

Commercial disputes before courts in India are among the most lengthy, costly and complex in South Asia and globally—resulting in a rank of 173rd on the ease of enforcing contracts. It takes 1,420 days to enforce a contract in India, compared with 969 days on average in South Asia, 351 days on average in OECD countries, 450 days in Malaysia and only 292 days in China. Court costs

FIGURE 2.11

Lengthy delays in courts across India

and attorneys' fees add up to 36% of the value of the claim. In China, they cost 27% of the claim and on average in South Asia 26.4%. And while it takes 56 procedures to enforce a contract in India, only 39 procedures are required on average in South Asia, 32 on average in East Asia, and 31 in China.

Within India, the shortest time needed to enforce a contract is in Bhubaneswar (610 days), Chennai (683 days) and Jaipur (754 days) and the longest time is in Mumbai (1,420 days) and Ranchi (1,165 days) (figure 1.11). Contract enforcement costs the least in Bhubaneswar (15% of the claim) and in Jaipur (16%) and the most in Mumbai (36%) and New Delhi (34%)—both large cities with high attorneys' fees.

Such high degrees of formalism in the courts are associated with less consistency, less honesty and less fairness in judicial decisions. And the long delays and high costs encourage firms to resolve disputes informally. Investment Climate Surveys conducted by the World Bank find that Indian firms do not choose to go to court to settle payment disputes unless absolutely necessary. While the fairness of the court system is less of an issue, the onerous procedures, delays and total costs are big deterrents.

What to reform

Very lengthy procedures and limited capacity of the judiciary in commercial law matters are the biggest obstacles to faster contract enforcement in India. The government could undertake judicial reforms to speed up court procedures, implement capacity building programs for judges and establish separate commercial courts. Although specialized courts currently exist for tax and certain employment matters, judges in the district courts still have to deal with a broad range of civil, criminal and commercial cases.

With the amendment of the Indian Code of Civil Procedure in 2002, evidence can now be exchanged faster and more easily. Limiting the number of interlocutory appeals is another way to decrease delays in the courts. Finally, improving the efficiency in the enforcement of judgments is also needed.

Closing a business

Insolvency procedures in India are among the most onerous in South Asia. India scores 133rd on the ease of closing a business. Going through bankruptcy takes 10 years—a tie with Chad for the longest time in the world. In South Asia, the time to go through bankruptcy on average is 4 years, in East Asia 2 years and in OECD countries 1 year.

Claimants can expect to recover less than 13 cents on the dollar in India, compared with an average of 20 cents in South Asia, 18 cents in Sub-Saharan Africa, 32 cents in China and 93 cents in Japan—the highest globally.

Currently, the Companies Act of 1956 governs liquidations. They are carried out by official liquidators (OLs), who follow cumbersome procedures that cause undue delay and thwart efficient outcomes. Directors typically retain possession of the company until an OL is appointed, and assets often dissipate in the interim. Creditors play a marginal role. Defaulting borrowers take refuge under Sick Industrial Companies Act (SICA) provisions in order to avoid payment to creditors. Moreover, courts and tribunals are often overburdened with a large caseload. Both the Company Court and the Board for Industrial and Financial Reconstruction (BIFR) tribunal lack adequate specialized resources.

Within India the shortest time to go through insolvency is roughly 8 years in New Delhi and Bangalore, and the longest time is in Lucknow (15 years) and Calcutta (20 years). The recovery rate is also the highest in Bangalore, at 20 cents on the dollar. The lowest recovery rate is in Calcutta at only 6 cents on the dollar.

What to reform

Insolvency reforms are underway. When it takes effect, the Companies (Second Amendment) Act, 2002, will eliminate a number of deficiencies that have led to the failure of the SICA and BIFR. It will remove the much abused statutory moratorium under SICA, and will set up a National Company Law Tribunal (NCLT) consisting of qualified people to preside over rehabilitation and liquidation matters. It furthermore contains provisions that will prevent future misuse of SICA.

However, the Second Amendment falls short of ensuring an effective insolvency regime in India. The amendment will give creditors only a limited role in rehabilitation and liquidation proceedings. It does not define the necessary qualifications and competencies of insolvency practitioners outside those working at the NCLT, and there are no provisions to deal with cross border insolvency complications. The J.J. Irani Committee reviewed the Second Amendment's provisions and recommended significant reforms to the Companies Act. Implementing these would further improve the system. In addition, the government needs to allocate sufficient resources to the implementation of the reforms and put in place an education and certification program for OLs, judges and other participants to build specialized knowledge in bankruptcy.