

A Project Benchmarking the Regulatory Cost of  
Doing Business in 145 economies

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SEPTIEMBRE DE 2004**

**Doing Business in 2005  
LAC Region  
Regional Profile**

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## LAC Region

### Introduction

A vibrant private sector—with firms investing, creating jobs, and improving productivity—promotes growth and expands opportunities for poor people. That is why governments around the world have implemented wide-ranging reforms, including macro-stabilization programs, price liberalization, privatization, and opening to foreign trade. In many countries, however, entrepreneurial activity remains limited, poverty high, and growth stagnant. And other countries have spurned orthodox macro reforms and done well. How so?

Although macro policies are unquestionably important, there is a growing consensus that the quality of government regulation of business and the institutions that enforce this regulation are a major determinant of prosperity. Hong Kong (China)'s economic success, Botswana's stellar growth performance, and Hungary's smooth transition experience have all been stimulated by a good regulatory environment. But there is little work measuring specific aspects of regulation and analyzing their impact on economic outcomes, such as productivity, investment, informality, corruption, unemployment, and poverty. The lack of systematic knowledge prevents policymakers from assessing how good their legal and regulatory systems are and how to design and sequence reforms.

*Doing Business in 2005: Removing Obstacles to Growth* is the second in a series of annual reports investigating the scope and manner of regulations that enhance business activity and those that constrain it. New quantitative indicators on business regulations and their enforcement can be compared across 145 countries—from Albania to Zimbabwe—and over time. The indicators are used to analyze economic outcomes and identify what reforms have worked, where, and why.

The indicators presented and analyzed in *Doing Business* emphasize domestic, small and medium sized companies, which comprise the vast majority of firms, investment and employment in developing countries. Two types of indicators are constructed. First, measures of actual regulations—for example the number of procedures to register a business or an index of employment law rigidity. Second, measures of regulatory outcomes, such as the time and cost to register a business, enforce a contract, or go through bankruptcy.

The methodology is based on detailed assessments of laws and regulations, and surveys of in-country government officials, lawyers, legal consultants, and other professionals involved in administering, or advising on, legal and regulatory requirements. This methodology offers several advantages. It is based on factual information. The data collection process is transparent and easily replicable. It allows multiple interactions with the local respondents, ensuring accuracy by clarifying possible misinterpretations of the survey questions. It is relatively

inexpensive to administer and as a result the data can be produced for a large sample of countries. And because the same standard assumptions are applied in collection, the data enable valid cross country comparisons and benchmarking.

Most importantly, the analysis has direct relevance for policy reform. Two features facilitate this. First, Doing Business studies the effects of the indicators on economic and social outcomes. This enables policy makers to understand better how particular laws and regulations affect employment, access to credit, the size of the informal economy, entry of new firms, corruption, and poverty.

Second, beyond highlighting the areas for policy reform, the analysis provides guidance on the specific design of reforms. The data provide a wealth of detail on which specific regulations and institutions enhance or hinder business activity, what the biggest bottlenecks causing bureaucratic delay are, and how costly compliance with regulation is. Each indicator set is supported by a library of current laws, and a file specifying what regulatory reforms are underway. After reviewing their country's Doing Business indicators, governments can identify where they lag behind and understand what to reform.

The initial data covered in the database and included in this region profile are:

- Starting a Business: Entry Regulations
- Hiring and Firing Workers: Employment Regulations
- Registering Property: Regulations of Property Transfers
- Getting Credit: Legal Rights and Credit Information
- Protecting Investors: Corporate Governance
- Enforcing a Contract: Court Efficiency
- Closing a Business: Bankruptcy

A full set of topics will be built over a period of three years. New topics will include business licensing and inspections, taxation, and trading across borders. Once published, each topic will be updated annually. The data published here are benchmarked to January 2004.

The data set covers 145 economies. The sample includes 22 high-income OECD economies as benchmarks, 33 from Africa, 22 from East Asia and the Pacific region, 26 economies from Europe and Central Asia, 21 from Latin America, 14 from the Middle East and North Africa and 7 from South Asia. The sample covers every economy with a population greater than 1.5 million, except for six economies that are not members of the World Bank or are inactive International Development Association borrowers. It also includes 9 Pacific Islands, Bhutan and the Maldives. Inclusion of other economies with less than 1.5 million population may be considered on a case by case basis upon request by Governments or World Bank departments.

The following pages present the summary Doing Business indicators for the LAC Region. Further information is available in the full report *Doing Business in 2005: Removing Obstacles to Growth*, which presents the indicators, analyses their relationships with economic outcomes and recommends reforms. The data, and information on ordering the report, is also available online at <http://rru.worldbank.org/doingbusiness>.

## Starting a Business: Entry Regulations

When an entrepreneur draws up a business plan and tries to get underway, the first hurdles that need to be overcome are the bureaucratic and legal procedures to incorporate and register the new firm.

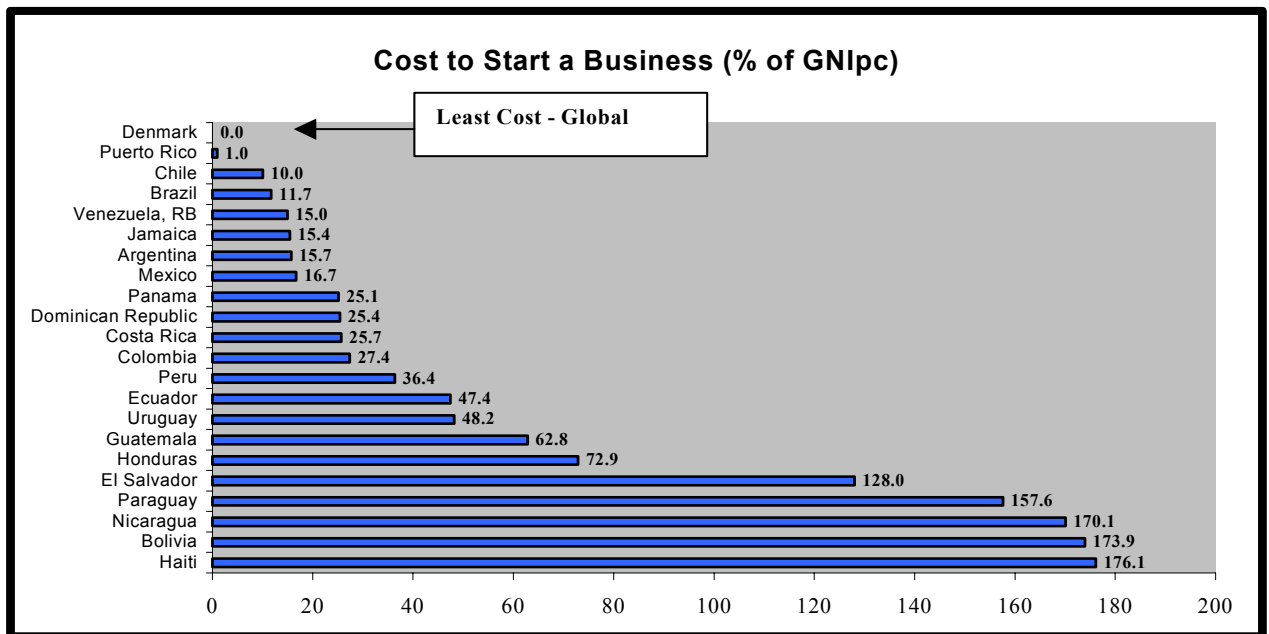
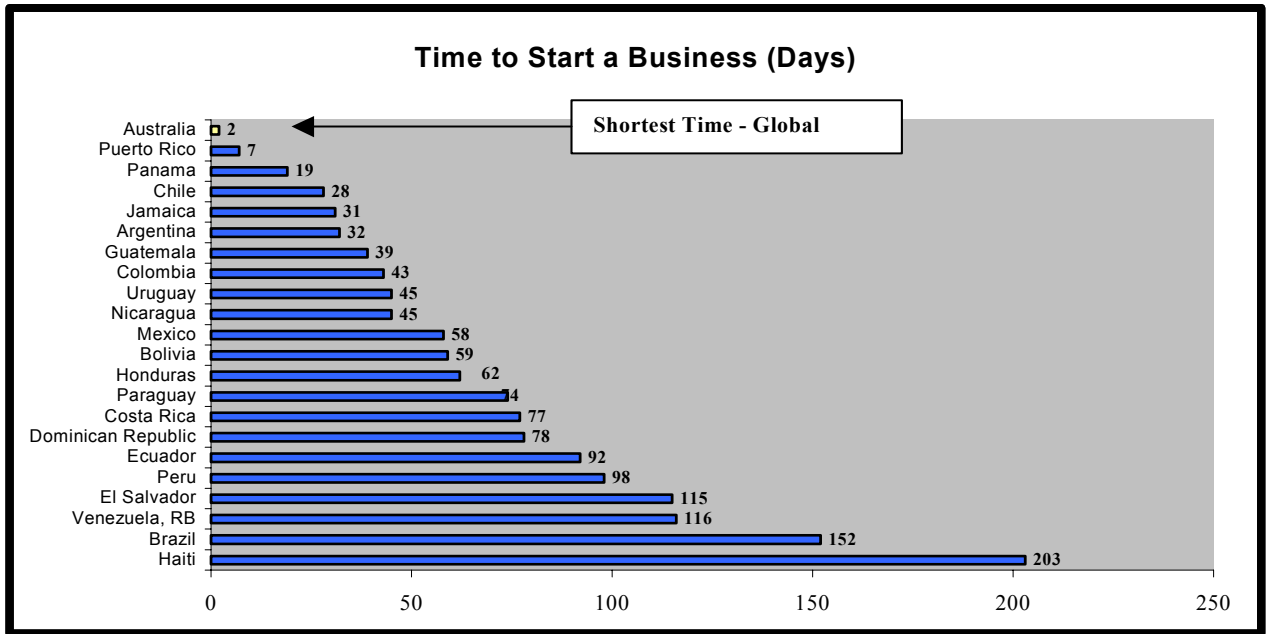
Economies differ significantly in the way in which they regulate the entry of new businesses. In some economies the process is straightforward and affordable. In others, the procedures are so burdensome that entrepreneurs have to bribe officials to speed up the process or they would rather run their business informally.

The entry data is based on a survey that investigates the required procedures for an average small-medium sized company needs to start operation legally. This includes obtaining all necessary permits and licenses, and completing all the required inscriptions, verifications and notifications with all requisite authorities to enable the company to start operation. The survey calculates the costs and time necessary for fulfilling each procedure under normal circumstances, as well as the minimum capital requirements to operate. The assumption is that information is readily available to the entrepreneur and that all government and non-government entities involved in the process function efficiently and without corruption.

To make the data comparable across countries, the indicators track the procedures for a standardized company to register a business formally. Detailed assumptions about the type of business are applied. Among these, it is assumed that the business: is a limited liability company conducting general commercial activities in the capital city; that it is 100% domestically owned, with start up capital of 10 times income per capita, turnover of 100 times income per capita and between 5 and 50 employees; and that it does not qualify for any special benefits nor does it own real estate. Similarly detailed assumptions about the type of procedures are made, including that: procedures are only recorded where interaction is required with an external party; the founders complete all procedures themselves; voluntary procedures are not measured; non-mandatory lawful shortcuts are counted; and industry specific requirements and utility hook-ups are not measured.

Across countries, cumbersome entry procedures are associated with more corruption, particularly in developing countries. Each procedure is a point of contact—an opportunity to extract a bribe. Empirical analysis shows that burdensome entry regulations do not increase the quality of products, make work safer, or reduce pollution. They hold back private investment, push more people into the informal economy, increase consumer prices and fuel corruption.

## Benchmarking—Entry Regulation LAC Region —Compared to Global Best



Source: Doing Business Database.

## **Hiring and Firing Workers: Employment Regulation**

Every economy has established a complex system of laws and institutions intended to protect the interests of workers and to guarantee a minimum standard of living for its population. This system encompasses four bodies of law: employment laws, industrial relations laws, occupational health and safety laws, and social security laws. Doing Business examines government regulation in the areas of employment laws.

Two measures are presented: an employment regulation index and a cost of firing measure. The employment regulation index is an average of three sub-indices: flexibility of hiring, rigidity of hours, and flexibility of firing. Each index takes values between 0 and 100, with higher values implying more rigid regulation. Flexibility of hiring covers the availability of part-time and fixed-term contracts and the minimum wage relative to the average value added per worker. Rigidity of hours covers restrictions on weekend and night work, working time requirements, and mandated days of annual leave with pay. Flexibility of firing covers workers' legal protections against dismissal, including the grounds for dismissal, and procedures for dismissal (individual and collective). A cost of firing indicator measures the cost of advance notice requirements, severance payments and penalties due when firing a worker, expressed in terms of weekly wages.

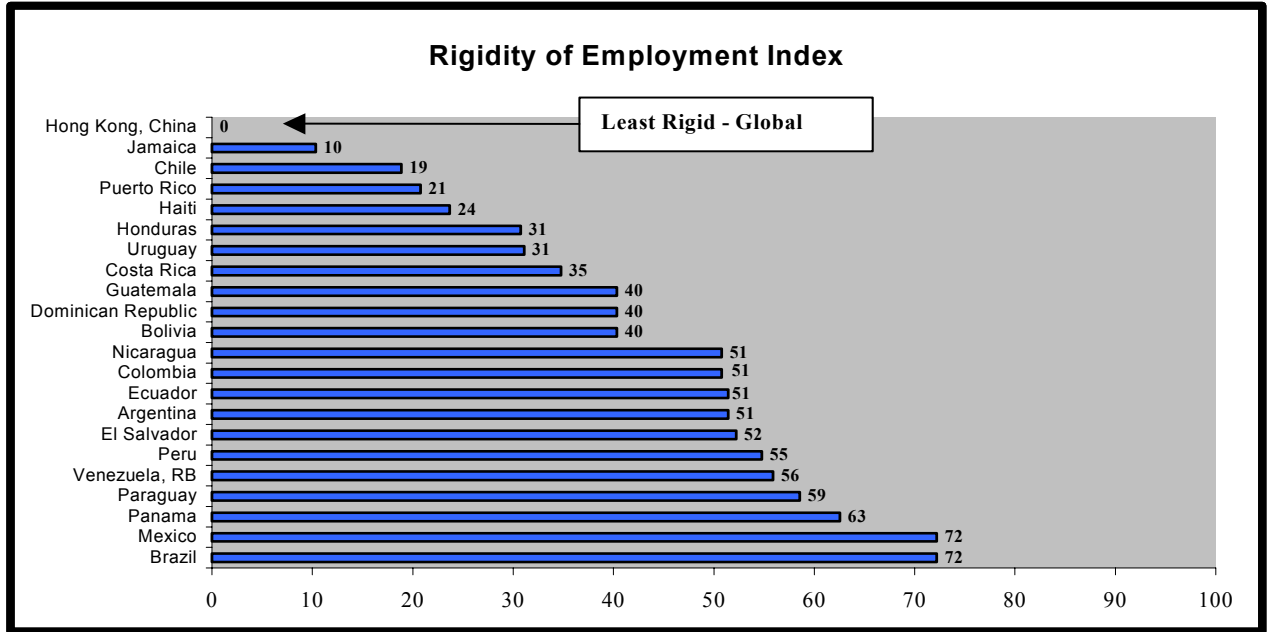
The indicators on employment regulations are based upon a detailed study of employment laws. Data are also gathered on the specific constitutional provisions governing these two areas. Both the actual laws and a secondary source were used to ensure accuracy. Finally, all data are verified and completed by local law firms through a detailed survey on employment regulations.

To make the data comparable across countries, a range of assumptions about the worker and the company are applied. Assumptions on the worker include that he is a non-executive full-time employee in the same company for 20 years, has a non-working wife and two children and is not a member of the labor union (unless membership is mandatory). It is assumed that the company is a limited liability manufacturing corporation that operates in the country's most populous city. It is 100% domestically-owned, and has 201 employees.

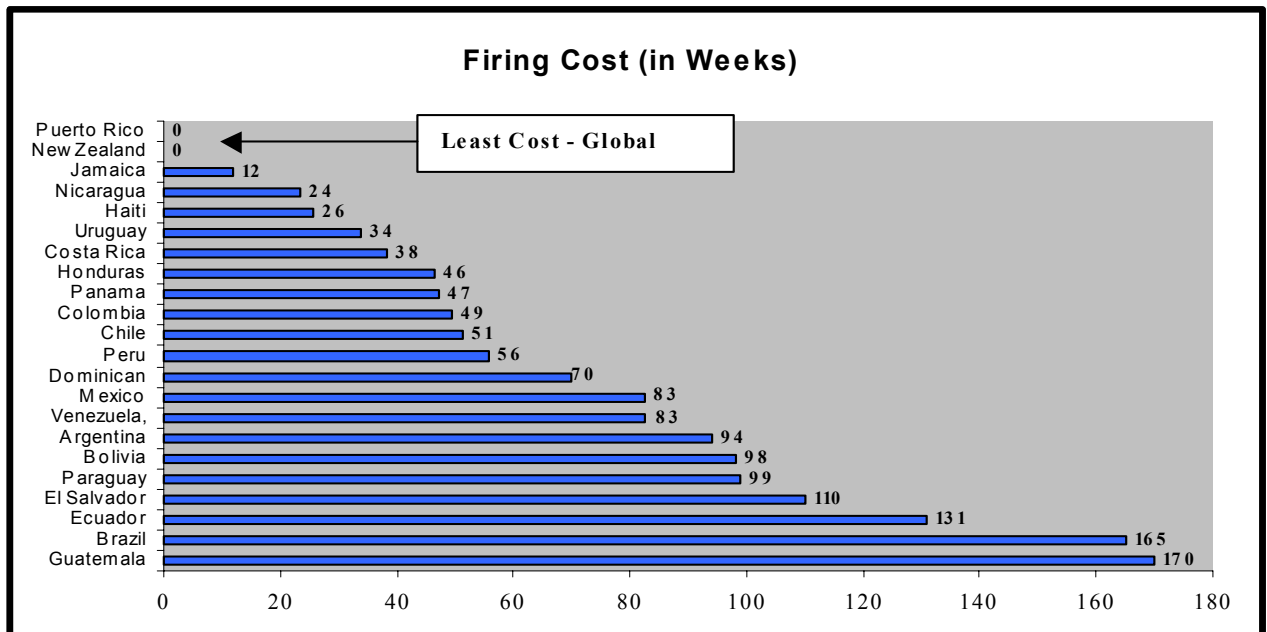
Although most employment regulations are enacted in responses to market failures, it does not mean that today's regulations are optimal. Analysis of the indicators across countries shows that while employment regulation generally increases the tenure and wages of incumbent workers, strict regulatory intervention has many undesirable side-effects, including less job creation, longer unemployment spells and the related skill obsolescence of workers, less R&D investment and smaller company size—all of which may reduce productivity growth. And with fewer job opportunities in the formal economy, the expansion of an unofficial sector becomes inevitable.

## Benchmarking—Employment Regulation

LAC Region —Compared to Global Best



\* Another country that offers the least rigid conditions globally is Singapore.



Source: Doing Business Database.



## Registering Property

Property registries were first developed to help raise tax revenue. Defining and publicizing property rights through registries has proven good for entrepreneurs as well. Land and buildings account for between half and three-quarters of country wealth in most economies. Securing rights to this property strengthens incentives to invest and facilitates trade. And with formal property titles, entrepreneurs can obtain mortgages on their homes or land and start businesses.

Doing Business measures the ease of registering property, assuming a standardized case of an entrepreneur who wants to purchase land and building in the largest business city. It is assumed the property is already registered and free of title dispute. The data cover the full sequence of procedures necessary to transfer the property title from the seller to the buyer. Every required procedure is included, whether it is the responsibility of the seller, the buyer, or where it is required to be completed by a third party on their behalf.

Local property lawyers and property registries provide information on required procedures, as well as the time and the cost to fulfill each of them. In most countries, the data are based on responses by both lawyers and officials in the property registries.

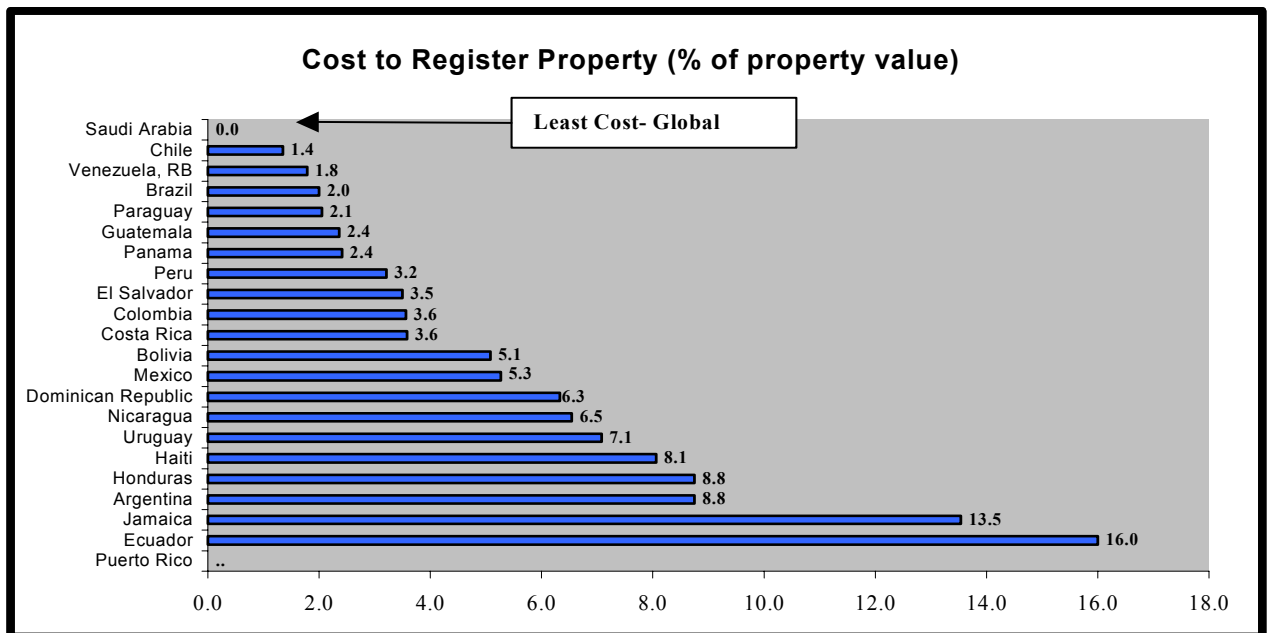
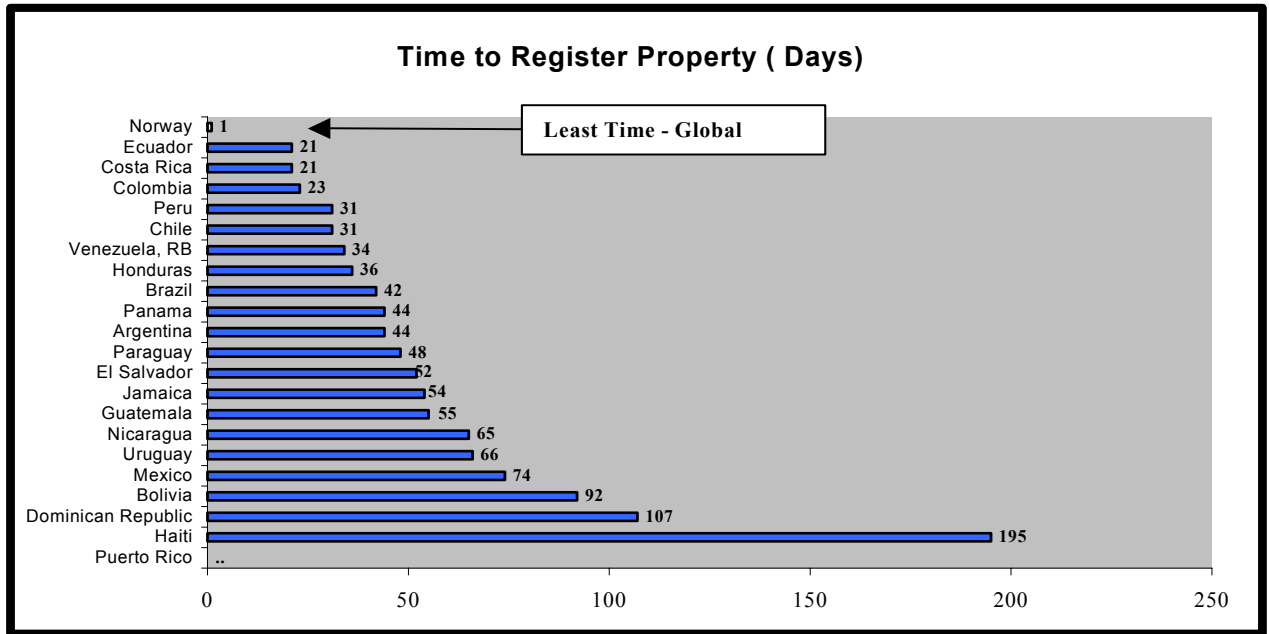
Based on the responses, three indicators are constructed:

- Number of procedures to register property
- Time to register property (in calendar days)
- Official costs to register property (as a percentage of the property value)

A large proportion of property in developing countries is not formally registered, limiting the financing opportunities for businesses. Recognizing these bottlenecks, governments have embarked on extensive property titling programs in developing countries. Yet bringing assets into the formal sector is of little value unless they stay there. Many titling programs in Africa were futile because people bought and sold property informally—neglecting to update the title records in the property registry. Why? Doing Business shows that in the average African country a simple formal property transfer in the largest business city costs 14% of the value of the property and takes more than 100 days. Worse, the property registries are so poorly organized that they provide little security of ownership. For both reasons, formalized titles quickly go informal again.

Efficient property registration reduces transaction costs and helps keep formal title from slipping to informal status. Simple procedures to register property are also associated with more perceived security of property rights and less corruption. This benefits all entrepreneurs, especially small ones. The rich have few problems protecting their property rights. They can afford the costs of investing in security systems and other measures to defend their property. But small entrepreneurs cannot. Reform can change this. Across countries, firms of all sizes report that their property rights are better protected in countries with more efficient property registration. But the relationship is much stronger for small firms

**Benchmarking— Registering Property**  
**LAC Region —Compared to Global Best**



## Getting Credit: Legal Rights & Credit Information

Access to credit is consistently rated by firms as one of the greatest barriers to operation and growth. Two sets of indicators, on credit information registries and legal rights, are covered by the database.

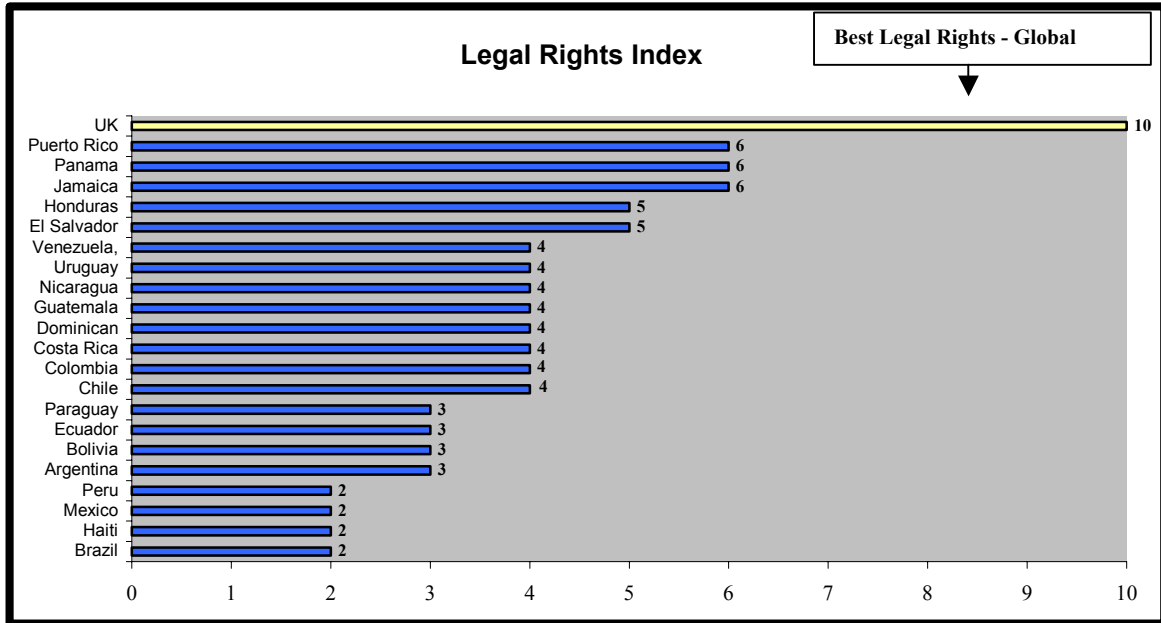
Access to credit may be expanded significantly by credit registries - institutions that gather and disseminate information on credit histories. The information-sharing role of credit registries helps lenders to assess risk and allocate credit more efficiently, which means that entrepreneurs don't need to rely on only personal relations when trying to obtain credit. The indicators report whether public credit registries or private credit bureaus operate and the amount of credit information they cover. An index of the extent to which the rules of credit information registries facilitate lending is constructed on the basis of: scope of information distributed; ease of access to information and quality of information. The data were obtained from surveys of public and private credit registries.

Effective regulations on secured lending - through collateral and bankruptcy laws- are another institutional solution to credit constraints. With collateral, a lender can seize and sell the borrower's secured assets upon default of a loan, which limits the potential losses of a lender and acts as a screening device of borrowers.

The legal rights indicator measures ten powers of borrowers and creditors in collateral and bankruptcy laws, including whether: general rather than specific descriptions of assets and debt are permitted in collateral agreements (expanding the scope of assets and debt covered); any legal or natural person may grant or take security over business credits; a unified registry including charges over movable property operates; security provides priority both in and outside bankruptcy; parties may agree on enforcement procedures by contract; creditors may both seize and sell collateral out of court, no automatic stay or "asset freeze" applies upon bankruptcy, and the bankrupt debtor does not retain control of the firm. A minimum score of 0 represents weak legal rights and the maximum score of 10 represents strong legal rights. Data were obtained from by examining collateral and bankruptcy laws and legal summaries, and verified through a survey of financial lawyers.

These two measures are important indicators of well functioning credit markets. Across countries, stronger legal rights and more information sharing are associated with deeper credit markets and lower default rates. Firms in countries with credit registries and strong legal rights are less likely to report obstacles to obtaining finance. And the overall link between the development of financial markets and growth is well established.

**Benchmarking—Legal Rights Indicator**  
**LAC Region —Compared to Global Best**



\* Other countries that offer the most protection globally are Singapore and the United States

Source: Doing Business Database.

## Benchmarking - Credit Information Indicators

LAC Region –Compared to Global Best

Country	Public registry coverage (borrowers/1000 adults)	Private bureau coverage (borrowers/1000 adults)	Credit Information Index (0-6)
<b>Portugal</b>	<b>637 (highest coverage)</b>	<b>79</b>	<b>5</b>
<b>United States *</b>	<b>0</b>	<b>1000 (highest coverage)</b>	<b>6</b>
<b>Chile</b>	<b>290</b>	<b>220</b>	<b>6</b>
<b>Venezuela, RB</b>	<b>286</b>	<b>0</b>	<b>4</b>
<b>Argentina</b>	<b>201</b>	<b>733</b>	<b>6</b>
<b>El Salvador</b>	<b>198</b>	<b>823</b>	<b>5</b>
<b>Peru</b>	<b>143</b>	<b>271</b>	<b>6</b>
<b>Ecuador</b>	<b>124</b>	<b>0</b>	<b>5</b>
<b>Bolivia</b>	<b>96</b>	<b>0</b>	<b>4</b>
<b>Paraguay</b>	<b>90</b>	<b>No data</b>	<b>6</b>
<b>Brazil</b>	<b>78</b>	<b>425</b>	<b>6</b>
<b>Uruguay</b>	<b>72</b>	<b>756</b>	<b>5</b>
<b>Nicaragua</b>	<b>62</b>	<b>0</b>	<b>5</b>
<b>Honduras</b>	<b>61</b>	<b>0</b>	<b>3</b>
<b>Costa Rica</b>	<b>10</b>	<b>1000</b>	<b>5</b>
<b>Haiti</b>	<b>3</b>	<b>0</b>	<b>3</b>
<b>Puerto Rico</b>	<b>0</b>	<b>643</b>	<b>5</b>
<b>Panama</b>	<b>0</b>	<b>530</b>	<b>5</b>
<b>Mexico</b>	<b>0</b>	<b>382</b>	<b>6</b>
<b>Colombia</b>	<b>0</b>	<b>300</b>	<b>4</b>
<b>Guatemala</b>	<b>0</b>	<b>124</b>	<b>4</b>
<b>Jamaica</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Dominican Republic</b>	<b>No data</b>	<b>294</b>	<b>5</b>

\* Other countries that offer the most coverage globally include Canada, Ireland, Republic of Korea, Norway and the United Kingdom.

\* The index measures whether either public or private credit registries have: both positive information, meaning loans outstanding and payment behavior on accounts in good standing—as well as negative information, meaning defaults and arrears; data on both firms and individuals; data from retailers, utilities and financial institutions; five or more years of historical data preserved, data on all loans above 1% of income per capita, legal guarantees for the consumer's right to inspect their data. The index varies between 0 and 6, with higher values indicating broader information sharing.

Source: Doing Business Database.

## Protecting Investors: Corporate Governance

Enron, Parmalat, Bank of Credit and Commerce International are high profile cases of failures in corporate governance in rich countries. But good corporate governance is just as relevant for entrepreneurs in poor countries that seek equity from business partners. Potential investors everywhere worry about expropriation by controlling owners or managers. Whether in rich or poor countries, the same principles of good corporate governance apply.

Preventing expropriation and exposing it when it occurs, requires legal protection of shareholders, enforcement capabilities, and—the focus of *Doing Business in 2005*—disclosure of ownership and financial information. Whether small investors decide to go to the court, file a complaint with the regulator or feed the information to the media and embarrass the insider, better information disclosure helps.

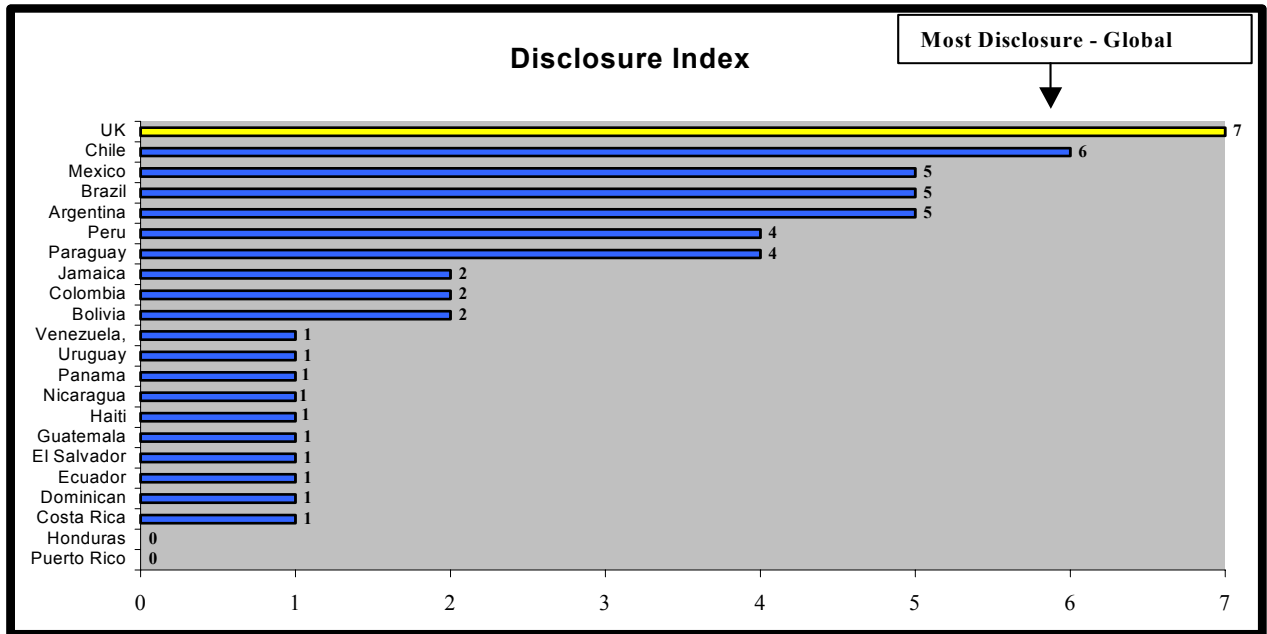
The database presents an index of disclosure that captures seven ways of enhancing disclosure: whether laws and regulations require reporting (i) family, (ii) indirect and (iii) beneficial ownership; (iv) disclosing information on voting agreements between shareholders; (v) audit committees reporting to the board of directors; (vi) use of external auditors; and (vii) ownership and financial information is publicly available to all current and potential investors. The index varies between 0 and 7, with higher values indicating more disclosure.

The data come from a survey of corporate and securities lawyers and are based on relevant corporate governance laws and regulations applicable to a standard company. Only general rules—as opposed to those applicable to companies within a particular industry—are considered. In building the data, the highest available level of disclosure is taken into account, reflecting the notion that small investors can put their money in public or private equity. In countries where stock exchange regulations and securities laws are in force, the disclosure index assesses these regulations. In other countries, the disclosure requirements come from the company law. So the indicators are relevant for private companies as well as publicly listed ones.

To make the data comparable across countries, the survey outlines several detailed assumptions about the type of company, including that the company: has a board of directors and a chief executive officer, has only national shareholders, has only invested in the country and has no subsidiaries or operations abroad, and is not involved in the banking, power, telecommunications or insurance industries or any other industry with special regulations.

Investors benefit greatly from better disclosure. So do entrepreneurs. More disclosure is associated with larger equity markets, higher stock turnover and fewer perceived obstacles to obtaining equity finance. If expropriation remains unpunished, few would dare invest in business partnerships or publicly listed companies. The result: businesses would not reach efficient size for lack of financing, and economic growth would be held back.

**Benchmarking—Corporate Governance**  
**LAC Region —Compared to Global Best**



\* Other countries that offer the most disclosure globally are Canada, Israel , Spain and the United States.

\* The index captures seven ways of enhancing disclosure: whether laws and regulations require reporting (i) family, (ii) indirect and (iii) beneficial ownership; (iv) disclosing information on voting agreements between shareholders; (v) audit committees to the board of directors; (vi) use of external auditors; and (vii) ownership and financial information is publicly available to all current and potential investors. The index varies between 0 and 7, with higher values indicating more disclosure.

Source: Doing Business Database.

## Enforcing Contracts: Court Efficiency

Contract enforcement is critical for businesses to engage with new borrowers or customers. The institution that enforces contracts between debtors and creditors, suppliers and customers is the courts. In many countries around the world, courts are slow, inefficient, and even corrupt. The evidence here tracks the differences in the efficiency of contract enforcement, looking at simple transactions of relevance to the average firm in everyday business activity.

The indicators on contract enforcement are constructed assuming a standardized case of a payment dispute over 200% of income per capita in the country's most populous city. The data track the procedures to recover the debt through the courts. It is assumed that the plaintiff has fully complied with the contract (plaintiff is 100% right) and files a lawsuit to recover the debt. The debtor attempts to delay and raises opposition to the complaint. The judge decides every motion for the plaintiff. There are no appeals or post-judgment motions. The data are derived from reading of the Codes of Civil Procedures and other court regulations, as well as administering surveys to local litigation attorneys. The respondents are members of the Lex Mundi or Lex Africa association of law firms, with at least two lawyers participating in each country.

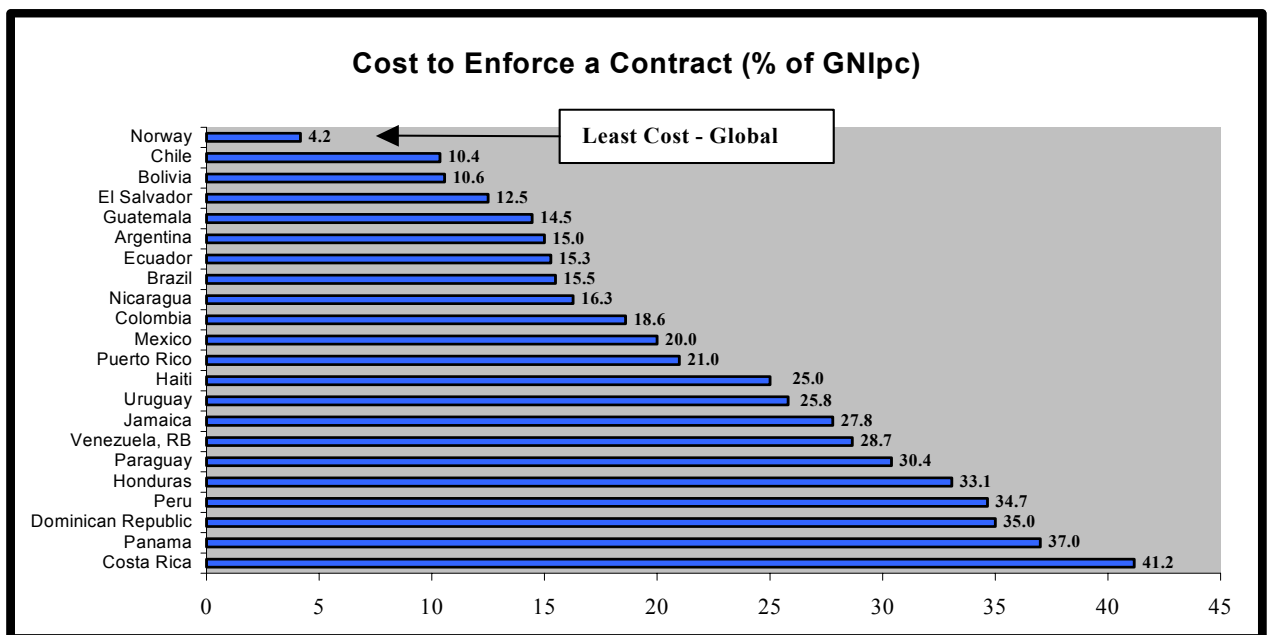
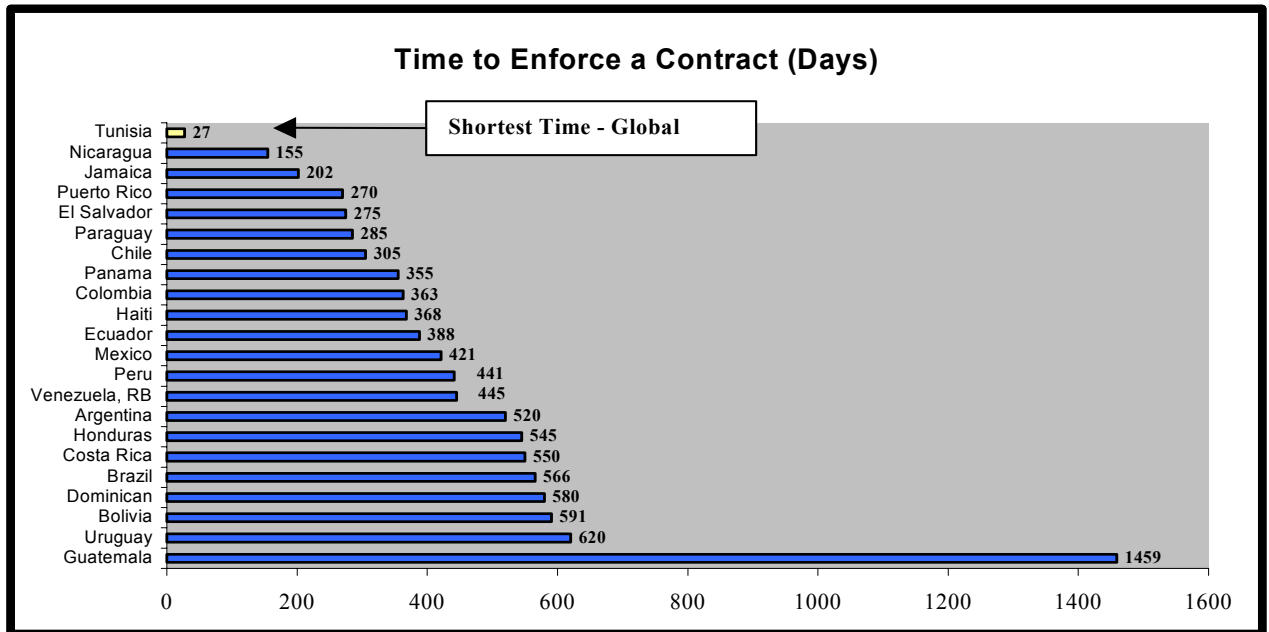
Based upon the survey responses, three indicators of the efficiency of commercial contract enforcement are developed. The first indicator is the number of procedures, mandated by law or court regulation, that demand interaction between the parties or between them and the judge or court officer. The second indicator of efficiency is the time—in calendar days—of dispute resolution. Time is measured as the number of days counted from the moment the plaintiff files the lawsuit in court, until the moment of settlement or, when appropriate, payment. This measure includes both the days where actions take place and waiting periods between actions. The third indicator is the official cost of going through court procedures. The cost includes court costs and attorney fees.

Companies that have little or no access to efficient courts must rely on other mechanisms—both formal and informal, such as trade associations, social networks, credit bureaus or private information channels—to decide whom to do business with and under what conditions. Companies may also adopt conservative business practices and deal only with repeat customers. Transactions are then structured to forestall disputes. Whichever alternative is chosen, economic and social value may be lost. The main reason to regulate procedures in commercial dispute resolution is that informal justice is vulnerable to subversion by the rich and powerful. But heavy regulation of dispute resolution has negative consequences. Across countries, the more procedures it takes to enforce a contract, the longer the delays and the higher the cost. Moreover, higher levels of complexity in the procedures to enforce a contract are associated with perceived unfairness, corruption, inconsistency and dishonesty in the judiciary.



## Benchmarking—Contract Enforcement

LAC Region —Compared to Global Best



Source: Doing Business Database.

## **Closing a Business: Bankruptcy**

Recent economic crises in emerging markets, from East Asia, to Latin America, to Russia and Turkey, have raised concerns about the design of bankruptcy systems and the ability of such systems to help reorganize viable companies and close down unviable ones. In countries where bankruptcy is inefficient, unviable businesses linger around for years, not allowing assets and human capital to be reallocated to more productive uses. Most often, the bottlenecks in bankruptcy are associated with an inefficient judicial process, and hence the unwillingness of banks and other lenders to push for a formal bankruptcy resolution.

In this set of indicators, the focus is on identifying weaknesses in the bankruptcy law, as well as the main procedural and administrative bottlenecks in the bankruptcy process. In many developing countries, bankruptcy is so inefficient that creditors hardly ever use it. In such countries, policy reform would best focus on improving contract enforcement outside of bankruptcy.

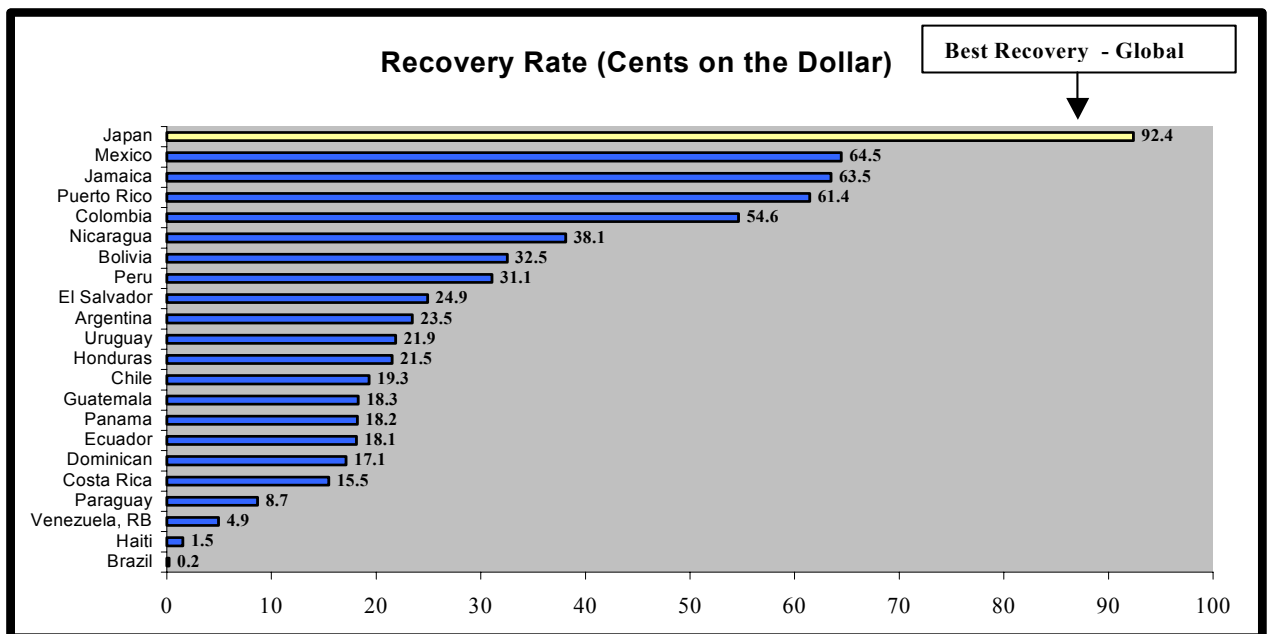
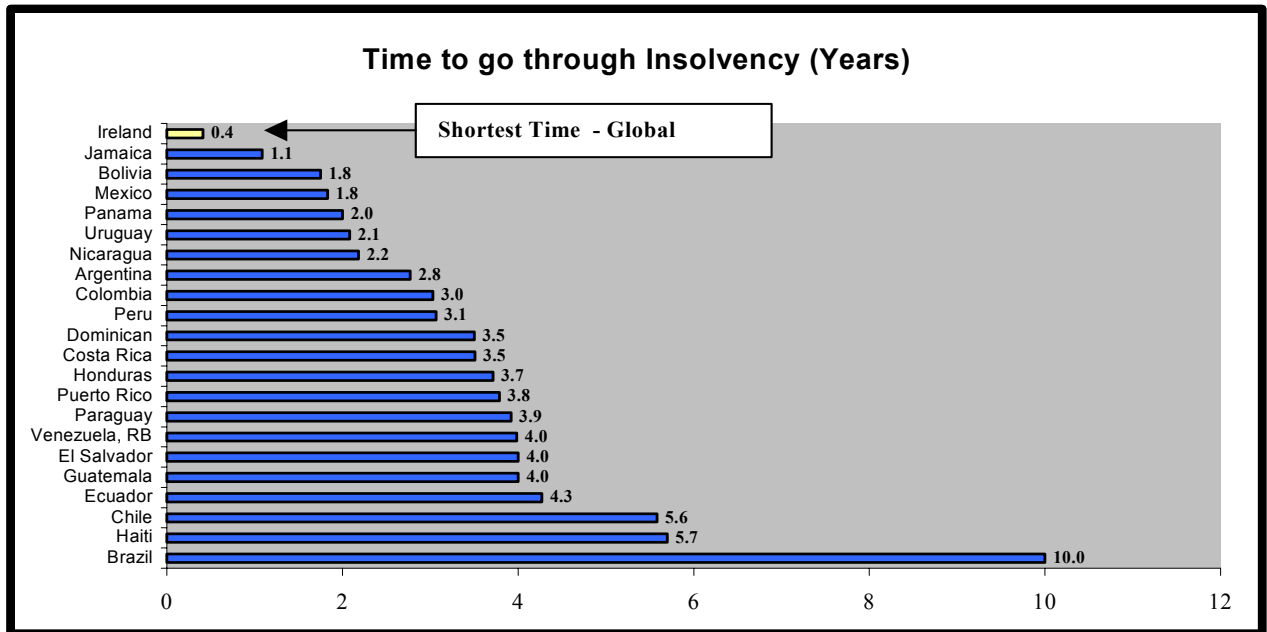
The indicators are derived from questionnaires answered by attorneys at private law firms and bankruptcy judges. Most respondents are members of the International Bar Association.

The data track the step-by-step procedures for a standardized company to go through the bankruptcy process. It is assumed that the company is a domestically owned limited liability corporation, operating a hotel in the most populous city. The company has 201 employees, 1 main secured creditor and 50 unsecured creditors. Detailed assumptions about the debt structure and future cash flows are made. It is assumed that the company becomes insolvent on January 1. The case is designed so that the company has a higher value as a going concern—that is, the efficient outcome is either reorganization or sale as a going concern but not piecemeal liquidation.

Three indicators were constructed from the survey responses: the time and cost to go through the insolvency process, and a measure of the proportion of the insolvency estate recovered by stakeholders – taking into account the time, cost, depreciation of assets and the outcome of the insolvency proceeding.

Countries with ill-functioning judiciaries are better off without sophisticated bankruptcy systems. There is a general misperception that bankruptcy laws are needed to enforce creditor rights. In practice, the laws usually exacerbate legal uncertainty and delays in developing countries. Private negotiations of debt restructuring under contract law, the efficient enforcement of secured debt contracts outside insolvency under collateral law, through summary judgments and private enforcement will do better. Bankruptcy law is often oriented towards closing down unviable companies. But sometimes the bias toward discontinuing the business may lead to the premature liquidation of companies in temporary distress—and a loss of value to society.

## Benchmarking—Bankruptcy LAC Region —Compared to Global Best



Source: Doing Business Database.