The IOE welcomes this opportunity to discuss ILO standards and how they do – or do not – relate to the World Bank’s approach to employment creation, particularly as articulated through its series of Doing Business reports and the indicators on which these reports are based. To help inform the Governing Body discussion, the IOE suggests five key points for consideration:

1. The World Bank’s Doing Business project speaks to the relationship between economic development, regulation, and employment creation;

2. The indicators on employing workers relate to four ILO standards only;

3. Doing Business promotes an approach to labour legislation that balances flexibility and worker security;

4. Doing Business suggests ways to reduce the informal economy, where workers have no protections;

5. Doing Business has not led to changes in labour legislation to the detriment of workers;

We conclude by suggesting ways to move the debate forward.

1) The Relationship Between Development, Regulation, and Job Creation

“An environment that supports investment, growth and entrepreneurship is essential to the creation of new job opportunities.” This quotation is from a 2006 Ministerial Declaration of the U.N. Economic and Social Council. It reflects the consensus expressed in a wide range of internationally agreed declarations on the relationship between appropriate policy and regulatory frameworks, business formation, and employment.

A good regulatory environment for business does not mean no regulation. Countries with excellent business climates are not characterized by lack of rules, any more than heavier business regulation is associated with better social outcomes. All successful economies regulate, but they seek to do so in ways that are appropriate to their circumstances and least costly and burdensome to their businesses. Sometimes this may require simplifying laws and regulations; sometimes dismantling them. In this context, the World Bank’s Doing Business reports provide a valuable service in shedding light on those aspects of business regulatory environments that are conducive to doing business and those that are not.
The reports have been particularly useful in identifying where regulations hurt female workers and shine light on explicit discrimination in laws such as where women are forbidden to work at night or register land or start a business without their husband’s permission. This will be the theme of Doing Business 2009.

Current academic thinking\(^1\) suggests the evidence from Latin America, India, and the OECD countries that rigid employment regulation is an obstacle to labour market entry and employment growth. However, there is insufficient evidence in Africa to support this assertion, chiefly because so few people are in the formal economy to begin with.

"(Doing Business 2008) serves as a reminder that one of the most compelling roles for the World Bank is to generate this sort of data, which is an expensive yet invaluable public good."

Financial Times, Sept. 26, 2007

2) The indicators on employing workers relate to four ILO standards only

There is no conflict between the World Bank’s Doing Business employing workers index (EWI) and the core labour standards. This index is based on a set of variables that measure the flexibility of regulations and not whether a country complies with any of the core labour standards. A country can both comply fully with all of the fundamental conventions and earn the top score on the EWI. This is the case with Georgia.

“There is no conflict between the Doing Business employing workers indicator and the ILO’s fundamental worker’s rights conventions.” (Paper presented to the International Finance Corporation Board of Directors, June 2007)

The methodology in the EWI examines a completely different set of issues. These are: (1) types of labour contracts, (2) whether there is a trainee wage, (3) work schedule and overtime restrictions, (4) rules governing redundancy termination, (5) non-wage labour costs (such as social security payments and payroll taxes) and (6) the cost of firing. These issues are covered in only four ILO conventions.

- Employment security: Termination of Employment Convention (No. 158), 1982;
- Working time: Weekly Rest (Industry) Convention (No. 14), 1921;
- Working time: Night Work Convention (No. 171), 1990;

Of the four ILO conventions relating to Doing Business variables many have very low ratification rates (e.g. No.171 on night work nine ratifications).

\(^{1}\) Please see link for full list of the 100 plus latest academic articles that use Doing Business to do such research (as of June 2007) http://www.doingbusiness.org/
3) **Doing Business promotes an approach to labour legislation that balances flexibility and worker security**

What the *Doing Business* indicators on employing workers do measure is red tape and labour market flexibility. Doing Business is consistent with a strong social security system and supports such systems as an alternative to overtly rigid employment regulation.

Many governments try to balance labour market flexibility and job security. Some reach a good balance. Others do not. *Doing Business* is useful in highlighting where labour legislation is acting as an obstacle to greater labour market participation.

For example, the report draws attention to where countries have protections that are simply unrealisable. Two examples can illustrate this point further. In Sierra Leone it costs an employer 189 weeks of severance pay to dismiss a worker. In Eritrea workers are entitled to 34 days paid vacation, the highest in the world. But the sad fact is that these protections apply only to a tiny percentage of the workforce (mainly public sector workers).

Such regulations therefore work to the detriment of both workers and employers, because they apply to so few people. In many countries, the vast majority of workers are forced by factors such as excessive regulation into the informal economy, where they have no rights or protections at all.

4) **Doing Business addresses the causes of informality where workers have no protections**

In general, countries with effective business regulations – those ranked highest on *Doing Business* – have small informal economies. Those with restrictive regulations – those ranked lowest – have informal economies larger than the formal economy. In Bolivia, the World Bank estimates that 400,000 workers have formal jobs in the private sector – out of a population of 8.8 million. In India, a country of 1.1 billion people, 30 million workers have such jobs. In Malawi, 50,000 out of a population of 12 million. In Mozambique, 350,000 in a country of 20 million.

In these countries, rigid or inappropriate labour regulations does, or at least contributes to doing, the exact opposite of what it was designed to achieve – it protects a few workers to the detriment of the workforce as a whole.

By helping countries to improve their business climates, *Doing Business* is helping workers move from the informal economy to the formal economy and thus to better labour protections. Following reforms in Mexico, the number of registered businesses jumped nearly 6% and employment increased by 2.6%. A study of the Peruvian economy has estimated that the size of the informal economy would drop from 60% of the economy to 37% if the regulations to start a business were as simple as those in a top ranking country. In addition to moving those workers into the formal economy and better protections, formal businesses hire four times as many workers as informal ones, leading to more new jobs.

5) **Doing Business has not led to a major overhaul of labour legislation to the detriment of workers**

With all the sharp attacks on *Doing Business* and the claims that it undermines labour rights around the world, one might expect that that most of the reforms from *Doing Business* concern labour regulations. In reality, the exact opposite is true. Of the 178 countries included in the *Doing
Business ranking, only twelve made significant changes to their labour codes in the period 2006-7. And of these, eight increased labour flexibility, while four made labour regulations more rigid. Nor is there any evidence that workers’ rights have been diminished by the changes.

What next

The Doing Business Reports are an invaluable tool to policy makers, but they are nonetheless only one tool, with limitations. The World Bank have continually sought to improve the quality of the variables used in the Doing Business Reports and the reports have been consequently updated and adapted. The Bank has specifically asked the ILO for assistance in respect of the Employers Workers Index.

1. The IOE recommends the ILO and World Bank collaborate more closely in the development of the Doing Business Employing Workers Index. We suggest that a tripartite delegation meet with the Bank at an early opportunity to elaborate modalities for collaboration.

2. We are encouraged by recent ILO and World Bank collaboration. We see the ILO’s policy coherence initiative as a useful vehicle in which to further joint research efforts. We see value in particular in joint research on compliance with ILO conventions.

Geneva, 16 November 2007

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2 For example: Employment security: Termination of employment Convention (158) (34 Ratifications) and its relationship with the Firing Cost Index (advance notice requirements, severance payments, penalties). For the purpose of calculating rankings Doing Business now only measures firing costs of more than 8 weeks of salary. A country can allow for 8 weeks in severance, notice or penalties and without lowering its rank on the ease of employing workers.