



UNITED STATES COUNCIL FOR
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Good Governance & the Rule of Law

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Business Priorities for the
U.N. Sustainable Development Goals

Good governance and the rule of law are essential preconditions for the fulfillment of the Post-2015 Sustainable Development Agenda and the proposed Sustainable Development Goals (SDGs) because they are prerequisites for peace and stability, without which societies cannot function, let alone flourish. The commitment to transparency and accountability inherent in good governance promotes the rule of law over corruption, allowing the many benefits of other sustainable development initiatives and economic inputs to reach those in society who most need to benefit from them. Business needs the stability and predictability of good governance to put down roots and flourish, stimulating growth and economic opportunities for others.

Good governance is also an essential attribute of a profitable, sustainable and responsible business enterprise. Securing the 'license to operate' and sustained growth require transparency and accountability in both business relationships with other enterprises and partnerships undertaken with government and civil society partners. Such partnerships at all levels of government and society will be essential to achieving the SDGs and the broader Post-2015 Development Agenda.

Executive Summary

Good governance and the rule of law are essential preconditions for the fulfillment of the Post-2015 Sustainable Development Agenda and the proposed Sustainable Development Goals (SDGs) because they are prerequisites for peace and stability, without which societies cannot function, let alone flourish. The commitment to transparency and accountability inherent in good governance promotes the rule of law over corruption, allowing the many benefits of other sustainable development initiatives and economic inputs to reach those in society who most need to benefit from them. Business similarly needs the stability and predictability of good governance to put down roots and flourish, stimulating growth and opportunities for others.

Measurable and sustained progress on all of the SDGs will only be achieved in those countries that have sufficient enabling conditions in place, such as transparent, participatory and accountable institutions governed by the rule of law and predictability in legal and regulatory frameworks, including clear and secure property rights, well-managed public administration and services and functioning judicial systems. For many economies overwhelmed by informality, achieving the SDGs will also depend on transitioning to more formal institutions, including robust provision of legal identity and business registration. If societies and the economic activity of their people cannot be 'seen' by the state, the state cannot strategically govern to better their lives.

Good governance is also an essential attribute of a profitable, sustainable and responsible business enterprise. Securing the 'license to operate' and sustained growth require transparency and accountability in both business relationships with other enterprises and partnerships undertaken with government and civil society partners. Such partnerships at all levels of government and society will be essential to achieving the SDGs and the broader Post-2015 Development Agenda.

U.S. business has unsurpassed ability to assemble people, capital, management and innovation and provide productive jobs, goods and services, but to catalyze the power of U.S. business to contribute to the Post 2015 Development Agenda, governments must rule with good governance. **USCIB offers 3 recommendations for international cooperation to strengthen governance in the public and private sectors and catalyze achievement for all the SDGs:**

- **Build capacity:** Prioritize strengthening and capacity building of national institutions tasked with implementing the U.N. post-2015 development agenda. We encourage the U.N. HLPF to hold periodic structured dialogues to share good practices and encourage public-private partnerships.
- **Combat informality:** Address informality to benefit individuals (civic identity) and businesses (title) thereby increasing their access to finance and providing governments with more robust data and an expanded tax basis with to govern.
- **Open Up Governance:** Engage business and other stakeholders in national and international sustainability governance. Substantive engagement by the private sector to inform agenda setting, policy formulation and implementation will complement government actions.

Business Priorities for the Post-2015 Sustainable Development Agenda: Good Governance & the Rule of Law

DEFINING GOOD GOVERNANCE & THE RULE OF LAW

Good governance starts from a recognition that the nation, institution or enterprise is operated for the benefit of others, with an obligation of accountability. Leaders are entrusted with authority to manage in order to deliver benefits to their citizens, recipients or shareholders, but they must have the courage, humility and self-control to put in place checks on their authority. In short, governments must be “epitomized by predictable, open and enlightened policy making; a bureaucracy imbued with a professional ethos; an executive arm of government accountable for its actions; and a strong civil society participating in public affairs; and all behaving under the rule of law.”¹

The United Nations defines the rule of law as “a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires, as well, measures to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency.”²

The World Development Report long ago identified the key elements of good governance: *Internal rules and restraints* (including internal accounting and auditing systems, independence of the judiciary and the central bank, civil service and budgeting rules); *“Voice” and partnership* (including mechanisms for public deliberation of proposed laws and the enabling of partnerships among different actors in society); and *Competition* (including competitive social service delivery and private participation in infrastructure).³

These attributes of good governance are ultimately reflected in the extent to which the security and prosperity of individuals is being well-served by their governments. At a bare minimum, good governance with accountability and transparency is a foundation for peace and stability, without which all of societies’ greater aims cannot be achieved. Indeed, because public services (such as in health, transport, and education) account for much of a country’s economic activity, effective public service delivery is integrally tied to economic growth.

¹ World Bank, *Governance: The World Bank’s Experience* (1994).

² Report of the Secretary-General, *The rule of law and transitional justice in conflict and post-conflict societies* (2004).

³ World Development Report (1997).

As the U.N. proceeds to enhance and upgrade its international cooperation and national action for development that is sustainable, business expects that the basic underpinnings of governance to be strengthened and integrated accordingly. Business also understands that its own governance practices need to be considered in this new emerging paradigm, both within individual companies' operations and as part of the international community.

GOOD GOVERNANCE & THE RULE OF LAW AS CATALYSTS FOR ACHIEVING THE U.N. POST-2015 SUSTAINABLE DEVELOPMENT AGENDA

The 17 Sustainable Development Goals currently proposed establish an ambitious agenda for humanity with the aim of improving all aspects of life in all countries, regardless of developmental status. All Member States' progress in development will be measured against these goals in the future.

While achieving these outcomes seems daunting, they will be far easier to reach and on a more expeditious schedule if they are accompanied by improvements to governance and the rule of law. Those countries that have accountable institutions and enabling conditions in place, including the close involvement of the private sector in meaningful ways, will see the most gains in achieving the SDGs' targets. On the contrary, the SDGs will *not* be achieved unless significant governance improvements are first implemented and continually refined.

Business applauds the outcome document of the Open Working Group for its inclusion of good governance and the rule of law as priorities in the Post-2015 Sustainable Development agenda. As the outcome document notes, Rio +20 reaffirmed the need for the post-2015 development agenda to be guided by, among other important principles, the rule of law and good governance as well as an overall commitment to just and democratic societies. Noting that "the role of national policies, domestic resources and development strategies cannot be overemphasized," the outcome document also emphasizes that "[g]ood governance and the rule of law at the national and international levels are essential for sustained, inclusive and equitable economic growth, sustainable development and the eradication of poverty and hunger."⁴ As the European Commission has noted, "high-quality, reliable public services and legal certainty were historically a major precondition for the economic success of today's front-runner countries."⁵ Conversely, "weak administrative capacity as well as legal uncertainty constitute key impediments in addressing economic development challenges."⁶

⁴ Outcome Document, Open Working Group, available at <http://sustainabledevelopment.un.org/focussdgs.html>

⁵ European Commission (2010) "Member States competitiveness performance and policies", An integrated Industrial Policy for the Globalisation Era Putting Competitiveness and Sustainability at Front Stage, Commission Staff Working Document, Accompanying document to the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Brussels, SEC(2010) 1272.

⁶ *Id.*

The current proposed SDGs themselves also highlight the importance of good governance in SDG 16, under which Member States should “[p]romote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels.” Business welcomes the specific targets proposed under SDG 16, which enumerate individual measurements and means of achieving the Goal. The link between these governance enhancements and achieving the rest of the SDGs is well accepted. For example, Mongolia developed a 9th MDG on “Strengthening Human Rights and Fostering Democratic Governance” because these were seen as necessary preconditions to achieving the other MDGs.⁷ Measurement along these and other targets and indicators will help all states stay on track towards achieving the SDGs.

MEASURING PROGRESS IN GOOD GOVERNANCE

There are several indices that measure progress on good governance. One set of indicators is the World Bank’s Worldwide Governance Indicators, six overarching measurements which aggregate the views of a variety of stakeholders, including businesses, citizens and experts in both developed and developing countries. The following six indicators are based on thirty-two individual data sources produced by a variety of survey institutes, think tanks, non-governmental organizations, international organizations, and private sector firms.⁸ Most of the World Bank’s indicators are accounted for in the Open Working Group’s outcome document’s draft SDGs and targets.

1. Voice and Accountability – capturing perceptions of the extent to which a country’s citizens are able to participate in selecting their government, as well as freedom of expression, freedom of association, and a free media.⁹

2. Political Stability and Absence of Violence – capturing perceptions of the likelihood that the government will be destabilized or overthrown by unconstitutional or violent means, including politically-motivated violence and terrorism.¹⁰

⁷ See UNDP Mongolia website: <http://www.mn.undp.org/content/mongolia/en/home/mdgoverview/>; see also Government of Mongolia, (2009), *The Millennium Development Goals Implementation: Third National Report*.

⁸ The WGI are based on a large number of different data sources, capturing the views and experiences of survey respondents and experts in the public and private sectors, as well as various NGOs. These data sources include: (a) surveys of households and firms (e.g. Afrobarometer surveys, Gallup World Poll, and Global Competitiveness Report survey), (b) NGOs (e.g. Global Integrity, Freedom House, Reporters Without Borders), (c) commercial business information providers (e.g. Economist Intelligence Unit, Global Insight, Political Risk Services), and (d) public sector organizations (e.g. CPIA assessments of World Bank and regional development banks, the EBRD Transition Report, French Ministry of Finance Institutional Profiles Database). See <http://info.worldbank.org/governance/wgi/index.aspx#faq-2>

⁹ These components of good governance are currently taken into consideration by several of the draft targets under the Goal 16 of the Open Working Group’s outcome document, particularly Target 16.6 (“develop effective, accountable and transparent institutions at all levels”) and Target 16.7 (“ensure responsive, inclusive, participatory and representative decision-making at all levels”).

¹⁰ These components of good governance are currently taken into consideration by several of the draft targets under proposed Goal 16, particularly proposed Target 16.1 (reducing violence) and means of implementation (MOI) 16.a (strengthen relevant national institutions for building capacities at all levels for preventing violence and combating

3. Government Effectiveness – capturing perceptions of the quality of public services, the quality of the civil service and the degree of its independence from political pressures, the quality of policy formulation and implementation, and the credibility of the government's commitment to such policies.¹¹

4. Regulatory Quality – capturing perceptions of the ability of the government to formulate and implement sound policies and regulations that permit and promote private sector development.

5. Rule of Law – capturing perceptions of the extent to which agents have confidence in and abide by the rules of society, and in particular the quality of contract enforcement, property rights, the police, and the courts, as well as the likelihood of crime and violence.¹²

6. Control of Corruption – capturing perceptions of the extent to which public power is exercised for private gain, including both petty and grand forms of corruption, as well as "capture" of the state by elites and private interests.¹³

Measuring progress on good governance along these metrics and sharing that information will unlock the growth potential of the countries that stand to benefit the most from focusing their efforts on governance in the context of the U.N. Post-2015 sustainable development agenda implementation process. Reporting on information and business metrics is a useful resource to governments to inform public policy.

GOOD GOVERNANCE AND THE PRIVATE SECTOR: MUTUAL INTERESTS

Business needs predictability in the development of rules based on reason and science, in the enforcement of rules based on fairness, and in resolution of disputes based on justice. Business thrives and is free to innovate when it understands the current rules and standards and has a sense of what changes may occur in the future. On this stable foundation, business can innovate, grow and create jobs to solve the challenges posed by its customers' needs and preferences and the economic priorities of local, regional and national governments. Even more fundamentally, business needs stable societies governed by the rule of law; where chaos and disorder reign, business and economic opportunities cannot take route and flourish.

Rule of law and legal certainty: The rule of law and legal certainty are the foundation of stable economies and their underlying markets and other formal and informal economic transactions. Legal frameworks must be accessible and clear and cannot tolerate corruption of any kind. Systems requiring disclosure of conflicts of interest, prohibiting bribery, and rules based on

terrorism and crime).

¹¹ These components of good governance are currently taken into consideration by several of the draft targets under proposed Goal 16, particularly proposed MOI 16.b (promoting and enforcing non-discriminatory laws and policies).

¹² These components of good governance are currently taken into consideration by several of the draft targets under the Goal 16, particularly proposed Targets 16.3: ("promote rule of law at the national and international levels, and ensure equal access to justice for all") and 16.10 ("ensure public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements").

¹³ These components of good governance are currently taken into consideration by several of the draft targets under the Goal 16, particularly proposed Target 16.5 ("substantially reduce corruption and bribery in all its forms").

reason and science ensure fairness that the focus is on providing benefits to everyone. Systems requiring transparency and that encourage a diversity of voices enable the people to assess the effectiveness of leaders and provide feedback if the leaders are not delivering benefits. Competition should be promoted through even playing fields and procurement policies should prohibit discrimination. This should all be backed by an independent, efficient judicial system, including the availability of alternative dispute resolution mechanisms that keep pace with the speed of the market.

Ensuring quality public administration and regulatory frameworks: The current global economic climate and its impacts on public budgets underline the necessity of providing quality public administration and provision of public services. Doing so requires transparency, accountability and efficiency, which in turn rely on open, accountable, and responsive rules-based systems as well as technological and organizational innovation and experimentation. Participatory decision making involving all relevant societal actors, including business, should be encouraged. Administrative burdens should be carefully tailored so they promote, rather than inhibit entrepreneurship and innovation.

Overcoming informality: Informality is a drag on economic growth and social development. It undermines legal certainty and inhibits participatory decision-making and inclusive involvement in economic progress and social safety nets by limiting the information about populations that need services and depriving public institutions of the resources necessary to serve the needs of the underserved populations. Government institutions cannot guide economic growth and public policy with incomplete population and economic information and the legal rights and social benefits of all members of society cannot be ensured without universal legal identity and business registration.

The Role of Business

Good governance is an essential attribute of any successful business. From local businesses to large multinational corporations, businesses must be accountable to the diverse voices of their customers, shareholders, and other stakeholders. The private sector excels in understanding the benefits sought by their customers to be able to adapt to provide those benefits. To survive, businesses must be transparent to promote a trusting relationship with their customers, and with the society that gives them license to operate.

Conclusion

The draft SDGs proposed by the Open Working Group have created a solid foundation for ensuring that good governance will be a focal point of the final SDGs. This progress must be maintained and built upon in future deliberations by Member States. If good governance is not prioritized as an end in and of itself to be achieved as part of the SDGs and tracked by accepted indicators, its utility as a means to catalyzing the achievement of the rest of the SDGs will be put at risk. The legal certainty and predictability that come with good governance are the drivers of innovation and growth, without which development cannot reach the most marginalized members of society.

Without transparent and accountable institutions governed by the rule of law, without the involvement of stakeholders, including business, in drafting national development plans and facilitating their implementation through well-structured partnerships, and without addressing informality in all its manifestations, governments will find it difficult to attract the scale of investment necessary to meet other development challenges. Moreover, without open and participatory public institutions, citizens cannot hold their governments accountable to their development plans. To avert these outcomes, we encourage the U.N. High Level Political Forum to hold periodic structured dialogues to share good practices and encourage public-private partnerships.

The Business Priorities for the SDGs series

This discussion paper is part of the Business Priorities for the SDGs series, a suite of papers developed by the United States Council for International Business (USCIB) intended to inform the thematic development of the United Nations Sustainable Development Goals (SDGs).

About USCIB

The United States Council for International Business advances the global interests of American business both at home and abroad. It is the American affiliate of the International Chamber of Commerce (ICC), the Business and Industry Advisory Committee (BIAC) to the OECD, and the International Organisation of Employers (IOE). As such, it officially represents U.S. business positions both in the main intergovernmental bodies and vis-à-vis foreign business communities and their governments.

USCIB addresses a broad range of policy issues with the objective of promoting an open system of world trade, finance and investment in which business can flourish and contribute to economic growth, human welfare and protection of the environment. It promotes open markets, competitiveness and innovation, sustainable development and corporate responsibility, supported by international engagement and regulatory coherence.

USCIB has participated in the Rio sustainability deliberations since 1992, as well as the UNFCCC, the UN DESA and OWG SDG discussions, the Finance for Development discussions

and in UNEP's meetings in Nairobi and Paris. More information about USCIB's policy priorities for the SDGs can be found at <http://www.businessforpost2015.org/>.