

**Gender-responsive business
registration rules as a tool for
recovery**
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UNCITRAL Texts and COVID-19 Response and
Recovery

Gender, Trade and COVID-19

Simplified business registration

Industry sectors hardest hit by the direct and indirect consequences of the COVID-19 pandemic

- o Leisure Hospitality
 - o Retail trade
 - o Tourism
 - o Transportation...
- o Source: « Women at the core of the fight against COVID-19 crisis » : https://read.oecd-ilibrary.org/view/?ref=127_127000-awfnqj80me&title=Women-at-the-core-of-the-fight-against-COVID-19-crisis
- o Of “220 million workers in hard-hit sectors worldwide (save for China), about 31 million female workers faced potential job cuts compared to 13 million men.” “This represents a loss in global growth of \$1 trillion.”
- o Source: News Analysis, Citigroup Inc., 20 May 2020

Obstacles to the operation of MSM businesses identified by 145 women entrepreneurs in Benin, Cameroon and Côte d'Ivoire (2011-2012)

- Increased competition
- Lack of capital and cash flow
- Prohibitive cost of formalities required to obtain a secured loan
- Lack of collateral to secure bank and/or microfinance loans
- Husband and/or peers pressuring for a cease and/or change of business
- Family/spousal obligations requiring time away from the business
- Cost and delays of custom clearance for products sourced
- Climate affecting clientele and/or damaging products
- Heavy fiscal charges
- Fluctuating and rising prices of products sourced
- Difficulty in predicting sales
- Credit sales and debt collection
- Robberies of products
- Difficulty to penetrate public sector clientele without connections
- Unattended work-related health problems

Source: I Deschamps, empirical research in Benin and Cameroon, June – July 2011, April – May 2012.

The formal-informal spectrum

- • Although measurement tools are imperfect and no clear boundaries exist between formal and informal sectors, businesses can be viewed as operating on a formality-informality spectrum. They will be qualified as more or less formal or informal according to the extent to which their operations fall within the ambit official laws or take place outside of official structures.
- • Hernando De Soto coined the term “extra-legal” to describe non-formally regulated social conventions in an effort to move away from the formal/informal opposition and the prejudice associated with informal or illegal arrangements.
- Sources: Chambwera, 2012; De Soto, 2000, 150-51 & 170-71; Spring, 2009.

Statistics about the Informal Sector in Sub-Saharan Africa

- • Average percentage of States’ informal economy as measured against “official” gross domestic product: 38.4%.
- • Size of informal non-agricultural employment: 72% of all non-agricultural employment.
- • Informally employed non-agricultural women workers compared to men: 84% versus 63%.
- Sources: Schneider, 2010, 32; UNIFEM, 2005, 39.

UNCITRAL Legislative Guide on Key Principles of a Business Registry

https://uncitral.un.org/en/texts/msmes/legislativeguides/business_registry

- o *Scope of topics covered*
 - o Objectives of business registry;
 - o How to establish a business registry and what its functions should be;
 - o Operation of as business registry;
 - o Business registration and de-registration processes themselves;
 - o Accessibility to business registration services and the sharing of registered information;
 - o Fees of business registration services;
 - o Liability and sanctions in connection with registered information
 - o Preservation of records
 - o What other legal reforms should accompany that of a business registration system.

Recommendation 1: Objectives of the business registry

The law should ensure the establishment of a business registry that facilitates the operation of businesses in the formal economy as part of the system of all registrations that may be required of a business and may include registration with business registry, taxation and social security authorities, as well as with other authorities.

Recommendation 57: Flexible legal forms

The law should permit flexible and simplified legal forms for business in order to facilitate and encourage registration of businesses of all sizes.

Recommendation 3: Simple and predictable system of laws permitting registration

The law governing the business registry should:

(b) Ensure that micro, small and medium-sized enterprises (MSMEs) that are required or permitted to register are subject to the minimum procedures necessary.

Recommendation 48: Voluntary deregistration

The law should:

(...)

(c) Permit the State to adopt simplified procedures for deregistration of MSMEs.

Recommendation 37: Direct electronic access to registry services

*The law should establish that, in keeping with other applicable law of the enacting State, where information and communications technology is available, the submission of applications for the registration of a business and requests for amendment of the registered information of a business **may be done remotely through electronic means.***

Recommendation 58: Legislative approach to accommodate the evolution of technology

*The law should establish provisions on electronic transactions that **accommodate the evolution of technology.***

Recommendation 41: Fees charged for business registry services

The law should establish fees, if any, for business registration and post-registration services at a level that is low enough to encourage business registration, in particular of MSMEs, and that, in any event, does not exceed a level that enables the business registry to cover the cost of providing those services.

Recommendation 42: Fees charged for information

The law should establish that:

(a) Basic information contained in the business registry should be available to the public free of charge;

Recommendation 30: Maintaining a current registry

The law should require the registrar to ensure that the information in the business registry is kept current, including through:

- (a) **Sending an automated request to registered businesses to prompt them to report** whether the information maintained in the registry continues to be accurate or to state what changes should be made;*
- (b) **Displaying notices of the required updates** in the registry office and suboffices and routinely publishing reminders on the registry website and social media and in national and local electronic and print media;*

Recommendation 46: Sanctions

The law should:

- (a) Establish appropriate sanctions that may be imposed on a business for a breach of its obligations regarding information to be submitted to the registry in an accurate and timely fashion;*
- (b) Include provisions pursuant to which a breach of obligation may be forgiven provided it is rectified within a specified time; and*
- (c) **Require the registrar to ensure broad publication of those rules.***

Recommendation 33: Access to services of the business registry

The law should permit access to the business registry without discrimination based on any ground such as race, colour, gender, language, religion, political or other opinion, national or social origin, property, birth or other status.

Recommendation 34: Equal rights of women to access the registration services of the business registry

The law should:

- (a) Provide that women have equal and enforceable rights of access to the registration services of the business registry in order to start a business;*
- (b) Ensure that requirements for business registration do not discriminate against potential registrants because of their gender; and*
- (c) Provide for the adoption of policies to collect anonymized sex-disaggregated data for business registration through the business registry*

Recommendation 39: Facilitating access to information

*The law should ensure the facilitation of access to public information on registered businesses by avoiding the creation of unnecessary barriers such as: requirements for the installation of specific software; charging expensive access fees; or **requiring users of information services to register or otherwise provide information on their identity.***

Using Participatory Learning and Action (PLA)

- PLA refers to bottom-up processes aimed at transmitting knowledge and empowering minorities and weaker communities through participatory methodologies.
- They are used for voicing the concerns, priorities and views of poorer or disadvantaged stakeholders on given issues so as to induce change. They generate and document evidence, insight, analysis and stories meant to inform the design of policies on development and eventually law reform. They seek to make measures adopted (including laws) more accountable, equitable and participatory. They aim to adapt to the structures, cultures and frames of reference of the communities in which they are used.
- Examples of PLA methods include participatory communication activities (e.g. door to door discussion and awareness raising), digital storytelling, participatory video, photo-voice and audio-making.
- Sources: IIED, 2011; InsightShare www.insightshare.org



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