

**Compilation of  
responses of States that are publicly available on the  
UNCITRAL Secretariat questionnaire on measures taken by States to overcome  
the consequences of the global COVID-19 pandemic**

Note: The questionnaires on measures taken by States to overcome the consequences of the global COVID-19 pandemic have been sent by the secretariat to States in January 2021. This compilation reproduces responses of States that are publicly available in the language and format in which they were received.

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## **Questionnaire in English**

### **Questionnaire on measures taken by States to overcome the consequences of the global COVID-19 pandemic**

At its fifty-third session (2020), the Commission considered ([A/75/17](#), part two, paras. 86-89) a proposal ([A/CN.9/1039/Rev.1](#)) made by the Government of the Russian Federation, and supported by the Governments of Armenia and Viet Nam, requesting the UNCITRAL secretariat to commence exploratory work on matters of international commercial law related to overcoming the consequences of the global COVID-19 pandemic, and other large-scale emergencies, on international trade.

In keeping with the request of the Commission to explore the proposal further (in partnership with interested governments or organizations) and report back to the Commission at its fifty-fourth session in 2021 ([A/75/17](#), part two, paras. 16 (i) and 89), and mindful of the mandate of UNCITRAL and of other international organizations, the following questionnaire has been prepared. The Secretariat requests member and observer States to provide their responses to the questionnaire via <https://uncitral.un.org/en/covid19-questionnaire> no later than 19 March 2021. Responses will be used by the Secretariat in discharging the exploratory mandate conferred by the Commission and in reporting back to the Commission at its fifty-fourth session.

The Secretariat was also requested during the fifty-third session of the Commission ([A/75/17](#), part two, para. 89) to explore the possibility of developing an online information platform where States might share their experience with legal response and recovery measures related to the COVID-19 pandemic. To that end, information provided by States in response to this questionnaire may be used to populate such a platform, pending its approval by the Commission at a future session. In addition, unless otherwise indicated in the appropriate field, information provided by States may be consulted by other States.

#### **Questionnaire for UNCITRAL member and observer States on measures taken in response to the COVID-19 pandemic (“response measures”):**

1. Please specify the response measures that the Government has adopted to alleviate negative impacts of the pandemic on businesses in the following areas:

- a) bankruptcy and insolvency,
- b) support for small and medium-sized enterprises,
- c) public procurement,
- d) electronic commerce (including in the areas of electronic signatures, electronic authentication, and paperless trade),
- e) business-to-business contractual relations (including drafting, interpretation and application of force majeure clause),
- f) transportation and logistics, and
- g) corporate governance.

If these measures were legislated, please provide a link to the legislation (or a separate copy if the legislation is not publicly accessible online).

2. Please specify the response measures adopted to support businesses (including in the form of financial assistance), and the criteria for businesses to receive support. Please also indicate the legislative basis for these measures and whether new legislation was needed.

3. Please specify the type of monitoring or compliance regime that has been applied to businesses receiving the support mentioned in question 2.

4. Please specify the kinds of obstacles reported by businesses (if any) to cross-border trade and commerce due to measures implemented by States to overcome the pandemic.

5. Aside from the measures specified in response to question 1, please specify (a) any legislation that the Government has passed to overcome obstacles to cross-border trade, and (b) any other legislative measures to respond to the pandemic which may affect cross-border trade.

6. Please specify the measures that have been put in place to mitigate the effects of the pandemic on commercial dispute settlement (for example, facilitating remote hearings, expanding fast-track proceedings, extension of limitation periods).

7. Please indicate any issues related to COVID-19 response and recovery that would most benefit from harmonized legal solutions in the area of international commercial law.<sup>1</sup>

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<sup>1</sup> Note that the Commission has acknowledged ([A/75/17](#), part one, para. 27) that several UNCITRAL legislative tools can play an important role in assisting States to mitigate the effect of response measures, as well as their economic recovery efforts, and has, in particular, renewed calls for States to consider adopting UNCITRAL legislative texts in the field of electronic commerce and insolvency, as well as instruments supporting micro-, small and medium-sized enterprises and promoting the effective settlement of commercial disputes. Note also that the Secretariat is currently undertaking an appraisal of existing UNCITRAL texts to determine how they apply in light of emerging technologies and their applications and whether any gaps need to be addressed by future harmonization efforts ([A/75/17](#), part two, para. 76).

## **Questionnaire in French**

### **Questionnaire sur les mesures prises par les États pour surmonter les conséquences de la pandémie mondiale de COVID-19**

À sa cinquante-troisième session (2020), la Commission a examiné ([A/75/17](#), deuxième partie, paras. 86 - 89) une proposition ([A/CN.9/1039/Rev.1](#)) présentée par le Gouvernement de la Fédération de Russie, et soutenu par les Gouvernements de l'Arménie et du Viet Nam, demandant au secrétariat de la CNUDCI de mener des travaux exploratoires quant à la réglementation du commerce international en lien avec les mesures visant à faire face aux conséquences de la pandémie de COVID-19 et d'autres situations d'urgence à grande échelle sur le commerce mondial.

Conformément à la décision prise par la Commission d'étudier plus en avant la proposition (en partenariat avec les gouvernements ou organisations intéressés) et de faire rapport à la Commission à sa cinquante-quatrième session en 2021 ([A/75/17](#), deuxième partie, paras. 16 (i) et 89), et compte tenu du mandat de la CNUDCI et d'autres organisations internationales, le questionnaire suivant a été établi. Le Secrétariat serait reconnaissant aux États membres et observateurs de fournir leurs réponses au questionnaire via <https://uncitral.un.org/fr/covid19-questionnaire> au plus tard le 19 mars 2021. Les réponses seront utilisées par le Secrétariat pour s'acquitter du mandat exploratoire confié par la Commission et pour faire rapport à la Commission à sa cinquante-quatrième session.

Le Secrétariat a également été prié à la cinquante-troisième session de la Commission ([A/75/17](#), deuxième partie, para. 89) d'étudier la possibilité de créer une plateforme d'information en ligne où les États pourraient partager leur expérience des mesures législatives et de relèvement en lien avec la pandémie de COVID-19. À cette fin, les informations fournies par les États en réponse à ce questionnaire pourraient être utilisées pour alimenter une telle plateforme, si la Commission donnait son accord à ce projet lors d'une session ultérieure. De plus, sauf indication contraire dans le champ approprié, les informations fournies par les États pourront être consultées par d'autres États.

#### **Questionnaire destiné aux États membres et observateurs de la CNUDCI sur les mesures prises en réponse à la pandémie de COVID-19 (« les mesures de réponse ») :**

1. Veuillez préciser les mesures de réponse que le Gouvernement a adopté pour atténuer les effets négatifs de la pandémie sur les entreprises dans les domaines suivants :

- a) faillite et insolvabilité ;
- b) soutien aux petites et moyennes entreprises ;
- c) les marchés publics ;
- d) commerce électronique (y compris dans les domaines des signatures électroniques, de l'authentification électronique et du commerce sans papier) ;
- e) les relations contractuelles interentreprises (y compris la rédaction, l'interprétation et l'application des clauses de force majeure) ;
- f) le transport et la logistique ;
- g) la gouvernance d'entreprise.

Si ces mesures ont fait l'objet d'une réglementation spéciale, veuillez fournir un lien vers le texte de loi ou le règlement (ou une copie numérisée si la réglementation n'est pas accessible au public en ligne).

2. Veuillez préciser les mesures de réponse adoptées pour soutenir les entreprises (y compris sous forme d'aide financière), et les critères fixés pour que les entreprises bénéficient d'un tel soutien. Veuillez également indiquer le fondement juridique de ces mesures et si une nouvelle réglementation a été rendue nécessaire.

3. Veuillez préciser le type de régime de surveillance ou de contrôle de conformité appliqué aux entreprises bénéficiant du soutien mentionné à la question 2.

4. Veuillez préciser les types d'obstacles aux échanges économiques transfrontaliers et au commerce signalé par les entreprises (le cas échéant), en raison des mesures prises par les États pour surmonter la pandémie.

5. Outre les mesures évoquées en réponse à la question 1, veuillez préciser (a) toute réglementation que le Gouvernement a prise pour surmonter les obstacles au commerce transfrontalier, et (b) toute autre mesure législative prise pour répondre à la pandémie qui a pu affecter le commerce transfrontalier.

6. Veuillez préciser les mesures qui ont été mises en place pour atténuer les effets de la pandémie sur le règlement des différends commerciaux (par exemple, faciliter les audiences à distance, étendre les procédures accélérées, prolonger les délais de prescription).

7. Veuillez indiquer tout problème lié à la réponse et au redressement économiques dans le contexte du COVID-19 qui bénéficierait le plus de solutions juridiques harmonisées dans le domaine du droit commercial international.<sup>1</sup>

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<sup>1</sup> A noter que la Commission a reconnu ([A/75/17](#), première partie, para. 27) que plusieurs instruments législatifs de la CNUDCI pouvaient jouer un rôle important pour aider les États à atténuer les effets des mesures nécessaires pour contrôler la pandémie ainsi que dans leurs efforts de redressement économique, et qu'elle a en particulier renouvelé son invitation faite aux États pour qu'ils envisagent d'adopter les textes législatifs de la CNUDCI dans le domaine du commerce électronique et de l'insolvabilité, ainsi que les instruments d'appui aux micro, petites et moyennes entreprises et de promotion du règlement efficace des différends commerciaux. Il convient également de noter que le Secrétariat procède actuellement à une évaluation des textes de la CNUDCI pour déterminer comment ils s'appliquent à la lumière des technologies émergentes et de leur utilisation et si des lacunes doivent être comblées par des efforts d'harmonisation futurs ([A/75/17](#), deuxième partie, para. 76).

## **Questionnaire in Spanish**

### **Cuestionario sobre las medidas tomadas por los Estados para responder a las consecuencias generadas por la pandemia mundial del COVID-19**

En su 53° período de sesiones (2020), la Comisión examinó ([A/75/17](#), parte II, párrs. 86-89) una propuesta presentada por el Gobierno de la Federación Rusa ([A/CN.9/1039/Rev.1](#)), copatrocinada por Armenia y Vietnam, solicitando a la Secretaría de la CNUDMI comenzar trabajos exploratorios en cuestiones legales de comercio internacional relacionadas con medidas para contrarrestar las consecuencias globales de la pandemia mundial de COVID-19, y otras emergencias que causan restricciones importantes al comercio internacional.

Teniendo presente la solicitud de la Comisión de seguir estudiando la propuesta (en colaboración con gobiernos y organizaciones interesadas) y de informar a la Comisión en su 54° período de sesiones en 2021 ([A/75/17](#), parte II, párrs. 16 (i) y 89) y en acuerdo con el mandato de la Comisión y otras organizaciones internacionales, se ha preparado el siguiente cuestionario. La Secretaría solicita a los Estados miembros y observadores que proporcionen sus respuestas al cuestionario via <https://uncitral.un.org/es/covid19-questionnaire> a más tardar el 19 de marzo de 2021. Las respuestas serán usadas por la Secretaría al cumplir de su mandato exploratorio otorgado por la Comisión y esta informará a la Comisión en su 54° período de sesiones.

Asimismo, durante el 53° período de sesiones se le solicitó a la Secretaría ([A/75/17](#), parte II, párr. 89) de estudiar la posibilidad de crear una plataforma de información en línea en que los Estados pudiesen intercambiar experiencias respecto de las medidas jurídicas de respuesta y recuperación que hubiesen adoptado en relación con la pandemia de COVID-19. A tal fin, la información proporcionada por los Estados, al responder al cuestionario podrá ser usada para llenar dicha plataforma, pendiente de aprobación por la Comisión en una futura sesión. Además, a menos que sea indicado en el campo correspondiente, la información brindada por los Estados puede ser consultada por otros Estados.

#### **Cuestionario para los Estados miembros y observadores de UNCITRAL sobre medidas tomadas en respuesta a la pandemia por enfermedad de COVID-19 (medidas en respuesta):**

1. Favor indicar las medidas en respuestas que el Gobierno ha adoptado para aliviar el impacto negativo de la pandemia en negocios, en las siguientes áreas:

- a) Quiebra (bankruptcy) y insolvencia,
- b) Ayuda a la pequeña y mediana empresa,
- c) Compras públicas,
- d) Comercio electrónico (incluyendo las áreas de firmas electrónicas, verificación electrónica y comercio sin papel),
- e) Relaciones contractuales de negocio a negocio (incluyendo redacción, interpretación y aplicación de la cláusula de fuerza mayor),
- f) Transporte y logística,
- g) Gobernanza corporativa.

Si las medidas fueran legales, favor incluir un enlace a la legislación (o una copia separada de la legislación en caso de que esta no se encuentre disponible en línea).

2. Favor indicar la medida de respuesta adoptada en apoyo de negocios (incluyendo la forma de asistencia financiera) y el criterio para que los negocios reciban el apoyo. Favor indicar también el fundamento legislativo para estas medidas y si fue necesario nueva legislación.

3. Favor indicar el tipo de régimen de monitoreo y cumplimiento que se ha aplicado para que los negocios reciban el apoyo mencionado en la pregunta no. 2.

4. Favor detallar que clase de obstáculos han sido denunciado por los negocios (en caso de existir) en las transacciones comerciales y el comercio a través de las fronteras a causa de las medidas implementadas por los Estados para superar la pandemia

5. Además de las medidas indicadas en la respuesta no. 1, favor indicar (a) cualquier legislación promulgada por el Gobierno para superar los obstáculos al comercio transfronterizo, y (b) cualquier otra medida legal para responder a la pandemia que pudiera afectar el comercio transfronterizo.

6. Favor indicar las medidas que se vienen aplicando para mitigar los efectos de la pandemia en la solución de disputas comerciales (por ejemplo, facilitando la realización de audiencias en forma remota, ampliando la realización de procedimientos acelerados (fast-track proceedings), extensión de los periodos de limitación).

7. Favor indicar cualquier cuestión relacionada con la respuesta y recuperación al COVID-19 que obtendría los mayores beneficios de una solución legal armonizada en el área del derecho comercial internacional.<sup>1</sup>

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<sup>1</sup> La Comisión tomo nota ([A/75/17](#), parte I, párr. 27) que varias de las herramientas legislativas de la CNUDMI pueden cumplir una función importante en ayudar a los Estados a mitigar los efectos de las medidas de respuesta, así como en sus esfuerzos de recuperación económica, y reiteró a los Estados considerar la posibilidad de adoptar los textos de la CNUDMI en comercio electrónico e insolvencia, así como los instrumentos en apoyo de las microempresas y pequeñas y medidas empresas y promover la solución eficaz de las controversias comerciales. Se observa que la Secretaría se encuentra actualmente realizando una evaluación de los textos de la CNUDMI existentes para determinar como estos se aplican a las tecnologías emergentes y su aplicación y si sería necesario estudiar alguna laguna en un futuro esfuerzo de armonización ([A/75/17](#), parte II, párr. 76).

**RESPONSES SUBMITTED BY STATES**



## **Responses submitted by Angola**

Organization: MINISTRY OF INDUSTRY AND TRADE

1. Please specify the response measures that the Government has adopted to alleviate negative impacts of the pandemic on businesses in the following areas:

a) bankruptcy and insolvency,  
Economic Alleviate Program

b) support for small and medium-sized enterprises,  
Economic Alleviate Program

c) public procurement,  
d) electronic commerce (including in the areas of electronic signatures, electronic authentication, and paperless trade),  
Economic Alleviate Program

e) business-to-business contractual relations (including drafting, interpretation and application of force majeure clause),

f) transportation and logistics, and  
Economic Alleviate Program

g) corporate governance.

If these measures were legislated, please provide a link to the legislation (or a separate copy if the legislation is not publicly accessible online).

<https://governo.gov.ao/ao/noticias/programa-de-alivio-economico-beneficia-mais-de-400-empresas/>

2. Please specify the response measures adopted to support businesses (including in the form of financial assistance), and the criteria for businesses to receive support. Please also indicate the legislative basis for these measures and whether new legislation was needed.

O Governo de Angola, através do seu Executivo sob a égide do Minitério da Economia e Planeamento, está a implementar dentre outras, medidas que passam por dois eixos principais da economia real, nomeadamente, as relativas ao sector produtivo (empresas) e as relativas às famílias e ao sector informal da economia.

(1). Medidas para o Sector Produtivo (Empresas)

Esta medida tem como objectivo de desanuviar a pressão sobre a tesouraria com obrigações tributárias (alívio fiscal), no sentido de medidas:

(i) Alargar, o prazo limite da liquidação final das obrigações declarativas do Imposto Industrial para as empresas do Grupo B;

(ii) (ii) Alargar, o prazo limite da liquidação final das obrigações declarativas do Imposto Industrial para as empresas do Grupo A; e

(iii) (iii) Atribuir crédito fiscal de 12 meses para as empresas sobre o valor do IVA a pagar na importação de bens de capital e de matéria-prima que sejam utilizados para a produção de 54 bens que são referidos no Decreto Presidencial n.º 23/19, de 14 de Janeiro.

Por outro lado com o objectivo de desanuviar a pressão sobre a tesouraria com o pagamento de contribuições para a Segurança Social (alívio no pagamento de salários), foi adoptada a seguinte medida:

(iv) Autorizar o diferimento do pagamento da contribuição para a Segurança Social (contribuição de 8% do total da folha salarial) referente ao 2º Trimestre de 2020, para pagamento em seis parcelas mensais, durante os meses de Julho a Dezembro de 2020, sem formação de juros;

Outrossim com o objectivo de assegurar o apoio financeiro para a manutenção mínima dos níveis de actividades das micro, pequenas e médias empresas do sector produtivo, foram alocados recursos suplementares, distribuídos pelas seguintes iniciativas de apoio financeiro:

(v) O Fundo de Apoio ao Desenvolvimento Agrário, FADA, disponibiliza uma linha de crédito de dezenas de mil milhões de Kwanzas, para o financiamento às explorações agropecuária familiares, com taxa de juros não superior a 3%, sendo o principal instrumento de financiamento deste tipo de produtores, com tramitação célere e para pacotes de financiamento na dimensão dos mesmos;

(vi) O Banco de Desenvolvimento de Angola, BDA, disponibilizou uma linha de crédito de dezenas mil milhões de Kwanzas (Moeda circulação e de pagamento oficial em Angola), com uma taxa de 9% e maturidade de 2 anos, com período de carência de capital de 180 dias, para financiar a compra dos operadores do comércio e distribuição aos produtores nacionais que compõe a cesta básica e outros complementares de origem pecuário piscatório.

(vii) O Banco de Desenvolvimento de Angola, BDA, disponibiliza uma linha de crédito de dezenas de mil milhões de Kwanzas, com uma taxa de 9%, maturidade de 2 anos, carência de capital de 180 dias, para financiar as compras das cooperativas de produtores familiares e dos empresários agropecuários de pequena e média dimensão a fornecedores nacionais de sementes melhoradas de cereais, hortícolas e tubérculos, de fertilizantes, de pesticidas, de vacinas e de prestação de serviços de preparação e correcção de solos agrícolas, priorizando os produtos feitos em Angola;

(viii) O Banco de Desenvolvimento de Angola, BDA, disponibiliza uma linha de crédito de centena de milhões de Kwanzas para financiar projectos de modernização e de expansão das actividades de um número máximo de 15 cooperativas por cada província, nos sectores da agricultura e das pescas, com um valor máximo de 50 milhões de Kwanzas, com uma taxa de juro de 7,5% e maturidade equivalente ao ciclo operacional;

(ix) O Fundo Activo de Capital de Risco, FACRA, disponibiliza 3 mil milhões de Kwanzas para realizar investimentos no capital próprio de cooperativas da agricultura, pecuária e pescas, participando no pagamento da parcela de capital próprio exigida na concessão dos empréstimos que serão disponibilizados pelo BDA;

(x) o Fundo Activo de Capital de Risco, FACRA, disponibiliza uma linha de crédito no valor de mil milhões de Kwanzas para financiar sociedades de micro finanças, escolas de campo, caixas de crédito comunitárias, seleccionadas por meio de concurso público, que pretendam operacionalizar ao menor custo possível um processo de atribuição de micro crédito para mulheres e jovens empreendedores nas seguintes actividades: (1) agricultura, com destaque para produção de cereais, leguminosas e oleaginosas, raízes e tubérculos e hortícolas; (2)

avicultura de corte; (3) avicultura de postura; (4) aquisição de bovinos para engorda e abate; (5) processamento de alimentos e produção de bebidas; (6) logística e distribuição de produtos agro-alimentares e das pescas; (7) aquicultura; (8) reciclagem de resíduos sólidos urbanos; (9) prestação de serviços de transportes; (10) prestação de serviços de formação profissional; (11) desenvolvimento de software; (12) turismo, produção cultural e artística.

(xi) Estas operações de Crédito realizadas com as linhas de crédito obtidas com financiamento externo garantido pelo Estado, nomeadamente, mil milhões de dólares do Deustch Bank cedido ao BDA e milhões de dólares do BAD cedidas aos Bancos comerciais passam a ser acompanhadas por um Comité de Supervisão, coordenado pelo Ministério da Economia e Planeamento, integrando os Departamentos Ministeriais responsáveis do sector da produção não petrolífera, para assegurar a implementação de um expediente simplificado e célere de acesso a estes recursos para os empresários dos sectores da agricultura, das pescas e da indústria que pretendam realizar investimentos que tenham mais de 50% de incorporação de factores de produção nacionais e que promovam exportações.

1.4. Outro aspecto nesta senda tem haver e no sentido de remover o excesso de burocracia que incide sobre as empresas, foram definidas as seguintes medidas:

(xii) as empresas deixam de estar obrigadas de realizarem o registo estatístico, devendo a AGT disponibilizar ao Instituto Nacional de Estatística acesso directo à base de dados do Número de Identificação Fiscal, a partir da qual o INE passa a registar as empresas no Ficheiro Único de Empresas, para efeito estatístico;

(xiii) A emissão do alvará comercial passa a ser exigida apenas para as actividades de comercialização de bens alimentares, espécies vivas vegetais, animais, aves e pescarias, medicamentos, venda de automóveis, combustíveis, lubrificantes e produtos químicos, estando todas as restantes actividades comerciais e de prestação de serviços apenas obrigadas a requerer autorização de abertura do estabelecimento na respectiva Administração Municipal do sector do comércio do Governo Provincial desconcentrados nos Municípios;

Outro aspecto, prende-se em assegurar a mobilidade mínima necessária de trabalhadores durante a fase de estado de emergência, foi definida a seguinte medida:

(xv) No âmbito da implementação do Decreto Presidencial n.º 82/20 de 26 de Março, que define as medidas concretas de excepção em vigor durante o período de vigência do Estado de Emergência, é estabelecido um modelo-tipo de credenciamento de trabalhadores de empresas do sector privado, cuja actividade laboral não está suspensa, garantindo a sua mobilidade, sempre observando as normas de prevenção e de contigência para o controlo da pandemia Covid-19, devendo o mesmo constituir o documento a apresentar em caso de interpelação das autoridades da ordem e segurança.

## 2. Medidas para as Famílias e o Sector Informal da Economia

Neste quisito, os agregados familiares vivem sob a ameaça do aumento dos custos dos bens básicos, devido a disrupção que se vive na cadeia de fornecimentos, resultante da redução do rendimento familiar, aos potenciais despedimentos e cortes salariais, bem como, por causa do menor consumo da sua produção de bens e serviços, sobretudo no mercado informal.

Neste sentido para mitigar os efeitos das ameaças acima referidas, foram determinadas medidas imediatas que devem incidir sobre os particulares que visam alcançar dois grandes objectivos,

proteger o bem-estar das famílias e salvaguardar o processo de manutenção e criação de postos de trabalho, sendo nomeadamente as seguintes:

(xvi) Para melhorar o rendimento familiar proveniente dos salários, o Instituto Nacional de Segurança Social, mediante solicitação prévia, autoriza as entidades empregadoras do sector privado a transferirem para os salários dos trabalhadores, o valor do desconto para a Segurança Social (desconto de 3% do salário do trabalhador) nos meses de Abril, Maio e Junho de 2020;

(xvii) Para assegurar o fornecimento de energia e de água aos domicílios o Ministério da Energia e Águas recomendou às empresas do sector a não efectuar cortes ao fornecimento de água e energia aos clientes com dificuldades de pagamento das contas durante o mês de Abril;

(xviii) Para garantir o consumo de bens alimentares da cesta básica para famílias mais vulneráveis foram disponibilizados recursos no total de centenas de Kwanzas para o Ministério da Acção Social, Família e Promoção da Mulher, que com os Governos Provinciais desenvolve campanhas de distribuição de bens da cesta básica para segmentos da população mais vulnerável;

(xix) Para melhorar o rendimento das famílias mais pobres afectadas pela profundidade da crise económica que o país vive, inicia em Maio de 2020 a primeira fase do Programa de Transferências Sociais Monetárias que irá ter um milhão e seiscentas mil famílias beneficiárias.

2. Com o objectivo de acelerar a transição da actividade informal para o sector formal, são definidas as seguintes medidas:

(xx) no âmbito da implementação do Programa de Reconversão da Economia Informal (PREI) é criado um grupo de trabalho multisectorial (composto pelos Ministérios da Economia e Planeamento, Finanças, Transportes, Indústria e Comércio, Administração do Território e do Ordenamento do Território e Obras Públicas) para elaborarem e executarem um plano de acção de formalização e organização da venda ambulante, mercados, transporte de mercadorias e passageiros;

3. Please specify the type of monitoring or compliance regime that has been applied to businesses receiving the support mentioned in question 2.

Para efeitos de monitoramento dos financiamentos concedidos, existe um Comité de Supervisão/Monitoramento, coordenado pelo Ministério da Economia e Planeamento, integrando os Departamentos Ministeriais responsáveis do sector da produção.

4. Please specify the kinds of obstacles reported by businesses (if any) to cross-border trade and commerce due to measures implemented by States to overcome the pandemic.

As empresas ligadas ao sector do comércio não relataram quaisquer obstáculos relativos ao processo de exportação aos mercados internacionais.

5. Aside from the measures specified in response to question 1, please specify: (a) any legislation that the Government has passed to overcome obstacles to cross-border trade, and (b) any other legislative measures to respond to the pandemic which may affect cross-border trade. O Governo angolano, não adoptou nenhuma legislação que tem impacto ao comércio transaccional e fronteiriço.

6. Please specify the measures that have been put in place to mitigate the effects of the pandemic on commercial dispute settlement (for example, facilitating remote hearings, expanding fast-track proceedings, extension of limitation periods).

Quanto a questão das medidas de solução para mitigar as disputas comerciais em sede do panorama da Covid-19, o País através da avaliação do sector não registou nenhum caso em concreto e/ou específico.

7. Please indicate any issues related to COVID-19 response and recovery that would most benefit from harmonized legal solutions in the area of international commercial law<sup>4</sup>.

Neste aspecto, o sector da Saúde através harmonização jurídica que augura por procedimentos mais simplificados para acesso e aquisição de fármacos ligados a Covid-19, neste caso Vacinas de imunização da população.

### **Not an official translation**

Reponses to the questionnaire of the impact related to overcoming the consequences of the global COVID-19 pandemic and other large-scale emergencies, on international trade.

Hereby we have the honor to submit the questionnaire of overcoming the consequences of the global COVID-19 pandemic and other large-scale emergencies, on international trade.

In the context of the above, the Government of Angola, through its executive under the auspicious of the Ministry of Economy and Planning, is implementing among others measures through two main axes of the real economy, namely, those relative to the productive sector (companies) and those relative to the families and the informal sector of the economy, measures for the productive sector (Companies).

This measure aims to the pressure on the treasury with tax obligations (tax relief), in the sense of measures:

- (i) Extend, the deadline for the final settlement of the declarative obligations of the Industrial Tax for Group B companies;
- (ii) Extend, the deadline for final settlement of the Industrial Tax reporting obligations for Group A companies; and
- (iii) Provide a 12-month tax credit for companies on the amount of VAT payable on the importation of capital goods and raw materials that are used for the production of goods that are referred to in Presidential Decree 23/19 of January 14;

On the other hand, in order to relieve the pressure on the treasury with the payment of Social Security contributions (relief in the payment of salaries), the following measure were adopted:

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<sup>4</sup> Note that the Commission has acknowledged ([A/75/17](#), part one, para. 27) that several UNCITRAL legislative tools can play an important role in assisting States to mitigate the effect of response measures, as well as their economic recovery efforts, and has, in particular, renewed calls for States to consider adopting UNCITRAL legislative texts in the field of electronic commerce and insolvency, as well as instruments supporting micro-, small and medium-sized enterprises and promoting the effective settlement of commercial disputes. Note also that the Secretariat is currently undertaking an appraisal of existing UNCITRAL texts to determine how they apply in light of emerging technologies and their applications and whether any gaps need to be addressed by future harmonization efforts ([A/75/17](#), part two, para. 76).

- (iv) Authorize the deferral of the payment of the Social Security contribution (contribution of 8% of the total payroll) related to the 2<sup>nd</sup> Quarter of 2020, for payment in six monthly instalments, during the months of July to December 2020, without formation of interest;
- (v) Bank of Development of Angola, BDA, made available a line of credit of tens of a billion Kwanzas (currency of circulation and official payment in Angola), with a rate of 9% and maturity of 2 years, with a grace period of 180 days, to finance the purchase of the operators of the trade and distribution to national producers that make up the basic food basket and other complementary livestock and fishing origin;
- (vi) the Development Bank of Angola, BDA, makes available a credit line of tens of a billion Kwanzas, with a 9% rate, 2 years maturity, 180 days grace period, to finance the purchases of family producer cooperatives and small and medium sized agribusinesses from national suppliers of improved cereal, vegetable and tuber seeds, fertilizers, pesticides, vaccines and the provision of agricultural soil preparation and correction services, prioritizing products made in Angola;
- (viii) BDA, makes available a credit line of one hundred million Kwanzas to finance modernization projects and the expansion of the activities of a maximum number of 15 cooperatives per province, in the agriculture and fishing sectors, with a maximum amount of fifty million Kwanzas, with an interest rate of 7.5% and maturity equivalent to the operational cycle;
- (ix) The Risk Capital Active Fund ( FACRA) makes available three billion Kwanzas to make equity investments in agriculture, livestock and fishing cooperatives, participating in the payment of the equity portion required in the concession of the loans that will be made available by the BDA;
- (x) The Found Active of Capitals of Risk, (FACRA), makes available a line of credit in the amount of one billion kwanzas to finance micro-finance societies, field schools, community credit banks, selected through public tender, which intend to operationalize at the lowest possible cost a process of micro-credit attribution to women and young entrepreneurs in the following activities: (1) agriculture, with emphasis on the production of cereals, pulses and oilseeds, roots and turmeric and vegetables; (2) broiler poultry; (3) laying poultry; (4) purchase of cattle for fattening and slaughter; (5) food processing and beverage production; (6) logistics and distribution of agro-food and fishery products; (7) aquaculture; (8) solid waste recycling urban; (9) provision of transport services; (10) provision of professional training services; (11) software development; (12) tourism, cultural and artistic production;
- (xi) These Credit operations carried out with the credit lines obtained with external financing guaranteed by the State, namely, one billion dollars from the Deustch Bank assigned to the BDA and millions of dollars from the ADB assigned to the commercial banks will now be monitored by a Supervision Committee, coordinated by the Ministry of Economy and Planning, integrating the Ministerial Departments responsible for the non-oil production sector, to ensure the implementation of a simplified and quicker access to these resources for entrepreneurs in the agriculture, fishing and industry sectors that intend to make investments that have more than 50% of incorporation of national production factors and that promote exports.

1.4. Another aspect of this path has to do with the removal of excessive bureaucracy which affects companies, and the following measures have been defined:

(xii) Companies are no longer obliged to carry out statistical registration, and AGT must provide the National Institute of Statistics with direct access to the Tax Identification Number database, from which INE will start, registering companies in the Single Company File for statistical purposes;

(xiii) The issuing of a commercial license will now only be required for the commercialization of foodstuffs, live plant species, animals, birds and fisheries, medicines, the sale of automobiles, fuels, lubricants and chemical products, with all other commercial activities and the rendering of services being only required to apply for authorization to open an establishment in the respective Municipal Administration of the commerce sector of the Provincial Government which is decentralized in the Municipalities;

Another aspect is to ensure the minimum necessary mobility of workers during the state of emergency phase; the following measure has been defined:

(xv) Within the scope of the implementation of Presidential Decree No. 82/20 of March 26, which defines the concrete measures of exception in force during the period of the State of Emergency, it is established a standard model of accreditation of workers of private sector companies, whose work activity is not suspended, ensuring their mobility, always observing the standards of prevention and contingency for the control of the Covid-19 pandemic, and the same must constitute the document to be presented in case of interpellation by the authorities of order and security.

## 2. Measures for Households and the Informal Sector of the Economy

In this regard, households live under the threat of rising costs of basic goods due to the disruption in the supply chain resulting from reduced household income, potential layoffs and wage cuts, as well as lower consumption of their output of goods and services, especially in the informal market.

In this sense, to mitigate the effects of the above threats, immediate measures have been determined that must be focused on individuals that aim to achieve two major objectives, to protect the welfare of families and to safeguard the process of maintaining and creating jobs, namely the following:

(xvi) To improve family income from wages, the National Institute of Social Security, upon prior request, authorizes private sector employers to transfer to employees' wages, the amount of the Social Security discount (3% discount from the worker's salary) in the months of April, May and June 2020;

(xvii) To ensure the supply of energy and water to households, the Ministry of Energy and Water has recommended that the companies in the sector

## **Responses submitted by Argentina**

Organización: MINISTERIO DE RELACIONES EXTERIORES, COMERCIO INTERNACIONAL Y CULTO - CONSEJERÍA LEGAL

1. Favor indicar las medidas en respuestas que el Gobierno ha adoptado para aliviar el impacto negativo de la pandemia en negocios, en las siguientes áreas:

- h) Quiebra (bankruptcy) y insolvencia,
- i) Ayuda a la pequeña y mediana empresa,
- Programa de APOYO AL SISTEMA PRODUCTIVO NACIONAL COVID-19 (FONDEP LÍNEA ANR y PAC COVID): su objeto fue asistir a PyMEs, industrias, emprendedores e instituciones públicas en la generación de insumos, equipamientos y soluciones para mitigar los efectos de la pandemia por el COVID- 19. Contó con el respaldo financiero del FONDEP y el apoyo del BID, a través de un llamado específico del programa PAC. En el marco del mismo Programa, se otorgaron créditos directos a una tasa fija anual del 12%, destinados a capital de trabajo e inversión para MiPyMEs y empresas grandes para la producción de insumos sanitarios, equipamiento médico y desarrollos tecnológicos.
- Programa de Competitividad de Economías Regionales (PROCER): tiene por finalidad potenciar la competitividad y a promover la capacidad exportadora de las MiPyMEs de cadenas de valor a través de aportes no reembolsables (ANR) para fortalecer instituciones intermedias de apoyo (Centros PyME en universidades, agencias de desarrollo y centros de servicios empresariales), y financiar capacitaciones, equipamiento y asistencias técnicas.
- Programa de oferta de servicios digitales a PyMEs. Red de asistencia digital, donde se ofrece un catálogo de servicios que las empresas podrían necesitar en el marco de la pandemia, para digitalizarse. La información se encuentra en la página Red de asistencia digital para PyMEs | Argentina.gob.ar
- Capacitar: Se proponen capacitaciones específicas y/o generales que pueden acompañar a las pymes y emprendedores con algunas soluciones o propuestas para poder afrontar el contexto de pandemia y avanzar con sus negocios. Link al programa Capacitar | Argentina.gob.ar

<https://www.argentina.gob.ar/produccion/capacitar>

- Redes para Emprender: Articulación y fortalecimiento de ecosistemas emprendedores locales, provinciales

y/o regionales a través de asistencia técnica y financiera. Link

- Programa de Apoyo a la Competitividad (PAC) Emprendedores Reactivación Productiva: Destinado a

emprendimientos que contribuyen a la reactivación de la actividad productiva mediante el desarrollo y/o adopción de soluciones tecnológicas y agregados a la cadena de valor del proceso productivo. Se trata de Aportes No Reembolsables de hasta el 85% para el financiamiento de proyectos que se encuentren en un estadio de ideación o de desarrollo inicial. Link

- Créditos del Banco de Inversión y Comercio Exterior (BICE) para MiPyMEs: Se destinaron \$1.000 millones de pesos en líneas de capital de trabajo con una tasa del 19% anual



fija en pesos con un plazo de hasta 12 meses con un máximo de 6 meses de gracia, o 18 meses a una tasa del 24%. [Link](#)

- Programa de Emergencia de Asistencia al Trabajo y la Producción (ATP): se otorgaron créditos a tasa cero para monotributistas y autónomos -incluyendo especialmente a monotributistas y autónomos/as del sector cultural- y créditos a tasas subsidiadas para empresas destinado al pago de haberes. Con bonificación de tasa del FONDEP y garantías del FOGAR.
- Línea para empresas de todos los sectores destinada al pago de haberes a tasa del 24% con respaldo del FOGAR, a través de la cual se financió el 100% de la masa salarial bruta.
- Líneas de financiamiento especiales destinadas a capital de trabajo para sectores históricamente excluidos: la línea de financiamiento PyME Plus junto al BCRA, destinada a MiPyMEs sin financiamiento previo con garantías del FOGAR, y la línea Cooperativas junto al BNA, destinada a cooperativas de trabajo y empresas recuperadas con bonificación de tasa del FONDEP y garantías del FOGAR.
- Desarrollo de líneas de financiamiento sectoriales destinadas a capital de trabajo junto al BNA: Minería con bonificación de tasa del FONDEP, y Cultura y Turismo, ambas con bonificación de tasa del FONDEP y garantías del FOGAR. Estos dos últimos sectores han representado los más críticos en el contexto de pandemia en Argentina.
- Desarrollo de líneas de financiamiento para la reactivación productiva destinadas a capital de trabajo, inversiones y a financiar exportaciones para MiPyMEs. En conjunto con BNA y BICE. Cabe destacar que la línea de financiamiento para inversión productiva BICE contempla un cupo del 20% para empresas lideradas por mujeres y del 15% para el sector vitivinícola.
- Desarrollo de líneas de financiamiento para inversiones y capital de trabajo con provincias en el marco del Programa Global de Crédito para la Reactivación Productiva del Banco Interamericano de Desarrollo (BID).
- Desarrollo de línea de créditos LIP PyMEs destinada a proyectos de inversión productiva para MiPyMEs y cooperativas de los sectores industrial, agroindustrial y servicios industriales con subsidio de tasa por parte del FONDEP. Contempla tasas bonificadas diferenciales para PyMEs lideradas por mujeres y para PyMEs exportadoras. En conjunto con 25 bancos públicos y privados de todo el país.
- Registro PYME, se estableció la posibilidad de reinscripción automática al Registro PyME. En el mismo, pueden registrarse quienes realicen sus actividades en el país, en alguno de estos sectores: servicios, comercial, industrial, agropecuario, construcción o minero. La inscripción en el Registro permite acceder a beneficios fiscales, acceso a financiamiento, programas de promoción, entre otros.

Postergación del pago de derechos de exportación por 60 días (prorrogados en dos oportunidades) para aquellas empresas registradas en el Registro de Empresas Micro, Pequeñas y Medianas Empresas (MiPyMEs - Ley N° 24.467, sus modificaciones y complementarias). La medida se solicita mediante la presentación de la “Declaración jurada del exportador”, en los términos del apartado II del Anexo II de la Resolución Gral. N° 3.885 y sus modificatorias. Efectiva desde el 8/6/2020- Finalizada el 31/12/2020.

Legislación nacional:

Resolución General AFIP N° 4728/2020

(B.O. 1/6/2020)

Resolución General AFIP N° 4787/2020

(B.O. del 6/8/2020)

Resolución General AFIP N° 4826/2020

(B.O. 30/9/2020)

Resolución General AFIP N° 4843/2020

(B.O. 29/10/2020)

Resolución General AFIP N° 4.862/2020

(B.O. 30/11/2020)

- j) Compras públicas,
- k) Comercio electrónico (incluyendo las áreas de firmas electrónicas, verificación electrónica y comercio sin papel),
- l) Relaciones contractuales de negocio a negocio (incluyendo redacción, interpretación y aplicación de la cláusula de fuerza mayor),
- m) Transporte y logística,
- n) Gobernanza corporativa.

Si las medidas fueran legales, favor incluir un enlace a la legislación (o una copia separada de la legislación en caso de que esta no se encuentre disponible en línea).

2. Favor indicar la medida de respuesta adoptada en apoyo de negocios (incluyendo la forma de asistencia financiera) y el criterio para que los negocios reciban el apoyo. Favor indicar también el fundamento legislativo para estas medidas y si fue necesario nueva legislación.

Desde la Secretaría de la Pequeña y Mediana Empresa y los Emprendedores del Ministerio de Desarrollo Productivo se brindó asistencia bajo el Programa de Apoyo al Sistema Productivo nacional en el marco de la Pandemia COVID-19 con el objeto de asistir y financiar, a través del Fondo Nacional de desarrollo Productivo (FONDEP), al sector de la salud pública y a las empresas, que desarrollasen soluciones productivas y tecnológicas para el abordaje, contención, tratamiento y mitigación del Coronavirus COVID-19. Entre ellos se destacaron los vinculados con la producción de equipamiento médico y sus cadenas de valor, reactivos y kits para diagnóstico, insumos sanitarios, medicamentos y vacunas, productos de higiene personal, plataformas digitales, entre otras tecnologías sanitarias y servicios afines, que permitan abordar y mitigar la actual emergencia epidemiológica.

Los instrumentos del FONDEP consistieron en créditos directos con una tasa anual fija del 12% y Aportes No Reembolsables. Las líneas de préstamos tuvo como beneficiarias a cooperativas, MiPyMEs y grandes empresas que necesitaran aumentar su capacidad de producción tanto para realizar aportes innovadores en el área de equipamiento, insumos médicos y sanitarios.

La línea de ANRs estuvo orientada a empresas, emprendedores, grupos asociativos e instituciones de I&D que no fueran sujeto de crédito directo y que requirieran incrementar su capacidad productiva para el desarrollo tanto de emprendimientos innovadores como nuevos servicios/productos estratégicos que contribuyan a mitigar el Coronavirus.

En el marco del Programa de Apoyo al Sistema Productivo Nacional, se lanzó un llamado específico del Programa de Apoyo a la Competitividad (PAC) con apoyo del Banco Interamericano de Desarrollo (BID). Esta convocatoria PAC Emergencia para Pymes y Emprendedores tuvo por objeto aumentar la producción y oferta de equipamiento y/o bienes específicos para el desarrollo de servicios tecnológicos para la prevención, diagnóstico, tratamiento, monitoreo y control del virus COVID-19 en Argentina. El instrumento de asistencia económica de este PAC consistió en el otorgamiento de Aportes No Reembolsables con un subsidio del 100% de los proyectos.

En términos generales, las líneas de financiamiento tanto bancarias como no bancarias para capital de trabajo y/o inversiones que se desarrollaron, estuvieron destinadas a micro, pequeñas y medianas empresas y cooperativas de todo el país. Algunas de ellas se caracterizaron por ser líneas multisectoriales y otras, líneas específicas para los sectores más perjudicados por la pandemia.

Para el Programa de Apoyo a la Competitividad (PAC) Emprendedores Reactivación Productiva, se brindará asistencia financiera a aquellos emprendimiento que contribuyan a la reactivación de la actividad productiva mediante el desarrollo y/o adopción de soluciones tecnológicas, así como la introducción de equipamiento, herramientas e innovaciones en el proceso productivo.

Los proyectos deben enmarcarse dentro de las siguientes orientaciones: desarrollo de servicios tecnológicos y actividades tendientes a generar cambios innovadores, adopción de tecnologías para la mejora de la productividad, adecuación de instalaciones en espacios productivos, y creación de nuevas líneas de productos/servicios y/o ampliación de la capacidad productiva para contribuir al cumplimiento de los protocolos exigidos.

A su vez, se considerará la asistencia técnica al emprendedor por parte de una Entidad Especializada en Apoyo Emprendedor (EEAE). Además, a través de Redes para Empezar las entidades conformadas por instituciones locales, provinciales y/o regionales de los sectores público, privado y/o mixto pueden presentar un proyecto para obtener un ANR y dinamizar los ecosistemas emprendedores. Las mismas deben tener, entre sus objetivos, brindar servicios de incubación, aceleración, expansión, asistencia técnica y monitoreo, entre otros, a emprendedores/as y emprendimientos.

Otro mecanismo de asistencia financiera fue el otorgamiento de créditos para MiPyMEs y emprendedores.

3. Favor indicar el tipo de régimen de monitoreo y cumplimiento que se ha aplicado para que los negocios reciban el apoyo mencionado en la pregunta no. 2.

Los solicitantes de los proyectos seleccionados en el marco de la línea de ANRs FONDEP del Programa de Apoyo al Sistema Productivo Nacional deben presentar la siguiente documentación en el marco de la rendición de cuentas:

- a) la remisión de los comprobantes de los gastos incurridos con motivo de la ejecución del Proyecto;
- b) la presentación del extracto bancario correspondiente a la cuenta declarada, que permita corroborar los pagos realizados; y
- c) la presentación de informes que demuestren el cumplimiento de los objetivos y actividades propuestas así como la documentación respaldatoria de estas actividades.

La rendición de cuentas puede hacerse de forma parcial o total, según el esquema de desembolsos que se haya establecido para el proyecto aprobado. Las rendiciones de cuentas deben ser remitidas vía Trámite a Distancia (TAD) a la Autoridad de Aplicación dentro del plazo máximo de 180 días corridos contados a partir de cada desembolso.

Asimismo es condición necesaria para recibir el beneficio la constitución de un seguro de caución a favor del Fiduciario de FONDEP, el que deberá permanecer vigente hasta la aprobación final de la rendición de cuentas. El monto asegurado deberá ser igual al monto del ANR recibido.

El control en el Programa PAC, Emergencia para Pymes y Emprendedores, también se efectúa a través de la Plataforma Trámites a Distancia (TAD). En este caso se solicita la siguiente documentación respaldatoria:

- \* Formulario de Rendición del Anticipo

- \* Facturas, remitos, recibos y/o comprobantes de transferencia bancaria a cada proveedor y/o consultor.

- \* Producto verificable de la inversión realizada, según correspondiere: fotos del producto en sede productiva, copia de los manuales y/o de los accesorios y, en el caso de asistencia técnica y/o servicios profesionales o desarrollos, los informes o cualquier otro verificable que demuestre la ejecución de las actividades aprobadas.

El plazo máximo para presentar la rendición de cuentas es de seis (6) meses contados a partir de la finalización de las actividades. Si la documentación presentada no se ajustara a lo establecido, se podrán realizar las observaciones pertinentes vía TAD. Toda observación debe ser cumplimentada dentro de los cinco (5) días hábiles.

Ante la falta de respuesta, o si su presentación fuese extemporánea o incompleta, la autoridad podrá rechazar total o parcialmente la rendición y exigir el reembolso del Aporte No Reembolsable (ANR).

En los casos de incumplimiento se podrá ejecutar la póliza de caución. Asimismo, la autoridad podrá verificar in situ las actividades realizadas en el marco de la misma, con el objeto de constatar su cumplimiento, ejecución e impacto.

En cuanto a las otras líneas de financiamiento, si bien se realiza un monitoreo y seguimiento global de la ejecución de cada una de ellas, la gestión integral de la solicitud del crédito corresponde a las entidades bancarias.

4. Favor detallar que clase de obstáculos han sido denunciado por los negocios (en caso de existir) en las transacciones comerciales y el comercio a través de las fronteras a causa de las medidas implementadas por los Estados para superar la pandemia.

5. Además de las medidas indicadas en la respuesta no. 1, favor indicar (a) cualquier legislación promulgada por el Gobierno para superar los obstáculos al comercio transfronterizo, y (b) cualquier otra medida legal para responder a la pandemia que pudiera afectar el comercio transfronterizo.\* Para facilitar el acceso a la información, el Registro Nacional de Concursos y Quiebras está en proceso de crear una base de datos centralizada a nivel nacional que reúna en un sistema único información de todos los procesos concursales que se inician, tramitan y finalizan en los Juzgados con competencia Civil y Comercial de todo el país. La base de datos, con carácter público y gratuito, permitirá agrupar en un sistema único nacional la información que actualmente manejan a nivel local en cada jurisdicción los Registros de Juicios Universales, permitiendo así detectar y prevenir los problemas de doble concursamiento, abuso de jurisdicción y homonimias de sujetos concursales.

\* Eliminación del requisito de trámite de licencia no automática de importación para ciertas posiciones arancelarias de productos sanitarios relacionadas con el Covid-19.

\* Implementación de permisos de exportación (expedido por el Ministerio de Desarrollo Productivo, con intervención del Ministerio de Salud) para aparatos de oxigenoterapia, sus partes y accesorios (NCM 9019.20.10), por el plazo que perdure la emergencia pública en materia sanitaria (Ley N° 27.541 y Decreto N° 260/2020, y modificatorios).

\*Suspensión temporaria de medidas antidumping aplicadas a las importaciones de jeringas hipodérmicas de material plástico, descartables, estériles, originarias de China (N.C.M. 9018.31.11 y 9018.31.19), por el plazo que perdure la emergencia pública en materia sanitaria (Ley N° 27.541, Decreto N° 260/2020, y modificatorios).

6. Favor indicar las medidas que se vienen aplicando para mitigar los efectos de la pandemia en la solución de disputas comerciales (por ejemplo, facilitando la realización de audiencias en forma remota, ampliando la realización de procedimientos acelerados (fast-track proceedings), extensión de los periodos de limitación).

7. Favor indicar cualquier cuestión relacionada con la respuesta y recuperación al COVID-19 que obtendría los mayores beneficios de una solución legal armonizada en el área del derecho comercial internacional.<sup>5</sup>

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<sup>5</sup> La Comisión tomo nota ([A/75/17](#), parte I, párr. 27) que varias de las herramientas legislativas de la CNUDMI pueden cumplir una función importante en ayudar a los Estados a mitigar los efectos de las medidas de respuesta, así como en sus esfuerzos de recuperación económica, y reiteró a los Estados considerar la posibilidad de adoptar los textos de la CNUDMI en comercio electrónico e insolvencia, así como los instrumentos en apoyo de las microempresas y pequeñas y medianas empresas y promover la solución eficaz de las controversias comerciales. Se observa que la Secretaría se encuentra actualmente realizando una evaluación de los textos de la CNUDMI existentes para determinar como estos se aplican a las tecnologías emergentes y su aplicación y si sería necesario estudiar alguna laguna en un futuro esfuerzo de armonización ([A/75/17](#), parte II, párr. 76).

## **Responses submitted by Armenia**

### **Questionnaire for UNCITRAL member and observer States on measures taken in response to the COVID-19 pandemic ("response measures"):**

**1. Please specify the response measures that the Government has adopted to alleviate negative impacts of the pandemic on businesses in the following areas:**

- a) bankruptcy and insolvency,**
- b) support for small and medium-sized enterprises,**
- c) public procurement,**
- d) electronic commerce (including in the areas of electronic signatures, electronic authentication, and paperless trade),**
- e) business-to-business contractual relations (including drafting, interpretation and application of force majeure clause),**
- f) transportation and logistics, and**
- g) corporate governance.**

**If these measures were legislated, please provide a link to the legislation (or a separate copy if the legislation is not publicly accessible online).**

With regard to points "a" and "d" of the first question in the questionnaire, let us mention that on 18 September 2020 the National Assembly adopted the Law "On making amendments to the Law "On bankruptcy"", and the Ministry of Justice also took part in the revision of the Law. As a result of the specified amendments, to declare the debtor bankrupt on the basis of an application on compulsory bankruptcy, his or her liability must exceed AMD 2.000.000 instead of the previous AMD 1.000.000, and the delay of liability must be 90 days instead of the previous 60 days. With the same logic and limits, amendments have also been made for the cases when the relevant competent state or local self-government bodies submit an application on declaring bankrupt in case of cash liabilities to the Republic of Armenia and community budgets. At the same time, let us mention that the amendments were conditioned by the fact that the solvency of economic entities is also affected by the negative economic consequences of the novel coronavirus pandemic.

In its turn, on 10 September 2020 the Government adopted Decree No 1517-N "On defining the cases and procedure for creditors to participate in the voting for the financial recovery plan under the requirements arising from the cash liabilities to the State Budget of the Republic of Armenia", as a result of which the cases when the relevant state bodies are also given the right to participate in the voting for the financial recovery plan are defined. This, in its turn, will be an additional guarantee for debtors meeting certain criteria to take the path to financial recovery and not undergo liquidation, which, in essence, is an additional assistance for debtors and may contribute to overcoming the consequences of the COVID-19 pandemic.

The Ministry of Justice has developed and put into circulation the draft Law "On making amendments and supplements to the Civil Code of the Republic of Armenia and related laws", which is currently in the stage of revision. It should be mentioned that the amendments to be made under the specified draft are first and foremost conditioned by the Government Decree No 1441-L of 10 October 2019 "On approving the 2019-2023 Strategy on

Judicial and Legal Reforms of the Republic of Armenia and the Action Plan arising therefrom", but the regulations envisaged thereby may also highly contribute to the process of overcoming the consequences of the COVID-19 pandemic. Thus, the relations pertaining to electronic contracts are clarified and comprehensively regulated by the draft Law "On making amendments and supplements to the Civil Code of the Republic of Armenia and related laws". In particular, the draft Law lays down regulations regarding terms and conditions of the contract that are aimed at regulating the relations for becoming familiar with, giving consent to, applying and changing certain terms and conditions of the contract on electronic platforms (on websites, in electronic apps and other similar domains). At the same time, regulations concerning the main process of concluding contracts on electronic platforms are envisaged, including offer and acceptance, identification of the parties to the contract in that process, as well as the ways of concluding contracts on electronic platforms.

The Government of Armenia showed its quick response to COVID 19. Throughout April 2020, following the declaration of state of emergency, the Ministry, in collaboration with the Business Support Office (BSO) and Investment Support Center (ISC) conducted a series of online webinars intended for businesses operating in the country. They were aimed at helping entrepreneurs in overcoming challenges they were facing because of the imposed lockdown. More than 20 webinars were held, with a participation of around 3000 entrepreneurs, covering various topics and areas, each accompanied by a survey. According to the survey results, businesses currently require consulting in many different areas, e.g., Strategic Management (32%), Marketing (23%), Taxation (11%), Financial Management (14%), Human Resources (2%), Legal (7%), and others (12%). Based on the reviews, comments and recommendations made by the participants, a new coaching project called #BusinessagainstCOVID19 was launched by the Ministry. The latter is an online consulting led by top specialists on more than 100 different topics, covering a total of 1000 hours of personalized coaching. Each company can register for up to 2 sessions and get a professional assistance on how to deal with the issues and challenges faced during this period of economic downturn.

The Government of Armenia has designed and launched more than 24 social and economic mitigation programs. The main objective of the economic programs was to mitigate the liquidity risks they face due to the COVID-19 outbreak, and to create the possibility of temporary access to financial resources. The programs have mainly sector specific targets, supporting mainly those sectors which are mostly affected, such as tourism, accommodation and food services, transport, agriculture, construction etc.

**2. Please specify the response measures adopted to support businesses (including in the form of financial assistance), and the criteria for businesses to receive support. Please also indicate the legislative basis for these measures and whether new legislation was needed.**

The Government of Armenia has designed and launched more than 24 social and economic mitigation programs. The main objective of the economic programs was to mitigate the liquidity risks they face due to the COVID-19 outbreak, and to create the possibility of temporary access to financial resources. The programs have mainly sector specific targets, supporting mainly those sectors which are mostly affected, such as tourism, accommodation and food services, transport, agriculture, construction etc.

### **ACTION 1**

- **Target:** Determined by the purpose of the loan
- **Beneficiary:** Resident economic entity with a sound credit and tax record
- **Form of assistance:** Interest rate subsidy
- **Basic conditions:**

- **Currency:** dram or foreign currency (the instrument of subsidizing loans in foreign currency can only be applied if the borrower boasts sufficient foreign currency income to service the loan through its business activities).

- **Term:** up to 60 months, but the subsidy provided under this program is to be used for a period of up to 24 months of the loan; in case of foreign currency loans - for a period of up to 6 months

- **Grace period:** up to 6 months; for foreign currency-denominated loans - up to 3 months

- **Maximum amount** of the subsidized part of a loan provided to one economic entity under this instrument is AMD 250 million; in the case of foreign currency-denominated loans - the equivalent of AMD125 million

- **Procedure for using the funds borrowed under this instrument:** only non-cash transactions and bank transfers

- **Maximum actual interest rate:** 12% per annum for AMD-denominated loans and 9% per annum - for loans in foreign currency

The rate of subsidy for AMD-denominated loans is as follows, depending on the purpose of the loan:

Purpose of Loan	Rate of Subsidy
Employees	In full
Taxes, duties and mandatory payments	In full
Raw materials	7%
Equipment	6%
Utility bills	10%
Food	8%

The rate of subsidy for foreign currency-denominated loans is as follows, depending on the purpose of the loan:

Purpose of Loan	Rate of Subsidy
-----------------	-----------------



Employees	In full
Taxes, duties and mandatory payments	In full
Raw materials	6%
Equipment	5%
Utility bills	8%
Food	6%

Those businesses that will invest more than 25 million drams in their authorized capital in 2020 can use the full amount of the preferential lending toolkit described in this chapter, regardless of the fact of having previously benefited from a program approved by this decision, the volume and the terms of lending.

Those economic entities having invested over 25 million drams in their authorized capital in 2020 shall enjoy the following privileges:

- Subsidy is provided for a period of up to 30 months; in the case of foreign currency loans - for a period of 9 months.
- The maximum amount of the subsidized part of the loan is set at 300 million drams; in case of foreign currency loans - the equivalent of 150 million drams.
- Subsidy rates shall increase by 0.25% (except for full subsidies).

Those economic entities having invested over 50 million drams in their authorized capital in 2020 shall enjoy the following privileges:

- Subsidy is provided for a period of up to 36 months; in the case of foreign currency loans - for a period of 12 months.
- The maximum amount of the subsidized part of the loan is set at 400 million drams; in case of foreign currency loans - the equivalent of 200 million drams.
- Subsidy rates shall increase by 0.5% (except for full subsidies).

Those economic entities having invested over 100 million drams in their authorized capital in 2020 shall enjoy the following privileges:

- Subsidy is provided for a period of up to 48 months; in the case of foreign currency loans - for a period of 24 months.

- The maximum amount of the subsidized part of a loan provided as part of the assistance mechanism specified in subparagraph 4 of paragraph 7 of this annex is 500 million drams; in case of foreign currency loans - the equivalent of 250 million drams.

- Subsidy rates shall increase by 1% (except for full subsidies).

Increase in the authorized capital must be made at the expense of investments in the form of monetary funds. Moreover, no decrease in the authorized capital is allowed during the subsidy period.

In the event of violation of this condition, the loan provided to the economic entity is subject to immediate repayment after disclosure, and the subsidies paid by the state are subject to repayment at the rate of twice the subsidized amount.

Applications have to be filed with banks and other lending institutions involved in the Program.

## **ACTION 2**

Target: Agriculture

Beneficiaries:

a) Such natural persons operating in the field of agriculture in the territory of the Republic of Armenia that boast a good credit record;

b) Individual entrepreneurs or legal entities with a good credit and tax record, except for agricultural cooperatives with up to 365 days of registration;  
Form of Assistance: Co-financing of targeted loans / leasing and / lending / leasing interest rate subsidy.

The basic terms and conditions may vary depending on the purpose of the loan / leasing facility provided under the program, as well as on the beneficiary's legal status.

Loan / leasing facility interest rate subsidy:

Loan / leasing facility interest rate: 0%

Maturity of loan / leasing facility - 10 years at maximum

Grace period for the principal amount - 5 years at maximum

Co-financing:

Agricultural cooperatives - 10-70%;

Individuals - 10-30% (30% for loans provided under pig, poultry, pedigree cattle, pedigree / non-pedigree sheep and goat breeding projects;

Leasing of agricultural and agri-food equipment - 10% of down payment, but not more than 10 million drams)

Legal entities (except for agricultural cooperatives) and self-employed entities - 10-30% (30% for loans provided under pedigree cattle, sheep and goat breeding projects;

Leasing of agricultural and agri-food equipment - 10% of down payment, but not more than 10 million drams)

Applications have to be filed with those financial institutions involved in the Program.

## **ACTION 3**

Target: SMEs

Beneficiary: resident economic entity with good credit and tax record

Form of assistance: loans of up to AMD 50 million, depending on turnover

**Basic terms and conditions:**

Areas: processing industry, accommodation and public catering, transportation and storage, tourism services, other tertiary services, healthcare, preschool education (private kindergartens), sporting activities (sports clubs, swimming pools), entertainment and leisure activities (except for computer games and internet clubs), construction of buildings, civil construction, specialized construction activities. The applicants shall have:

- Annual turnover for 2019 - AMD 24 million to AMD 500 million;
- Turnover for each quarter of 2019 did not exceed 70% of the annual turnover,
- The maximum loan amount is AMD 50 million, 0% interest rate for the first two years, and 12% - for the third year.
- Good credit record, i.e., according to ACRA information they had no overdue credit terms for more than 30 days or more during the 12 months prior to the application date.
- Good fiscal record, i.e., no administrative proceedings have been instituted against the tax liability incurred during the 365 days prior to the date of submission of the application, or no overdue tax liability as of December 31, 2019 (in the latter case, 1% of the loan amount is charged as a borrower's fee).

Applications have to be filed with the Investment Support Center of the Ministry of Economy

#### ACTION 5

Target: Effective Job Support

Beneficiary: resident economic entity with 2 to 50 employees,

Potential beneficiaries: more than 12,000 businesses,

One-time grant, in the amount of the salary of every 5th employee,

#### **Basic terms and conditions:**

The applicant employed 2 to 50 persons in the period from 01.01.2020 to 01.04.2020, and the actual wage fund did not decrease in the period under review.

The State Revenue Committee will process the application in an automated manner.

#### ACTION 10

- Target: support for micro-enterprises,
- Beneficiaries, economic entities registered as micro-enterprises,
- Support: one-time assistance in the amount of 10% of the turnover of goods, services provided in the first quarter of 2020, but not more than twice the minimum wage

#### **Basic terms and conditions:**

- The applicant was registered as a family business in 2019, or
- The applicant was a natural person not registered as a self-employed entity in 2019, had a tax exemption license, or
- The applicant has been a natural person not registered as a self-employed entity since January 1, 2020; he or she was not registered in the way specified in sub-paragraphs 1 and 2 of this clause, neither were they registered as self-employed entities in the period under review.

#### ACTION 17

Target: high-tech industry

Beneficiaries: Business entities that meet the criteria specified in the RA Law on State Support in the Sphere of Information Technologies,

Form of assistance: one-time grant to successful entrepreneurs

Basic conditions:

- As of the day of submitting the application, the beneficiaries did not have overdue tax and credit obligations during the last 12 months.

- As of the day of submitting the application, the beneficiaries had not received a grant from the High-Tech Ministry during the last 12 months.

- Beneficiaries should have been registered in Armenia over the past two years as manufacturers, or registered in Armenia for more than 2 years in case of services; Or technology companies that will attract documented and approved investments.

#### ACTION 18

Target: Effective job support,

Beneficiary: such economic entities registered in the Republic of Armenia that had 2 to 100 employees in the period from February 1, 2020 to April 30, 2020;

Form of Support: one-time grant;

Basic Terms and Conditions: the actual income fund calculated by the mentioned economic entities has not decreased during the mentioned period, or the decrease has made no more than 5%.

The State Revenue Committee shall notify the economic entity that it is a program beneficiary, after which the economic entity submits an application to the State Revenue Committee.

#### ACTION 19

Target: support for competitive business ideas, entrepreneurial ideas developed by beneficiaries seeking to start a business from scratch, promotion of innovative business plans

Beneficiary: Armenia-registered economic entity or individual entrepreneur

Form of Support: 75% of financial resources are provided as interest-free loans with a maturity of 8 years, 25% as grants.

Basic Terms and Conditions:

- compliance with the criteria established by the RA Law on State Support for Small and Medium Enterprises,

- good tax and credit record during the 12 months preceding the day of submission,

- involvement in the regions of Armenia,

Applications to be filed with the Investment Support Center of the Ministry of Economy

- the applicant has not benefited from the Investment Support Center Foundation's startup support facilities;
- for at least 24 months before the date of application, the applicant has benefited from the Investment Support Center Foundation's innovative development support facility.

**ACTION 21**

(<https://www.arlis.am/DocumentView.aspx?DocID=143430>)

Target: Effective job support

Beneficiary: Business entities with 2 to 100 employees as of March 1, 2020 through May 31, 2020

Form of assistance: one-time grant, in the amount of the salary of every 5th employee,

Methodology for calculating the amount of support.

In the case of economic entities with up to 5 employees, the total amount of income calculated for May 2020 is divided among the employees in order to determine the amount of assistance provided to the economic entity.

- In the case of businesses with more than 5 employees, to determine the amount of assistance provided to the business entity:

- a. The amount of the average monthly calculated income of the economic entity in May 2020 is calculated, that is, the number of employees divided by the total amount of income calculated for the month of May 2020.
- b. One-fifth of the total number of employees is calculated, that is, the total number of employees is divided by 5, rounded down.

c. The product of the results of paragraphs "a" and "b" of this sub-item is calculated and rounded up to one point.

The main condition is that the actual income fund calculated by the mentioned economic entities has not decreased during the mentioned period, or the decrease has made no more than 5%.

The State Revenue Committee notifies the economic entity that it is a beneficiary of the program, after which the economic entity submits an application to the State Revenue Committee.

In the 1st event, add the words before the place of application:

The economic entity, in the authorized capital of which 50 million AMD and more were invested in 2020, uses all the following additional privileges:

Subsidizing is carried out for a period of up to 36 months, and in case of foreign currency loans - for a period of 12 months.

The maximum amount of the subsidized part of the loans to be provided is set at 400 million drams, and in case of foreign currency lending, equivalent to 200 million drams.

Subsidy rates increase by 0.5%.

The economic entity, in the authorized capital of which an investment of 100 million AMD and more was made in 2020, enjoys all the following additional privileges:

Subsidies are provided for loans up to 48 months, and in case of foreign currency loans, for a period of 24 months.

The maximum amount of the subsidized part of the loans to be provided under the assistance tool provided for in sub-clause 4 of clause 7 of this appendix is set at 500 million drams, and in case of foreign currency lending, equivalent to 250 million drams; subsidy rates are 1% up.

The increase in the mentioned statutory capital must be made at the expense of investments in the form of funds. At the same time, the reduction of statutory capital is not allowed during the whole period of subsidy.

In case of violation of the mentioned condition, the loan provided to the given economic entity is subject to immediate repayment after the disclosure, and the subsidized amounts paid by the state are subject to double repayment of the subsidized amount through the bank.

**5. Aside from the measures specified in response to question 1, please specify (a) any legislation that the Government has passed to overcome obstacles to cross-border trade, and (b) any other legislative measures to respond to the pandemic which may affect cross-border trade.**

With regard to point "b" of the fifth question in the questionnaire, let us mention that on 4 September 2020 the National Assembly adopted the Laws "On making amendments and supplements to the Law "On protection of the population in emergency situations"" and "On making supplements and amendments to the Law "On ensuring sanitary and epidemiological safety of the population of the Republic of Armenia"", by which a new legal regime — quarantine — was introduced; in the case of envisaging quarantine, certain rights may be restricted. In particular, a special regime of entry into and exit from the epidemic zone may be established under the decision on establishing quarantine, in which case special checkpoints and points for conducting medical examinations may be installed in order to ensure the special regime. At the same time, restrictions on the export or import of certain goods or certain consignments of those goods may be set under the decision on establishing quarantine. Thus, we find that, in case of envisaging restrictions in accordance with the specified regulations, these restrictions may also affect the international trade.

**6. Please specify the measures that have been put in place to mitigate the effects of the pandemic on commercial dispute settlement (for example, facilitating remote hearings, expanding fast-track proceedings, extension of limitation periods).**

With regard to the sixth question in the questionnaire, it should be mentioned that on 24 March 2020 and on 26 October 2020 the Supreme Judicial Council adopted Decision No SJC-12-D-25 "On the measures ensuring execution of Decision of the Commandant No 15 of 24 March 2020 "On the restrictions being applied for implementation of public service in the whole territory of the Republic of Armenia"" and Decision No SJC-67-D-154 "On the measures being implemented for prevention of the spread of the coronavirus pandemic (COVID-19)", according to which, right after the announcement of the opening of court sessions, upon the consent of the participants of the proceedings, the court sessions may, through the introduction of a system providing the opportunity for audio-visual communication in all courts of the Republic of Armenia, be held remotely/on-line through the application of all available electronic apps. At the same time, rules for entering the administrative buildings of courts, sending documents addressed to the Supreme Judicial Council, courts, the General Assembly of Judges and the Judicial Department electronically and becoming familiar with the materials of cases in the proceedings of courts, as well as other rules targeted at prevention of the spread of the COVID-19 pandemic have been regulated under the specified decisions.

## **Responses submitted by Austria**

1. Please specify the response measures that the Government has adopted to alleviate negative impacts of the pandemic on businesses in the following areas:

### **a) bankruptcy and insolvency,**

The Austrian Government has foreseen the following measures to alleviate negative impacts of the pandemic on businesses in the field of bankruptcy and insolvency:

- The debtor's duty to file for insolvency proceedings within 60 days after inability to pay is extended to 120 days if inability to pay occurred because of a pandemic like Covid-19.
- The debtor's duty to file for insolvency proceedings because of over-indebtedness (Art 67 of the Insolvency Code - Insolvenzordnung) is suspended until 30-06-2021.
- Creditor's right to file for insolvency of a debtor based on over-indebtedness is also suspended until 30-06-2021.
- The court can extend procedural time limits in insolvency proceedings by up to 90 days (in force until 30-06-2021).
- Hearings can be held as video-conferences even without consent of the parties.

b) support for small and medium-sized enterprises,

### **c) public procurement,**

In accordance with the general provisions on the suspension of time limits in administrative court proceedings in March 2020, the time limits in administrative court proceedings regarding public procurement (PP) have been temporarily suspended. However, in order to guarantee legal certainty for both contracting authorities and economic operators, the regular time limits were reintroduced in public procurement proceedings earlier than in other areas (COVID-19 Begleitgesetz Vergabe, BGBl (Federal Law Gazette) I 24/2020 as amended by BGBl I 5/2021). The Federal Ministry of Justice sent out a circular in which contracting authorities and economic operators were informed about the specific rules governing procurement during the pandemic, in particular about the rules for purchasing "essential" supplies (e.g. medical and / or protective equipment). With regard to public procurement procedures as such, it was pointed out that practical difficulties for economic operators due to the pandemic would have to be taken into account and, in this respect, longer time limits for the conduct of PP procedures may need to be set (Rundschreiben vom 30. März 2020, GZ 2020-0.196.642<sup>6</sup>).

In addition, it can be noted that, outside of a specific public procurement context, other rules (e.g. with regard to bankruptcy, cf. above) and financial aid have been adopted, which have also had a positive effect on the participation of economic operators in public procurement procedures. Economic operators, for example, who would otherwise have had to file for bankruptcy, were thus (still) able to prove their economic and financial standing in public procurement procedures.

### **d) electronic commerce (including in the areas of electronic signatures, electronic authentication, and paperless trade),**

With Art. 34 of the 4th COVID-19 Act, Federal Law Gazette I No. 24/2020, the electronic notarial act, which until then had only been permissible for the area of the formation of limited

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<sup>6</sup> [https://www.bmj.gv.at/dam/jcr:ec3bceca-695c-497f-b189-60940a47912b/2020-0.196.642-1-a\\_\\_rundschreiben\\_regelungen\\_covid-krise\\_31.03.20.pdf](https://www.bmj.gv.at/dam/jcr:ec3bceca-695c-497f-b189-60940a47912b/2020-0.196.642-1-a__rundschreiben_regelungen_covid-krise_31.03.20.pdf)



liability companies, as well as the electronic public certification by the notary were extended to all transactions and processes that require the involvement of a notary. This regulation, originally limited to 31.12.2020, has in the meantime been incorporated into permanent law.

**e) business-to-business contractual relations (including drafting, interpretation and application of force majeure clause),**

As far as contract law is concerned, provisions have been adopted on the limitation of interest on arrears and on the exclusion of contractual penalties:

Section 3 of the 2. Covid-19-JuBG provides for a limitation of interest on arrears or partial default in payment caused by an impairment of economic performance due to the Covid-19 crisis to the statutory interest (Section 1000 (1) of the Austrian Civil Code - ABGB). This applies to payments due in the period from April 1, 2020 to June 30, 2020 based on contractual obligations entered into prior to April 1, 2020. Furthermore, the debtor is not obliged to reimburse out-of-court debt collection costs.

Section 4 of the 2. Covid-19-JuBG prescribes the exclusion of contractual penalties in the event of default caused either by an impairment of economic performance due to the Covid-19 crisis or by official restrictions preventing the performance. This exclusion applies to contracts entered into prior to April 1, 2020. It also applies if it is agreed that the contractual penalty is payable regardless of the debtor's fault in the default.

“According to the newly introduced „Gesellschaftsrechtliches COVID-19-Gesetz” (COVID19 Companies Act), BGBl. I Nr. 16/2020, companies are allowed to hold general meetings as well as board meetings via videoconferencing. In addition, the legal time frame for holding various meetings was extended by this law.”

- f) transportation and logistics, and
- g) corporate governance.

If these measures were legislated, please provide a link to the legislation (or a separate copy if the legislation is not publicly accessible online).

2. Please specify the response measures adopted to support businesses (including in the form of financial assistance), and the criteria for businesses to receive support. Please also indicate the legislative basis for these measures and whether new legislation was needed.
3. Please specify the type of monitoring or compliance regime that has been applied to businesses receiving the support mentioned in question 2.
4. Please specify the kinds of obstacles reported by businesses (if any) to cross-border trade and commerce due to measures implemented by States to overcome the pandemic.
5. Aside from the measures specified in response to question 1, please specify (a) any legislation that the Government has passed to overcome obstacles to cross-border trade, and (b) any other legislative measures to respond to the pandemic which may affect cross-border trade.

**6. Please specify the measures that have been put in place to mitigate the effects of the pandemic on commercial dispute settlement (for example, facilitating remote hearings, expanding fast-track proceedings, extension of limitation periods).**

There are no civil procedural measures specifically aiming at commercial dispute settlement. Nonetheless, remote hearings by way of modern communication technology have been facilitated on a general scale and several limitation periods in material law and in procedural law have been extended (cf. above).

Additionally, persons bearing specific risks in connection with COVID-19 can apply to take part in civil procedural hearings by means of modern communications technology or to postpone the hearing if they cannot be represented by a lawyer and do not have access to modern communication technology.

**7. Please indicate any issues related to COVID-19 response and recovery that would most benefit from harmonized legal solutions in the area of international commercial law<sup>7</sup>.**

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<sup>7</sup> Note that the Commission has acknowledged ([A/75/17](#), part one, para. 27) that several UNCITRAL legislative tools can play an important role in assisting States to mitigate the effect of response measures, as well as their economic recovery efforts, and has, in particular, renewed calls for States to consider adopting UNCITRAL legislative texts in the field of electronic commerce and insolvency, as well as instruments supporting micro-, small and medium-sized enterprises and promoting the effective settlement of commercial disputes. Note also that the Secretariat is currently undertaking an appraisal of existing UNCITRAL texts to determine how they apply in light of emerging technologies and their applications and whether any gaps need to be addressed by future harmonization efforts ([A/75/17](#), part two, para. 76).

## **Responses submitted by the Czech Republic**

### **1. Please specify the response measures that the Government has adopted to alleviate negative impacts of the pandemic on businesses in the following areas:**

#### **a) bankruptcy and insolvency**

To alleviate negative impacts of the pandemic on businesses in areas of bankruptcy and insolvency, the Czech Republic has adopted several insolvency or contract-affecting extraordinary measures. The common feature of these measures was to suspend potentially negative effects of insolvency law and individual enforcement actions, both preventively and temporarily. The Act No. 191/2020 Coll. (so-called “lex COVID Justice”) as well as the Act No. 460/2020 Coll. (so-called “lex COVID Justice II.”) were passed in order to achieve the abovementioned goal.

First, the debtor's duty to file for insolvency (in case of COVID-related bankruptcy occurred within 6 months from the end of the governmental extraordinary measures) has been suspended from 24th April 2020 till 30th June 2021. Creditor's right to file for insolvency of a debtor was also suspended from 24th April 2020; this measure already expired on 31st August 2020.

Furthermore, the concept of “extraordinary moratorium” has been introduced into the Czech Insolvency Act. It suspends enforcement orders and realization of collateral rights against the debtor. It also protects the debtor from the termination of contracts for the supply of energy, raw materials, goods and services, and allows the debtor to pay the obligations directly related to the maintenance of the business preferentially over older debts. The extraordinary moratorium is easily accessible for debtors, as it does not require a consent of creditors for the first 3 months; creditors' consent is needed for a further 3 months' extension. The deadline for debtors' applications was prolonged to 30th June 2021 – the latest date of expiration of extraordinary moratorium protection would therefore be 31st December 2021.

Several other partial measures affecting private debt resolution were adopted. Since 24th April 2020 until 30th June 2021 an insolvency court could have decided that the reorganization plans adopted under the Insolvency Act may not be temporarily filled by debtor without any sanctions. Most of individual enforcement action types conducted by bailiffs were also suspended until 31st January 2021. In addition, some minor alleviations were introduced into on-going discharge-from-debts procedures; they apply on debtors affected by governmental extraordinary measures in order to partially compensate loss of incomes needed to fulfil repayment schedules. For example, it enables slightly easier way to adjust monthly repayments (expiry date was not set; any adjustment has to be by some means connected to COVID impacts).

The Covid-19 pandemic accelerated the preparation of an amendment to the Insolvency Act (Act. No. 182/2006 Coll.), which transposes the Directive (EU) 2019/1023 of the European Parliament and of the Council on restructuring and insolvency in its part concerning personal insolvency law. According to the Czech Ministry of Justice's proposal, all natural persons shall have an equal access to a debt relief instrument. The key change arising from the amendment is the reduction in duration of new discharge of debt proceedings from five to three years regardless of the debtor's income source. This rule is expected to help eliminate the economic consequences of the pandemic; however, it is not temporary or limited to post-pandemic

insolvencies. The amendment is about to be discussed in the Czech parliament and its parameters may yet be changed in the legislative process.

Last, it should be noted that there is already an on-going legislative procedure of drafting new Preventive Restructuring Act, which implements the Directive (EU) 2019/1023 on restructuring and insolvency. At this point, there is no equivalent of an informal or an out-of-court preventive restructuring procedure in the legal system of the Czech Republic yet. Under this new concept, enterprises shall avert financial difficulties and approaching bankruptcy in early stages of economic distress. According to the outcomes of the Ministry of Justice's expert working group, this shall be achieved in potential out-of-court non-public procedure (depends on the debtor's selected strategy and further development of proceedings). As to the current legislative schedule, the draft proposal should enter public consultation stage in June 2021.

**b) support for small and medium-sized enterprises**

See response to question No. 2.

**c) public procurement**

Ministry of Regional Development (MRD) issued a number of methodical recommendations and opinions for public procurement during the emergency conditions (COVID 19):

- Shorter tender procedure
- Conditions for concluding a contract
- Use of online electronic communication
- Recommendations for changing obligations

Furthermore MRD published information and opinions of other entities - the Office for the protection of competition (Office) and the European Commission:

- Opinion of the Office on possible contract changes during COVID times
- Information of the Office on the possibility of purchase even without a tender procedure
- COMMUNICATION FROM THE COMMISSION - European Commission guidelines on the application of the framework for public procurement in the context of the COVID-19 crisis (2020 / C 108 I / 01)

MRD has launched in March 2020 online seminars about all of the above-mentioned topics for all contracting authorities and suppliers (free of charge). MRD also conducted seminars for target groups.

The Czech Parliament proposed a legislation regulating the purchase of protective tools. This legislation will enable a State Material Reserves Administration (a state entity providing the state material reserve) for a limited period of time during a pandemic (or in a state of emergency under the Crisis Act) to purchase protective equipment without a tender.

**d) electronic commerce (including in the areas of electronic signatures, electronic authentication, and paperless trade)**

N/A

**e) business-to-business contractual relations (including drafting, interpretation and application of force majeure clause)**

To alleviate negative impacts of the pandemic on businesses in areas business-to-business contractual relations, the Czech Republic has also adopted partial extraordinary measures. Act No. 191/2020 Sb., § 29, limited sanctions in case of a late payment of a monetary debt. The contractual sanctions in case of late payments of monetary debts were limited to statutory default interest (repo rate + 8 %). To benefit from this limitation, the debtor has to prove that the non-performance occurred due to epidemic measures, which prevented the performance or made it substantially difficult. This limitation applies to defaults in the period from 12th March 2020 through 30th June 2020. According to Act No. 177/2020 Coll., loan instalments due from April 2020 to October 2020 could be deferred and term of contracts would be automatically extended. Furthermore, Act No. 186/2020 Coll. permanently limits interest rate levels and penalties on late payments of natural persons' credits. Act No. 210/2020 Sb. introduced restriction of the lessor's right of termination under lease contracts for business premises if the lessee does not pay the lease in the period from 12th March 2020 through 30th June 2020 and such non-performance results from epidemic measures which prevented the lessee conducting a business or made it substantially difficult.

**f) transportation and logistics**

The Czech Government has adopted many restrictions on mobility and border crossing in 2020 and 2021 affecting also transport services.

*Public passenger transport services*

Losses in public passenger transport services were in principle caused by a financial gap due to a reduction in demand for transport services. Aid for rail carriers is currently under preparation and there are ongoing consultations with the European Commission as well.

*Bus carriers*

In the field of road passenger transport, the Czech Government has adopted the COVID-BUS Program supporting businesses in irregular bus transportation. Transporters who provide, for example, tours or transport children to camps and school trips lost a considerable part of their orders due to the pandemic and the governmental restrictions. The Ministry of Industry and Trade has prepared a subsidy program for them, which should compensate their losses. The amount of support will depend on how big (number of seats) and environmentally-friendly the vehicles are. In total 932.5 million CZK was distributed between 5 November and 14 December 2020. Only few of the applicants whose applications did not meet the conditions did not receive the subsidy (27 applications were rejected).

*Railway freight transport*

Railway freight carriers were granted extension of time for payments of charges for using infrastructure and related sanctions were also abandoned.

**g) corporate governance**

N/A

**If these measures were legislated, please provide a link to the legislation (or a separate copy if the legislation is not publicly accessible online).**

See in the text above. The list of the response measures adopted by the Czech Government in 2020 as well as in 2021 is available here: [Measures adopted by the Czech Government against the coronavirus | Government of the Czech Republic \(vlada.cz\)](#)

**2. Please specify the response measures adopted to support businesses (including in the form of financial assistance), and the criteria for businesses to receive support. Please also indicate the legislative basis for these measures and whether new legislation was needed.**

The Czech Government has taken the following measures to mitigate the negative effects of the Covid-19 pandemic on (small and medium-sized) businesses.

### ***An overview of individual compensation programs***

*Sector programs (under the responsibility of the Ministry of Industry and Trade, MIT)*

- COVID Gastro
- COVID Fairs / Congresses
- COVID Culture
- COVID Sport

*Area programs (under the responsibility of the Ministry of Industry and Trade, MIT)*

- COVID Rent
- COVID Uncovered costs
- COVID 2021

*Warranty program*

- COVID Plus

### ***Criteria for obtaining support***

*Sector programs*

- **COVID Gastro**

#### **Conditions of application**

- **Entity:** a person performing business activities on the basis of the Trade Licensing Act or other similar legal regulation, and who has been directly restricted from conducting business activities on the basis of government's crisis measures.
- **Business area:** retail establishments (shops), the gastronomic sector (restaurants, bars) and providers of services (hairdressing and similar personal services, as well as fitness, swimming pools, cinemas, games rooms, exhibitions, photographic services, etc.).
- The applicant has employees or so-called "cooperating self-employed persons"
- The applicant will not terminate the business activity within at least three months after receiving support.

**Legislative basis: Government Decree No.10 of 4 January 2021.**

- **COVID Fairs/ Congresses**

#### **Conditions of application**

- **Entity:** companies operating in the field of trade fairs, congresses and related B2B events, which have seen a significant drop in turnover, and maintain the trade fair infrastructure, including related services
- It is necessary to document the uncovered costs applied by the entity = subsidies received via other programs such as COVID Rent, COVID Culture or Antivirus Program.

Legislative basis: Government Decree No 116 of 8 February 2021.

○ **COVID Culture**

Conditions of application:

- Entity: business entities whose main business activity is organization of music, musical drama, dance and theater projects, providing cultural services to public in the field of performing arts, individual artists (self-employed), business entities (organizers).

Legislative basis: Government Decrees.

○ **COVID Sport**

**Program I**

Conditions of application:

- Entity: The aid is intended for a sport organizations operating a sport facility affected by a state of emergency and emergency measures consisting in the need to close or reduce the sport facility.
- The fact that the sport facility is completely or partially closed is sufficient to make the sport organization eligible for support.

Legislative basis: Government Decree No 553 of 1 June 2020.

**Program II**

- business entities organizing or co-organizing sport events
- business entities that participate in professional championships of the highest or second-highest level

Legislative basis: Government Decree No 1038 of 14 October 2020.

**Program III**

- ski resorts and winter areas

Legislative basis: Government Decree No 32 of 11 January 2021.

*Area programs*

○ **COVID Rent I, II, III**

Conditions of application:

- Entity: a lessee who is an entrepreneur and carries out business activities on the basis of the Trade Licensing Act or in a similar manner and uses an establishment which is not owned by him/her, on the basis of a lease agreement for retail sale of goods or provision of services to customers.

Legislative basis: Government Decrees.

○ **COVID Uncovered Costs** (currently in preparation)

Conditions of application:

- Entity: entrepreneurs in any field of business
- decrease in the company's turnover by at least 50% and evidence of accounting loss

Legislative basis: Government Decree No 278 of 8 March 2021.

○ **COVID 21 (currently in preparation)**

Conditions of application:

- Entity: entrepreneurs whose sales fell by at least 50%

Legislative basis: Government Decree No 277 of 8 March 2021.

*Warranty program*

○ **COVID Plus**

Conditions of application:

- Entity: guarantees are provided with commercial bank loans for exporters, producers and business entities with more than 250 employees, and documented share of exports of goods and services on their annual sales revenues at least 20%.
- EGAP (Export Guarantee and Insurance Corporation) provides such guarantees to ensure repayment of credit by exporters, manufacturing and trading enterprises. These are guarantees for the repayment of the principal of operating, working capital, innovation and production improvements, and for the maintenance of business to exporters, manufacturing and business enterprises (refinancing). These guarantees are provided by EGAP as an extraordinary measure of the state aimed at mitigating the economic and social consequences of the COVID-19 pandemic in order to increase the availability of the liquidity of export-oriented enterprises.

Legislative basis: Act No. 58/1995 Coll. (on Insurance and Financing of Exports with State Support), Govt. Decree No. 215/2020 Coll. (as amended).

**3. Please specify the type of monitoring or compliance regime that has been applied to businesses receiving the support mentioned in question 2.**

*Sector + Area programs*

The control regime is based on the Act on Budgetary Rules of the Government and the Act of Control. The beneficiary is obliged to allow the support provider / other control bodies to carry out the control of the relevant documentation for a period of ten years from receiving the subsidy. The control body is the Ministry of Industry and Trade, or other state administration bodies of the Czech Republic.

*Warranty program*

The loans (principal volumes) are selected by EGAP in compliance with the following eligibility criteria: exporters, producers and commercial entities (1) had in the last accounting period (2019) more than 250 employees, and (2) have evidence that share of exports of goods and services on their annual sales revenues reached at least 20%. The manufacturing plant or trading company demonstrates the export share indirectly through the exporter's export share.

**4. Please specify the kinds of obstacles reported by businesses (if any) to cross-border trade and commerce due to measures implemented by States to overcome the pandemic.**

N/A

**5. Aside from the measures specified in response to question 1, please specify (a) any legislation that the Government has passed to overcome obstacles to cross-border trade, and (b) any other legislative measures to respond to the pandemic which may affect cross-border trade.**



N/A

**6. Please specify the measures that have been put in place to mitigate the effects of the pandemic on commercial dispute settlement (for example, facilitating remote hearings, expanding fast-track proceedings, extension of limitation periods).**

To mitigate the effects of the pandemic on commercial dispute settlement, it was enabled to restore time limits in court proceedings, which were missed due to current anti-pandemic limitations (such as mandatory quarantines or restrictions on movement). Expiration date was not definitely set and depends on the end of governmental extraordinary measures.

The Ministry of Justice has been working hard to introduce new technologies into court proceedings, especially in area of insolvency and debt resolution. The covid pandemic has only accelerated those preparations. For example, the Ministry of Justice highly recommends the courts to use videoconference devices in order to secure presence of parties at hearings. The courts were adequately equipped to use different platforms, including Skype for business or Polycom. In addition, there is a new project of “eISIR” (new insolvency register), which shall adapt insolvency procedures to the current technological development. The project of the new insolvency register is in the making and should be introduced within upcoming years.

As regards contingency plans, Ministry of Justice issued general recommendation regarding functioning of courts during covid pandemic. This recommendation is regularly updated according to the development of the epidemic in the Czech Republic.

**7. Please indicate any issues related to COVID-19 response and recovery that would most benefit from harmonized legal solutions in the area of international commercial law<sup>8</sup>.**

No proposal.

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<sup>8</sup> Note that the Commission has acknowledged ([A/75/17](#), part one, para. 27) that several UNCITRAL legislative tools can play an important role in assisting States to mitigate the effect of response measures, as well as their economic recovery efforts, and has, in particular, renewed calls for States to consider adopting UNCITRAL legislative texts in the field of electronic commerce and insolvency, as well as instruments supporting micro-, small and medium-sized enterprises and promoting the effective settlement of commercial disputes. Note also that the Secretariat is currently undertaking an appraisal of existing UNCITRAL texts to determine how they apply in light of emerging technologies and their applications and whether any gaps need to be addressed by future harmonization efforts ([A/75/17](#), part two, para. 76).

## **Responses submitted by Indonesia**

Note: The responses to the questionnaire were updated as of March 2021 and is subject to change according to the latest development in Indonesia.

No.	Questions	Responses
1.	<p>Please specify the response measures that the Government has adopted to alleviate negative impacts of the pandemic on business in the following areas:</p> <ul style="list-style-type: none"> <li>a) Bankruptcy and insolvency</li> <li>b) Support for small and medium sized enterprises</li> <li>c) Public procurement</li> <li>d) Electronic commerce (including in the areas of electronic signatures, electronic authentication, and paperless trade),</li> <li>e) Business to business contractual relations (including drafting, interpretation and application of force majeure clause</li> <li>f) Transportation and logistics, and</li> <li>g) Corporate governance</li> </ul> <p>If these measures were legislated, please provide a link to the legislation (or a separate copy if the legislation is not publicly accessible online).</p>	<ul style="list-style-type: none"> <li>1) Health quarantines and other measures available to the government to address pandemics or other national health emergencies are regulated under Law No. 6 of 2018 regarding Health Quarantine ("Health Quarantine Law"). Article 59 of the Health Quarantine Law provides that in the event of a national health emergency, the government of Indonesia may enact large-scale social distancing policies, including the closure of workplaces.</li> <li>2) The implementation of massive social restrictions policies must be based on numerous considerations, including epidemiology, scale of threat, resources, political, socio-economic, cultural, defence and security considerations.</li> <li>3) In order to tackle negative impacts of the pandemic on business, the Government of Indonesia introduced several measures: <ul style="list-style-type: none"> <li>a) On the issue of corporate governance, it introduced the Electronic General Meeting of Shareholders of Public Companies (GMS) or e-GMS. E-GMS is a system or electronic medium that can be used to support the holding and reporting of GMS of public companies.</li> <li>b) There are several business sectors exempted from workplace closures under social distancing restrictions (e.g., oil and gas upstream activities).</li> <li>c) The Government created a speedier response for financially troubled banks in Indonesia to restructure by way of acquisition, merger exempted, consolidation or integration in order to prevent negative sentiment and maintain public trust in the financial sector.</li> <li>d) On the issue of Micro, Small, and Medium Enterprises (MSMEs), it established a national economic recovery program (PEN) in 2020. This program includes capital injections into state-owned enterprises and interest subsidies, credit guarantees, and loan restructuring funds for micro, small, and medium enterprises.</li> </ul> </li> </ul>

		<p>e) On the issue of public procurement, it issued Presidential Instruction No. 4 of 2020 on Refocusing Activities, Budget Reallocation and Procurement of Goods and Services to Accelerate the Handling of Covid-19. This instruction amplifies the requirement under the regulation and orders all government institutions to speed up the procurement of goods and services that are needed to handle Covid-19.</p> <p>f) On the issue of e- commerce, it has also taken measures to further strengthen financial deepening, access to financial services, and monetary operations, including by facilitating collaboration between the banking industry and fintech companies, supporting digital payment in various sectors.</p> <p>g) On the issue of business-to-business relations, force majeure as defined in Articles 1244 and 1245 of the Indonesian Civil Code ("ICC") is an unforeseeable situation that caused a debtor to be unable to perform its obligation as there is nothing that the debtor can do to rectify the situation. When the Government issued Presidential Decree No. 12 of 2020 which declares Non-Natural Disaster of the Covid-19 Spread as a National Disaster, it was not intended to make Covid-19 an immediate reason for canceling a contract. The government does not enter into this realm. It will depend on the relevant industrial sector and the specific type of obligation affected and whether non-performance is caused by the Covid-19 pandemic.</p> <p>h) On the issue of transportation, logistics and infrastructure, Indonesia established several measures in order to prevent further spread of COVID-19. It introduced a transportation control related to the use and the operation of modes of transportation (sea, air, land, and railroad). Moreover, it established a protocol of prevention of COVID-19 transmission in construction services that provides guidance for construction work as well as for goods/services procurement in the construction services.</p> <p>i) The Government simplifies business licenses based on a risk-based approach. All business fields will be categorized as low risk, medium risk or high risk based on assessment by the sectoral Ministry/Agency. All business licenses in 18 sectors will be integrated into an online single submission (OSS) platform which can be accessed through <a href="http://www.oss.go.id">www.oss.go.id</a>. Face to face consultation is no longer required as part of getting things done.</p> <p>4) Furthermore, to attract investment and stimulate the economy, the Government of Indonesia enacted the Job Creation Law (Law Number 11 Year 2020) which among others:</p> <p>a) increases the ease of doing business in Indonesia (e.g., simplifying licensing processes, simplifying land acquisition processes, formalizing economic zones, providing more incentives to free-trade zones, creating a land bank supervisory authority);</p> <p>b) allows capital investment (including foreign investment) except for investment in business lines that are closed or those that can only be carried out by the central government;</p>
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		<p>c) removes, in general, the relevant requirements and restrictions for foreign investment that are currently stipulated in various laws governing several business sectors;</p> <p>d) simplifies environmental assessment requirements;</p> <p>e) amends several tax provisions to increase the ease of doing business and to provide more legal certainty;</p> <p>f) introduces several changes to the Immigration Law including Visit Visa and Limited Stay Visa and the guarantor requirement for expatriates.</p> <p>Link to access the Job Creation Law<sup>9</sup></p>
2.	<p>Please specify the response measures adopted to support businesses (including in the form of financial assistance), and the criteria for businesses to receive support. Please also indicate the legislative basis for these measures and whether new legislation was needed.</p>	<p>The Ministry of Finance of Indonesia has issued Minister of Finance Regulation No. 85/PMK.05/2020 on guidelines for the granting of interest subsidies / credit margin subsidies / financing for MSMEs<sup>10</sup> in implementing the National Economic Recovery Program that provides among others:</p> <ul style="list-style-type: none"> <li>(i) restructuring and acceleration of the credits program which will be oriented to a ceiling-free mechanism with a credit granting up to 10 billion rupiahs or approximately USD 613,121;</li> <li>(ii) a new payment scheme more flexible and more accessible particularly for regions highly affected by the crisis, and that will be based on a long-term period;</li> <li>(iii) inclusion of small enterprises and micro-enterprises into the social assistance program so that they can receive additional aid such as the provision of staple food.</li> </ul> <p>In addition, other response measures intended to support business are as follows:</p> <ul style="list-style-type: none"> <li>• Tax exemptions up to a 50 % reduction for selected business determined by the Government of Indonesia until December 2020.</li> <li>• Stimulus for MSMEs in the form of interest subsidies for microcredit, MSME financing, guarantees, and placement of funds in banks.</li> <li>• Postponement of credit or leasing payments without ceiling limits in accordance with the debtors' ability to pay the credit and the agreement with banks or leasing companies. (applicable for MSMEs and non-MSMEs).</li> </ul>

<sup>9</sup> <https://jdih.setneg.go.id/viewpdfperaturan/Salinan%20UU%20Nomor%2011%20Tahun%202020.pdf>

<sup>10</sup> <https://jdih.kemenkeu.go.id/in/page/dokumen-peraturan/97b7b05e-1d3b-4997-d5df-08d82c4ccd8d>

3.	Please specify the type of monitoring or compliance regime that has been applied to businesses receiving the support mentioned in question 2.	<ul style="list-style-type: none"> <li>Minister of Finance Regulation No. 85/PMK.05/2020 introduces the Finance and Development Supervisory Agency (BPKB) as the programs' internal supervising body.</li> <li>In addition, apart from the regulation mentioned above, companies receiving tax exemptions must report to the tax offices if they are receiving such incentives, the via Tax Office website.</li> <li>Financial Services Authority and the Central Bank of Indonesia will jointly conduct a solvency assessment to determine whether a short-term liquidity loan or financing may be granted.</li> </ul>
4.	Please specify the kinds of obstacles reported by businesses (if any) to cross-border trade and commerce due to measures implemented by States to overcome the pandemic.	Impact on tourism since the government closed all borders to foreign visitors with the exception of official visits, those with special permission and travellers under the Travel Corridor arrangements.
5.	Aside from the measures specified in response to question 1, please specify (a) any legislation that the Government has passed to overcome obstacles to cross-border trade, and (b) any other legislative measures to respond to the pandemic which may affect cross-border trade.	<p>Legislation and legislative measures adopted by the Government of Indonesia related to cross border trade are as follows:</p> <ul style="list-style-type: none"> <li>Establishing a Travel Corridor arrangement with China, UAE and South Korea to help tourism recovery. The Government is planning a 3-phase reopening of Indonesia with strict prevention and health protocols.</li> <li>Committed to ensure the stability of import of raw materials and other supported materials to MSMEs that faced disruption through simplification of import procedures. Moreover, Indonesia has also given stimulus to the training of new entrepreneurs (or entrepreneurs that have been impacted by COVID 19) using the platform of pre-works cards (<i>Kartu Prakerja</i>). In addition, several domestic COVID-19 countermeasures have been implemented to facilitate or promote the export/ import by MSMEs amid COVID-19, such as stimulating MSME and other products' competitiveness, credit restructuring, tax relaxation, financing expansion, and brand consolidation.</li> <li>Issuing several regulations and policies to relax the licensing requirements for the importation and production of medical devices, to encourage businesses to support the procurement of the necessary medical equipment to prevent the spread of COVID-19.</li> </ul>

		<ul style="list-style-type: none"> <li>Introducing simplified import licensing mechanisms to ensure the stock availability of basic commodities and the continuity of manufacturing for industries. The new mechanism forms a new procedure to issue the Import Prerequisite Documents without having to fulfil the technical requirements stipulated in the relevant regulations in each sector. This new mechanism is carried out through coordination meeting within the government institutions.</li> </ul>
6.	Please specify the measures that have been put in place to mitigate the effects of the pandemic on commercial dispute settlement (for example, facilitating remote hearings, expanding fast-track proceedings, extension of limitation periods).	<ul style="list-style-type: none"> <li>Based in Circular Letter Number 1 of 2020, dated March 23, 2020, the Indonesian Supreme Court gives courts the discretion to postpone hearings or restrict those who can attend hearings, as part of social distancing efforts in response to COVID-19.</li> <li>The Circular Letter also encourages parties in civil, religious and state administrative proceedings to utilize the e-litigation application system that the courts recently launched.</li> <li>Moreover, pursuant to Letter No. 379/DJU/PS.00/3/2020, issued by the Directorate General of Public Court Body under the Supreme Court, hearings for criminal cases will be held through teleconference meeting; as for a state administrative case, the hearing will be held via email correspondence or through teleconference where the judges and the parties can communicate with each other in real time.</li> </ul>
7.	Please indicate any issues related to COVID-19 response and recovery that would most benefit from harmonized legal solutions in the area of international commercial law.	<ul style="list-style-type: none"> <li>Legal Assistance to MSMEs in the E-Commerce Platform;</li> <li>E-commerce and accelerated digital transformation to improve the digital and trading infrastructure, facilitate digital payment, and frameworks for online transactions and security.</li> </ul>

## **Responses submitted by the State of Israel**

### **1. Please specify the response measures that the Government has adopted to alleviate negative impacts of the pandemic on businesses in the following areas:**

#### **Bankruptcy and insolvency**

In March 2020, Israel's Minister of Justice announced a "special state of emergency" which led to the freezing of collection proceedings. The state of emergency lasted until May 10, 2020. During this period, enforcement bureaus were only allowed to carry out limited collection operations in exceptional cases.

In the first months of the COVID-19 crisis, while a strict lockdown was in effect, the Commissioner for Insolvency and Economic Rehabilitation Procedures published regulations to address current needs in conducting insolvency proceedings during that period. The regulations addressed, *inter alia*, payment reliefs due to transportation difficulties and instructions as to when creditors meetings can be held remotely and online.

In order to reduce the number of debtors subject to insolvency proceedings and to prevent them from facing negative consequences, the Knesset's Constitution, Law, and Justice Committee is currently working on a draft bill published for comments by the Minister of Justice. The bill aims at encouraging debtors experiencing financial difficulties due to the COVID-19 pandemic to reach an agreed debt settlement with their creditors.

The draft bill seeks to allow debtors to facilitate debt settlement. It is important that debtors and creditors formulate an agreed solution while taking into consideration the debtor's financial situation and the need to provide opportunities for debtors to resume normal business activities. These measures are important to address the negative impact of the COVID-19 pandemic on the business sector in Israel.

In order to protect the rights of creditors, the draft bill provides for the appointment of an arrangement manager who will have supervisory powers without interfering in the debtor's business management. This is in contrast to insolvency proceedings under the existing applicable legal regime, which, following the declaration of insolvency, does not allow debtors (corporations or individuals) to utilize or manage their assets.

#### **Public procurement**

There were two COVID-19 related regulations in the field of public procurement:

1. Municipal authorities encountered difficulties in issuing new tenders due to reduced authority activity, diverting resources to COVID-19 related activities, and difficulties faced by potential suppliers. In order to address these problems, the government temporarily amended two provisions to allow municipal authorities to extend the validity of any existing contract (in terms of value - up to the value of the first contract; and in terms of period - up to six months, or up to one year if required for school terms). The regulations have since expired. See the regulations enclosed (in Hebrew).  
[https://www.nevo.co.il/law\\_word/law06/tak-8474.pdf](https://www.nevo.co.il/law_word/law06/tak-8474.pdf)  
[https://www.nevo.co.il/law\\_word/law06/tak-8723.pdf](https://www.nevo.co.il/law_word/law06/tak-8723.pdf)

### **2. Ministry of Health**

In this respect, COVID-19 related medical equipment was purchased in a centralized manner. This was done to ensure that the HMOs and public hospitals would not compete with one another for the required equipment. The link to the regulations:

[https://www.nevo.co.il/law\\_html/law01/502\\_389.htm](https://www.nevo.co.il/law_html/law01/502_389.htm)

[Business-to-business contractual relations \(including drafting, interpretation and application of force majeure clause\)](#)

The Israel Ministry of Justice established an inter-ministerial team to examine the impact of the COVID-19 pandemic on contracts. The team examined the applicability of the breach of contract law (including "force majeure") and concluded that there was legal uncertainty as to the legal outcome the court would reach in the event of a dispute between contracting parties. Accordingly, the team recommended that parties renegotiate contract terms and conditions in order to adapt to the changing circumstances.

The recommendation included, inter alia, suggestions to find alternative ways to implement contracts or to suspend contractual obligations until performance becomes possible. The team also noted that if these steps are not possible or fundamentally change the agreed terms, parties may act to terminate the contract by consent. These general recommendations also apply to the business sector.

The team also recommended specific interventions by regulators in certain industries in order to achieve a just result.

In a separate initiative, in the banking sector, the Israel Supervisor of Banks cooperated with the private banking system and credit card companies to formulate a voluntary program to defer loan payments and reduce monthly billing. This program also applies to businesses, with an annual turnaround of less than 25 million NIS (approx. 5 Million Euro), which impacted by the COVID-19 pandemic. (see below for transportation and logistics related measures)

**2. Please specify the response measures adopted to support businesses (including in the form of financial assistance), and the criteria for businesses to receive support. Please also indicate the legislative basis for these measures and whether new legislation was needed.**

Air transport: in order to address the COVID-19 pandemic, the Aviation Services Law (Compensation and Assistance due to Flight Cancellation or Change in Terms), 2012 (hereinafter: Aviation Services Law) was amended. The law regulates passengers' rights in the event flights are delayed, rescheduled or cancelled.

The measures permitted airlines to delay providing a refund to 90 days instead of 21 days and limited the responsibility of airlines for expenses related to canceled flights to two nights, and a maximum compensation of 100 USD per night.

Additional assistance to Israeli airlines:

- Israil and Arkia - as part of the state-guaranteed large business loan fund, special assistance was provided to these companies.



- EL AL - On September 13, 2020, the Government adopted Resolution No. 375, to provide financial assistance to the company, in view of the difficult financial situation in which it found itself. The aid outline included two components:

1. Establishment of a state safety net for the issuance of shares to the public by the company totaling \$ 150 million. The State undertook to purchase all the shares not purchased by the public (up to the amount of NIS 264.2 million). The issue of shares was finalized on September 16, 2020 and the State purchased a sum of shares with a total value of NIS 116 million.
2. Providing a state guarantee of 75% for a loan that the company will borrow from a financing source in the amount of 250 million USD.

**3. Please specify the type of monitoring or compliance regime that has been applied to businesses receiving the support mentioned in question 2.**

Air transport: in respect of the Aviation Services Law, the amendment to the law is a temporary provision. The Minister of Transportation, in consultation with the Minister of Economy and with the approval of the Knesset Committee, may extend its validity for periods of up to one month at a time, for an overall period of up to nine months.

Assistance to El Al: assistance was subject to some conditions, including the following:

- (1) the company can only issue shares to the general public that will include only a share offer, at a set minimum price;
- (2) the offering was to have taken place by September 17, 2020;
- (3) the number of shares that the state will purchase will be determined in accordance with the results of the public offering and in an amount not exceeding the amount of approved aid.

Additionally, until the state guarantee was provided, the company could not not allocate any securities without the approval of the Israel Ministry of Finance. At the same time, the government undertook to sell its shares in the company within 18 months and waived in advance the rights associated with the means of control in the company, while undertaking not to make use of them. However, the state will still enjoy the full capital rights attached to the company's shares. The full outline of aid program is still under discussion.

## Responses submitted by the Italian Republic

1. Please specify the response measures that the Government has adopted to alleviate negative impacts of the pandemic on businesses in the following areas:

### Note to the questionnaire:

The answers provided below are of an informative nature and provided as mere example of measures that have been taken during the COVID-19 outbreak. The answers are provided “as is”, only for the purpose of consultation within the UNCITRAL Commission and Working groups. Answers provided do not aim to be fulfilling, punctual or updated. Third parties shall not rely on the answers provided below, nor shall use these replies to exercise their rights or fulfil their duties. Please note that the information provided in the questionnaire (update, March 2021) concern a streamlined description of the measures adopted in Italy

a) bankruptcy and insolvency,

In order to avoid the interaction between the Covid-19 crisis and the potential difficulties of applying a novel Insolvency the entry into force of a major reform of the Italian bankruptcy law (originally scheduled for August 2020) has been postponed to September 2021 by Decree-law n. 23/2020 - “Decreto Liquidità”, Art. 5).

A general inadmissibility of bankruptcy filing was in force between March and June 2020, substantially ‘freezing’ all new procedures, except for those filed by: 1) the Public Prosecutor, if precautionary or conservative measures are requested to protect the assets or the company; 2) the entrepreneur himself, when insolvency is not a consequence of the COVID-19 epidemic; 3) anyone pursuant to specific provisions in the arrangement with creditors proceeding (Articles 162, second paragraph, 173, second and third paragraphs, and 180, seventh paragraph, of Italian Insolvency Law), as provided by Art. 10 of the Decree-law 23/2020. In addition, judicial procedures of most kinds were suspended between March 9 and May 11, 2020 (Art. 83 paragraph 2 of Decree Law n. 18/2020), including those relevant to distressed debtors such as foreclosures by Decree-law no 18/2020, Art. 103 para. 1-bis. Art. 9 of Decree-law n. 23/2020 (so called Liquidity Decree) has also provided the extension of procedural deadlines in the arrangement with creditors and approval of the restructuring agreements, as well as the extension of the deadlines for the fulfillment of the arrangement with creditors and restructuring agreements already approved expiring after 23.2.2020.

Some other provisions have been passed with the goal of temporarily alleviating the impact of the pandemic on the viability of business. In particular, in order to dampen the risk of liquidating otherwise viable businesses, the so-called “recapitalize or liquidate” rule has been suspended. This rule provides that in some cases of undercapitalization, when equity falls below the minimum legal threshold following to a substantial loss, shareholders must convene to deliberate the prompt recapitalization of the corporation or its liquidation. As far as the suspension is in force, firms are allowed to replenish the equity stock by 2025.<sup>11</sup>

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<sup>11</sup> However, it must be noticed that situations of undercapitalization, despite being a good predictor of negative outcomes in terms of firm survival, do not always represent a sure sign of insolvency, and they may in some cases persist over time without the firm being liquidated. See Orlando, T., and Rodano, G., “Firm undercapitalization in Italy: business crisis and survival before and after COVID-19”, *Bank of Italy Occasional papers no. 590*.

Furthermore, by way of derogation from the relevant general principles applicable to the firms' financial statements, companies may draw up the financial statements for the year 2020 on a going concern basis, no matter how their current financial situation looks like. This is only possible if a going concern approach was followed in the previous financial statements closed before 23 February 2020, even if not approved ([under mentioned Decree-law n. 23/2020, Art.](#)

[7](#)). Finally, a waiver from the subordination of shareholders' loans was also introduced by way of derogation from Articles 2467 and 2497 quinquies of the Italian Civil Code. The repayment of the loans made in favour of companies in a situation of economic-financial imbalance, by shareholders or those exercising management and coordination activities in the period between 9 April 2020 and 31 December 2020, shall not be subordinated to the satisfaction of other creditors ([under mentioned Decree-law n. 23/2020, Art. 8](#)).

b) support for small and medium-sized enterprises,

Provided that enterprises, alternatively, are not subject to insolvency proceedings, have not received rescue aid and have not received restructuring aid, the following shall apply:

- [Credit transfer](#): If a company assigns for valuable consideration, by 31 December 2020, credits arising from defaulting debtors (with a maturity of more than 90 days), such credits may be, within a certain amount, transformed into a tax credit (Deferred Tax Assets, DTA). Tax credits are non-interest bearing. The provision is not applicable to the assignment of credits between companies within the same group or under the same control (Art. 55 of the Decree-law 18/2020).
- The Guarantee Fund for SMEs may be granted, free of charge and with priority over other interventions, in favor of small and medium-sized enterprises, for a maximum guaranteed amount per single enterprise of 2,500,000 euros (Art. 49 bis of the Decree-law 18/2020).
- A general moratorium on loans is granted to SMEs and micro enterprises, in the form, among other things, of suspension of the payment of mortgage installments and on maintaining credit lines or other forms of bank financing until 30 June 2021 (Art. 56 of the Decree-law 18/2020), including : prohibition of revocation of the amounts granted for credit facilities subject to revocation and for loans granted against advances on loans; extension, without any formality, of contracts for non- instalment loans with contractual maturity before 30 June 2021; suspension of the payment of instalments of loans and other instalment loans or leasing instalments and deferral of the repayment plan for instalments or instalments subject to suspension.
- State guarantee is granted on the exposures assumed by Cassa Depositi e Prestiti (CDP) in favor of credit institutions that grant loans to companies that have suffered a reduction in turnover due to the emergency, up to a maximum of 80% of the exposure assumed (Art. 57 of the Decree-law 18/2020).

- Further measures have also been adopted in favour of Agriculture and fisheries (Art. 78 of the Decree-law 18/2020).

c) public procurement,

The Decree-law 76/2020, known as Simplification Decree, converted into Law no. 120/2020, introduced a number of temporary and derogatory provisions to the Public Procurement Code, in order to promote public investments by simplifying procedures relating to public contracts.

These provisions apply only to those procedures starting after the entry into force of said Decree (i.e. from July 17, 2020 and until December 31, 2021).

In particular, there are two types of procedures for awarding contracts for works, services and supplies, engineering and architecture services, including design:

- Direct assignment of works worth less than 150,000 euros and services, including engineering and architecture services and design activities, and supplies of less than 75,000 euros;
- Negotiated procedure without prior notice referred to in Art. 63 of the Public Procurement Code, after consultation with a given number of operators, according to the amount to be awarded.

Direct assignments must always comply with the principle of rotation of the operators invited, after having either performed market surveys or by selected such operators from specific lists, taking into account also the geographical area.

Without prejudice to basic competition principles, negotiated procedures can be awarded according to the criterion of the most economically advantageous offer, to be considered both on the basis of the best quality / price ratio and of the lowest price, in the latter case after evaluating the anomaly of the offer (art. 1 paragraph 3, Law 120/2020, with few exceptions).

Another significant change is provided by Art. 21 of said Decree, concerning willful misconduct and gross negligence as applicable to civil servants. To avoid civil servants' fear of incurring liability even for minimal errors or in any case not caused with a specific intention to damage the Public Administration, until 31 December 2021 civil servants' liability is limited to cases where the damage is the outcome of a willful action of the civil servant. This limitation of liability does not apply to damages caused by omission or inaction of the civil servant.

As such, civil servants may incur greater liability for "not doing", i.e. omissions and inertia, rather than "doing", where personal liability is limited to willful misconduct.

d) electronic commerce (including in the areas of electronic signatures, electronic authentication, and paperless trade),

See information provided under question n. 2.

Moreover, Art. 75 of the Decree-law 18/2020 provides incentives and other measures related to purchases for the development of information systems and implementation of smart/remote working, as well as extending network services to allow access by citizens and businesses.

- e) business-to-business contractual relations (including drafting, interpretation and application of force majeure clause),

The Italian Civil Code includes provisions on “excessive burdens” (“eccessiva onerosità sopravvenuta”), which are applicable to the COVID 19 pandemic. Indeed, the criteria of extraordinary nature, unpredictability and inevitability are met, and thus the affected party may take legal action for the termination of an “unfair” contract. A contract may be considered as unfair due to an unusual increase in one or more cost items of the service to be performed (so-called “excessive direct cost”), as well as for a significant decrease in the real value of the service to be received (so-called “excessive indirect cost”). However, the remedy provides only for termination of the contract, not taking into account a reassessment of the terms provided thereto. The affected party has no right to obtain a fair amendment of the contractual conditions, nor can it expect the other contractor to accept the fulfillment under conditions other than those agreed.

Thus, Art. 91 of the Decree-law 18/2020, dealing with contractual delays or breaches arising out of the implementation of the COVID 19 containment measures, introduces an obligation upon the judge called to settle a dispute to always consider and assess the compliance the debtor’s compliance with governmental containment measures for the purpose of excluding its liability. Such obligation applies also with regard to any forfeiture or penalties related to delayed or omitted fulfillments. (Art. 3, paragraph 6 bis, Decree-law 6/2020). In addition, disputes relating to contractual obligations, in which compliance with the containment measures, or in any case with measures adopted during the epidemiological emergency from COVID-19 are subject to mediation procedure, as a condition of admissibility of any application to the court (Art. 3 paragraph 6-ter, Decree-law 6/2020).

Moreover, there is a general obligation to renegotiate contracts based on the principle of “good faith in the execution of the contract”, which can take into account also the changed circumstances originally unknown to the parties. The courts will be able to evaluate the possible refusal to renegotiate by one of the parties.

Concerning debt securities, Art. 11 of Decree-Law 23/2020 provides for the suspension of their expiration terms.

- f) transportation and logistics, and

Measures have been adopted also to mitigate the impact on transportation and logistics.

As an example of measures, please refer to Art. 79 of Decree-law 18/2020 on urgent measures for air transport, including compensation for the damages suffered as a direct consequence of the exceptional event, and Art. 94 of the same Decree, on the increase in the endowment of the Solidarity Fund for the aviation sector.

For the maritime transport as well as general measure for the circulation of vehicles, please refer e.g. to Art. 92 of the same Decree, providing amongst other suspension of port taxes.

- g) corporate governance.

Emergency legislation has also covered corporate governance, providing most notably the following:

- **Simplified procedures for company shareholders' meetings:** For shareholders' meetings for joint-stock companies, limited joint-stock companies, limited liability companies, cooperative companies and mutual insurance companies, convened no later than 31 July 2021 or, for the 2020 accounts, within 180 days from the closure, the simplified procedures provided by Art. 106 of the Decree-law 18/2020 shall apply (e.g. electronic or correspondence vote; meeting attendance through telecommunication means; for cooperative banks and cooperative credit banks, cooperative companies and mutual insurance companies, meeting attendance through designated representative etc.);
- Financial statements for the year ending at 31 December 2020 can be drawn up on a going concern basis, if the business was treated as a going concern in the financial statement for business year ending before 23 February 2020;
- Until 31 December 2020, the rule on the reduction of share capital for losses falling below the statutory minimum level has not been applied;
- The mechanism by which shareholder loans are repaid only after the claims of other creditors have been settled has not been applied until 31 December 2020. This rule also applied to intercompany loans (where there is management and coordination of one company by another).

If these measures were legislated, please provide a link to the legislation (or a separate copy if the legislation is not publicly accessible online).

Main legal framework:

- The “Cure Italy Decree”, Decree-law 18/2020, (released on 17 March 2020 and converted into Law No. 27/2020), introducing urgent measures to limit the spread of Covid-19;
- The “Liquidity Decree”, Decree-law 23/2020, (released 8 April 2020 and converted into Law No. 40/2020) includes measures to assist businesses by providing loan guarantees, government assumption of non-market risks, and certain targeted tax relief;
- The “Relaunch Decree”, Decree-law 34/2020 (released 19 May 2020 and converted into Law. No 77/2020) includes urgent measures to support healthcare, employment and the economy, and social policies;
- The “Simplification Decree”, Decree-law 76/2020, (released on 16 July 2020 converted into Law n.120/2020) proceeds to simplify, inter alia, the administrative proceeding;
- The “August Decree”, Decree-law 104/2020, (released on 14 August 2020 and converted into Law No. 126/2020) includes measures to support, inter alia, employment and economy;
- The Decree-law 125/2020 (released on 7 October 2020, converted into Law No. 159/2020), includes measures for the deferral of elections and tax measures;

- The Decree-law 137/2020 (released on 28 October 2020, converted into Law No. 176/2020), provides measures for the in the field of health protection, support to workers and companies, justice and safety, connected to the epidemiological emergency from COVID-19;
- The Decree-law 183/2020 (release on 31 December 2020, converted into law 21/2021), including provisions regarding legislative deadlines;
- The Decree-law 41/2020 (released on 22 March 2021) including urgent measures in the field of support to businesses and economic operators, labor, health and local services, connected to the emergency from COVID-19.

All different laws and regulations related to the pandemic can be found at <https://www.governo.it/it/coronavirus-normativa>

2. Please specify the response measures adopted to support businesses (including in the form of financial assistance), and the criteria for businesses to receive support. Please also indicate the legislative basis for these measures and whether new legislation was needed.

With the goal to respond promptly to the adverse dramatic impact of the pandemic on SMEs, and in particular on their capacity to export, the Italian Government launched on June 2020 the “Patto per l’Export”, following a broad consultation involving 147 Italian trade associations which deeply contributed to its definition.

On one hand, the “Patto per l’Export” consists in a set of measures aimed at supporting SMEs during the most severe phase of the pandemic. On the other hand, measures adopted within the “Patto per l’Export” framework aim at improving the skills of SMEs, and all other companies benefitting from such measures, with a particular focus on digitalisation.

The “Patto per l’Export” is articulated on six pillars: pillar 1 –communication; pillar 2 – training and information; pillar 3 - e-commerce; pillar 4 - support to the trade fairs industry; pillar 5 – financial support; pillar 6 – Promotional initiatives and, so far, the following measures have been adopted:

- Under pillar 1: launch of an extraordinary communication campaign aimed at supporting Italian exports in the sectors most affected by the pandemic. The campaign benefits from a budget of 50 million. It will make massive use of digital tools and will target the top 26 most relevant markets for Italian exports.
- Under pillar 2: launch of "Smart Export" project, an online university course - completely free - on the issues of digitalization and business internationalization. Such a project targets about 20,000 SMEs and professionals; it has been created by the Ministry of Foreign Affairs and the Italian Trade Agency and involves the main Italian Business Schools. The participation is open to all SMEs and professional applying to the course.
- Under pillar 2: launch of the program “D-TEM” which aims at granting a voucher worth 20,000 Euro to strengthen the digital and managerial skills of approximately 2,000 SMEs. The voucher allows the inclusion in the company of a manager with specific skills in digital and internationalization (so-called "Digital Temporary Export

Manager"). The voucher will be granted to applying SMEs according to the criteria “first come first served”.

- Under pillar 2: launch of the web platform Export.Gov.it that brings together in a single platform all the available public tools for supporting business internationalization of SMEs. In 2021, such a web platform will integrate artificial intelligence tools in order to allow companies to receive a tailored service according to their specific needs.
- Under pillar 4: in order to fill the gap created by the impossibility to carry out in person trade fairs, launch of the web platform “Fiera Smart 365”. Such a platform allows the organization of virtual trade fairs, business fora as well as B2B meetings.
- Under pillar 4 and 5 the Government allocated about 3.5 billion Euro refinancing the Fund 394/81 aimed at supporting initiatives to improve the SMEs' presence in foreign markets: from feasibility studies to e-commerce projects and the start-up of business structures abroad. The Fund also allow supporting internationalization projects carried out by trade fair organizers. The financial support provided by the Fund includes a grant component and a soft loan component. In addition, within the Fund a new specific budget line has been set to refund the losses suffered by trade fairs organizers due to the pandemic. Such a specific measure allow each trade fair organizer to ask for a refund up to 3 million Euro.
- Under pillar 5: Refinancing of Venture Capital Fund with a contribution of 100 million Euro. Such a fund finances the internationalization processes of SMEs that intend to expand their business abroad by acquiring stakes in foreign companies.
- Under pillar 6: in 2021 the Ministry of Foreign Affairs and International Cooperation will support about 2000 promotional initiatives in 130 countries with a focus on hightech sectors and sectors most affected by the pandemic emergency. For the implementation of these initiatives, a total budget of 32 million euros has been allocated.

All the initiatives of the “Patto per l’Export” have been financed both via the national budget law and through specific legislation, aimed at allocating the financial resources, when deemed necessary.

Furthermore, measures have been adopted in several fields, such as taxes and social contributions. The type of measures may vary significantly from a sector to sectors and each is subject to specific conditions. The following provide some examples of tax measures:

- Deadlines for payment of payment notes and assessments, customs assessments, tax injunctions and assessments of local authorities have been suspended;
- Deferral of the deadline for the payment of installments related to specific ongoing tax assessment procedures;



- Suspension of payments of withholdings, contributions and suspension of VAT payment terms, also for self-employed;
- Suspension of payments, social security and welfare contributions related to compulsory insurance;
- Tax credit for the sanitation of environments and work tools;
- Within specific conditions, tax credit for shops closed during the lockdown up to 60% of the amount of the rent;
- There are also measures on social assistance, reduced working hours, remote work and indemnity for professionals, self-employed, as well as agricultural and entertainment workers.

Example of other temporary remedies:

- Abolition of limits on the “de minimis aid” for non-repayable co-financing, thus being able to exceed the maximum amount established by EU, although the notification obligation remains;
  - Support to the liquidity of companies affected by the COVID 19 outbreak through guarantee mechanisms;
  - Suspension of utility payments;
  - Emergency fund for entertainment, cinema, audiovisuals, and broader provisions to support culture;
  - Suspension of payment of fees for the sports sector.
3. Please specify the type of monitoring or compliance regime that has been applied to businesses receiving the support mentioned in question 2.
  4. Please specify the kinds of obstacles reported by businesses (if any) to cross-border trade and commerce due to measures implemented by States to overcome the pandemic.
  5. Aside from the measures specified in response to question 1, please specify (a) any legislation that the Government has passed to overcome obstacles to cross-border trade, and (b) any other legislative measures to respond to the pandemic which may affect cross-border trade.

Please refer to answer to question n. 2.

Customs measures have been taken on protective equipment and medical devices including invasive and non-invasive ventilation tools (duty free, VAT exemptions etc.). Also worth noting that export of such products (including vaccine) is possible only upon authorization of the Ministry of Foreign Affairs and International Cooperation.

Foreign direct investment (FDI) is beneficial for host and home economies, as well as for the enterprises that carry out the investments. However, FDI may bring also risks, including for the essential security interests of the hosting country. Within the EU framework provided by Regulation (EU) 2019/452 of 19 March 2019, Italy has introduced a screening mechanism for

an upfront review of certain investment proposals. The main framework is provided by Decree law 21/2012, “Rules on special powers on corporate assets in the defense and national security sectors, as well as for activities of strategic importance in the energy, transport and communications sectors”, as amended by Decree-law 105/ 2019, converted with amendments by law 133/ 2019 that changed Italy’s rules on special (“golden”) powers.

The pandemic outbreak and the following health-related concerns and economic situation have been pushing Italy to mitigate the related risks and thus further amend its investment screening mechanisms as from 9 April 2020, with Decree-law 23/2020 followed by Decree-Law 137/2020, and Decrees of the President of the Council of Ministers 179 and 180/2020.

These changes, expand, among others, the application of the review mechanisms to additional sectors that are declared strategic; enables the authorities to open reviews ex-officio where companies do not fulfil the notifications obligations; expand the scope of the powers to acquisitions from within the EU – when they provide control over an Italian company – and lower the trigger threshold for acquisitions from outside the EU to 10%.

More information available at

<http://www.governo.it/it/dipartimenti/dip-il-coordinamento-amministrativo/dica-normgoldenpower/9299>;

[https://unctad.org/system/files/official-document/unctad\\_oecd2020d23\\_en.pdf](https://unctad.org/system/files/official-document/unctad_oecd2020d23_en.pdf) ;  
<http://www.oecd.org/coronavirus/policy-responses/investment-screening-in-times-of-covid19-and-beyond-aa60af47/>

6. Please specify the measures that have been put in place to mitigate the effects of the pandemic on commercial dispute settlement (for example, facilitating remote hearings, expanding fast-track proceedings, extension of limitation periods).

All proceedings have been initially postponed ex officio up to 15-04, or 30-06 if it has been so decided by the heads of office, except those that have been declared urgent by the judge on a case-by-case basis or those considered by the law as top priority.

Procedural time limits (including enforcement proceedings) have been initially suspended from 09-03 to 15-04, then to 11-05. In the case of non-suspended activities, civil hearings that require the presence of lawyers or parties only, subject to the respect of the adversarial process and the effective participation of the parties, may be held by means of remote connections.

For the period between 11 May and 30 June 2020, the Heads of the judicial offices had to take a series of organizational measures in order to avoid close gatherings and contacts between people within each office space.

These measures may include:

- the carrying out of civil hearings by means of remote connections that require the presence only of lawyers;
- or the parties, subject to the respect of the adversarial process and the effective participation of the parties;
- the postponement of hearings after 30 June 2020;

- the holding of civil hearings that require the participation only of the defendants through written procedure.

Pursuant to Art. 221 of Decree-law 34/2020 (Decreto Rilancio), the judge may order that civil hearings that do not require the presence of persons other than the defenders of the parties are replaced by the electronic filing of written notes containing only instances and conclusions.

Participation in civil hearings of one or more parties or of one or more defenders can also take place, at the request of the interested party, through videoconference. These provisions have been extended until the end of the emergency.

Art. 221 provides also the mandatory electronic filing by the defender of all deeds and documents with regard to civil, litigation and voluntary jurisdiction proceedings; this applies only in courts where electronic filing service is already available (in the Supreme Court (Corte di Cassazione), as a result of the Ministerial Decree of 27 January 2021, this will be possible from 31 March 2021). In relation to the same disputes, court fees connected to the filing of the documents with electronic means, are paid with electronic payment systems. Only the head of the office may authorize the filing in a non-electronic manner when the IT systems of the justice domain are not functioning and there is an urgency that cannot be deferred.

Currently, the measures introduced by Decree-law no. 137/2020 and by Decree-law n. 183/2020 are aimed at enhancing the electronic process and remote judicial activities. With regard to civil proceedings, specific provisions are envisaged:

- for hearings on the matter of judicial separation of spouses and review of divorce conditions, allowing the hearing to be replaced by the electronic filing of written notes;
- for the discussion in the Supreme Court, governed by a paperless judgment: the civil appeals filed in the Court of Cassation for discussion in public hearing may be dealt with in the council chamber without the intervention of the Attorney General and the defenders of the parties, unless the oral discussion is expressly requested by one of the parties or by the Attorney General.

Other provisions govern alternative means of taking an oath, in writing and with electronic filing, by the expert appointed by the court.

Administrative justice: Amongst the measures envisaged, the terms have been suspended between 8 March and 15 April; public and chamber hearings postponed; precautionary proceedings initiated or pending between 8 March and 15 April 2020 have been decided by a single decree; all disputes set for discussion have been decided until June 30, 2020 on the basis of the documents and evidence provided, without oral discussion.

Tax authorities: The terms relating to settlement, control, assessment, collection and litigation activities by the offices of the tax authorities have been suspended from 8 March to 31 May 2020.

7. Please indicate any issues related to COVID-19 response and recovery that would most benefit from harmonized legal solutions in the area of international commercial law<sup>12</sup>.

Common standards in electronic service of documents (e.g. certified e-mail), electronic filing of applications and documents to the courts and remote hearings.

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<sup>12</sup> Note that the Commission has acknowledged ([A/75/17](#), part one, para. 27) that several UNCITRAL legislative tools can play an important role in assisting States to mitigate the effect of response measures, as well as their economic recovery efforts, and has, in particular, renewed calls for States to consider adopting UNCITRAL legislative texts in the field of electronic commerce and insolvency, as well as instruments supporting micro-, small and medium-sized enterprises and promoting the effective settlement of commercial disputes. Note also that the Secretariat is currently undertaking an appraisal of existing UNCITRAL texts to determine how they apply in light of emerging technologies and their applications and whether any gaps need to be addressed by future harmonization efforts ([A/75/17](#), part two, para. 76).

## **Responses submitted by Japan**

Organization: Ministry of Justice

1. Please specify the response measures that the Government has adopted to alleviate negative impacts of the pandemic on businesses in the following areas:

g) bankruptcy and insolvency,  
N/A

h) support for small and medium-sized enterprises,  
N/A

i) public procurement,  
N/A

j) electronic commerce (including in the areas of electronic signatures, electronic authentication, and paperless trade),  
In order to prevent the COVID-19 infection, remote work has been promoted.

However, there has been a concern that how the Act on Electronic Signatures and Certification Business should be applied.

Therefore, the Ministry of Justice (MOJ), jointly with the Ministry of Internal Affairs and Communications and the Ministry of Economy, Trade and Industry, published the interpretation of electronic contracting services in the "Q&A on Electronic Contracting Services where the service provider's own signature key is used for encryption based on the user's instructions". It is available at the MOJ website (only in Japanese) (<https://www.moj.go.jp/MINJI/denshishomeihou.html>).

business-to-business contractual relations (including drafting, interpretation and application of force majeure clause),

N/A

k) transportation and logistics, and  
N/A

g) corporate governance.

In response to the situation where stock corporations are having difficulty with preparing financial documents in line with usual timeline due to impact of COVID-19, Ministry of Justice has amended ministerial ordinances (Regulation for Enforcement of the Companies Act and Regulation on Corporate Accounting) to allow stock corporations to distribute financial documents (B/S and P/L) which are subject to report and resolution at their annual shareholder meetings via internet instead of mailing paper based materials. This amendment is temporary and supposed to cease on 30 September 2021.

The Ministry of Justice (MOJ) has published the following announcement on the handling commercial registration, including the interpretation of (i) the term of officers, who are up for re-election, (ii) the timing of applications for commercial registration of changes in relation to such officers, and documents to be attached of such applications, in cases where a stock company is unable to hold its annual shareholders meeting at the originally scheduled date, due to the influence of the COVID-19 crisis.

It is available at the MOJ website (only in Japanese)

([https://www.moj.go.jp/hisho/kouhou/hisho06\\_00076.html](https://www.moj.go.jp/hisho/kouhou/hisho06_00076.html)).

It should be noted that the announcement is based on the interpretation of the existing laws and regulations and does not involve any revision of the laws and regulations themselves or their interpretation, but rather clarifies the interpretation on handling commercial registrations in current COVID-19 crisis.

If these measures were legislated, please provide a link to the legislation (or a separate copy if the legislation is not publicly accessible online).

N/A

2. Please specify the response measures adopted to support businesses (including in the form of financial assistance), and the criteria for businesses to receive support. Please also indicate the legislative basis for these measures and whether new legislation was needed.

N/A

3. Please specify the type of monitoring or compliance regime that has been applied to businesses receiving the support mentioned in question 2.

N/A

4.. Please specify the kinds of obstacles reported by businesses (if any) to cross-border trade and commerce due to measures implemented by States to overcome the pandemic.

N/A

5. Aside from the measures specified in response to question 1, please specify: (a) any legislation that the Government has passed to overcome obstacles to cross-border trade, and (b) any other legislative measures to respond to the pandemic which may affect cross-border trade.

N/A

6. Please specify the measures that have been put in place to mitigate the effects of the pandemic on commercial dispute settlement (for example, facilitating remote hearings, expanding fast-track proceedings, extension of limitation periods).

N/A

7. Please indicate any issues related to COVID-19 response and recovery that would most benefit from harmonized legal solutions in the area of international commercial law<sup>13</sup>.

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<sup>13</sup> Note that the Commission has acknowledged ([A/75/17](#), part one, para. 27) that several UNCITRAL legislative tools can play an important role in assisting States to mitigate the effect of response measures, as well as their economic recovery efforts, and has, in particular, renewed calls for States to consider adopting UNCITRAL legislative texts in the field of electronic commerce and insolvency, as well as instruments supporting micro-, small and medium-sized enterprises and promoting the effective settlement of commercial disputes. Note also that the Secretariat is currently undertaking an appraisal of existing UNCITRAL texts to determine how they apply in light of emerging technologies and their applications and whether any gaps need to be addressed by future harmonization efforts ([A/75/17](#), part two, para. 76).

## **Responses submitted by the Hashemite Kingdom of Jordan**

### **1. Please specify the response measures that the Government has adopted to alleviate negative impacts of the pandemic on businesses in the following areas:**

#### **a) bankruptcy and insolvency**

<b>Enhancing the loanable liquidity of the banking system:</b>
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- Reducing the required reserve ratio on banks deposits from 7% to 5%, which released around JD 550 million in terms of additional liquidity. This procedure is projected to reduce the interest rate charged by banks on the credit facilities grant to their clients.
- Providing additional liquidity for banks through open market operations represented by REPO agreements, amounted to JD 850 million and for various tenors, up to 12 months.

<b>Supporting companies and individuals whose cash flows have declined and protecting them from banking default:</b>
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- Allowing banks to postpone the instalments due of outstanding credit facilities granted to their customers, including companies and individuals, without affecting their credit record, until the end of 2020.
- Allowing banks not to include clients with returned checks due to financial reasons in the list of defaulted clients (black list) during lockdown period and until the end of 21/05/2020, which was extended until the end of 2020. Given both the food trade and medical sectors an extended settlement period of (30) days, to be counted from the date of returning, while given the rest of sectors a period of (45) days to settle returned checks, to be counted from the date of returning.
- Reducing the period of listing on the black list of bounced checks for those who settle checks after the settlement period, to become one month instead of the period that was up to one year, provided that all returned checks are settled, as the customer's name is removed from the blacklist after one month from the settlement date regardless of the number of checks returned to the customer, until the end of 2021.
- Reducing the value of the returned check commission due to insufficient funds, and the settlement commission to become JD 5 for each of them, compared to JD 40 before these amendments, aimed to reduce the financial costs for the issuers.
- The Central Bank of Jordan issued a circular to the licensed banks on 22/11/2020, allowing them to postpone the instalments due to the most effected clients until 30/06/2021, in accordance to their estimates and study of the cash flows without considering this structuring or scheduling.

#### **b) support for small and medium-sized enterprises**

<b>Strengthening the resilience of small and medium-sized companies, professionals, craftsmen and individual institutions:</b>
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- Initiating a financing program amounted at JD 500 million, to be loaned back through commercial and Islamic banks at an interest rate not exceeding 2% for a period of 42 months, including a grace period of 12 months, guaranteed by Jordan Guarantee Corporation at 85% of the loan value. The program target SMEs including professionals, craftsmen, and individual institutions in all governorates of the Kingdom, 4,957 projects with a principle value amounted at 453 million dinars benefited from this program.
- Extended the grace period to become until the end of 2021.
- Allowing the obtain loanable funds to financing working capital and operating expenses, including coverage of workers' salaries and wages.
- The government bears the interest rate payment on the loans granted for the purposes of covering the salaries and wages of workers, and the full interest on the loans granted to finance the tourism sector with a ceiling of 250 thousand dinars per loan.
- Expanding the definition of medium companies to include companies that employ less than 200 workers and their total assets or sales are less than ID 5 million.
- Allowing banks to assign (Zero) risk weight on granted loans for the purposes of calculating the capital adequacy ratio until the end of 2020.
- Issuing a circular to licensed banks on 11/4/2020 enabling them to extend the grace period given to customers within the Central Bank's program to support small and medium-sized companies with a value of JD 500 million until the end of 2021, following the continuing negative impacts of the pandemic on various economic sectors.
- In addition, tourism guides have been included in the program, provided that tourist guides are eligible for granted loans amounted at JD 5,000.0 for each of them, similar to the rest of the tourism sector, with the aim of mitigating the negative effects of the Corona pandemic.

**c) public procurement**

**d) electronic commerce (including in the areas of electronic signatures, electronic authentication, and paperless trade)**

- Preparing the tender document for the automation of government payments.
- Implementation of the bid.
- Ensuring the continuity of the electronic payment systems and services in order to continue the cash cycle and circulation in the economy.



- Enabling payment companies to provide customers with e-wallet opening service remotely without any costs.
  - Providing modern technologies that support the acceptance of electronic payments within the points of sale located at merchants and retail business sectors.
  - Regulating and encouraging contactless electronic payments.
  - Enabling customers to carry out cash deposits and withdrawals from electronic wallets through the ATMs of some of the most widespread banks in the Kingdom without the need to use the card.
  - Clients are not charged any commissions for cash withdrawals through ATMs.
  - Conducting procedures to reduce commission rates for electronic payments at points of sale.
  - Providing electronic channels to enable customers to send and receive remittances in an integrated electronic form at any time and from anywhere.
- e) Business-to-business contractual relations (including drafting, interpretation and application of force majeure clause)
- f) Transportation and logistics, and
- g) corporate governance.

**If these measures were legislated, please provide a link to the legislation (or a separate copy if the legislation is not publicly accessible online).**

[www.cbj.gov.jo](http://www.cbj.gov.jo)

- 2. Please specify the response measures adopted to support businesses (including in the form of financial assistance), and the criteria for businesses to receive support. Please also indicate the legislative basis for these measures and whether new legislation was needed.**

<b>Reducing interest rates for individuals and companies:</b>
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- |  |
|--|
| <ul style="list-style-type: none"> <li>- During March 2020, the Central Bank of Jordan cut the interest rates on all monetary policy instruments twice in a row, with a total of 150 basis points and 125 points on the one-night window facility.</li> <li>- Jordanian banks have responded to the above decision by reducing the interest rate on all outstanding credit facilities granted to their clients, effective on 1st of May 2020, regardless of the interest rate modification date stipulated in the credit contracts.</li> </ul> |
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<b>Meet the financing needs of targeted economic sectors by relaxing the terms of lending (the Central Bank program to finance economic sectors with a value of 1.2 billion dinars) through banks:</b>
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- Reducing the interest rate on the CBJ refinancing program to become 1.00% instead of 1.75% for projects inside the Amman governorate, and 0.5% instead of 1.0% for projects in all other governorates, directed banks to reduce the interest rate by the same percentage on existing loans as of J /4 /2020, providing that the interest rate charged by banks does not exceed 4%.
- Allowing the targeted economic sectors to obtain loanable funds to finance their working capital and operating expenses including payrolls ( employee salaries and recurring expenditures.
- Expanding the advances maturities for all targeted economic sectors within the refinancing program inside the capital, and unifying them with the rest of the governorates to become 10 years, including two years as a grace period for those who wish.
- Raising the advances ceiling for all economic sectors to reach JD 3 million, while maintaining the advance ceiling for both the renewable energy and transportation sectors at JD 4 million.
- Including the export sector within the program (noting that the sectors currently covered are industry, tourism, agriculture, renewable energy, information technology, transportation, health, technical, technical and vocational education and engineering consultancy).
- Postponing the due instalments during the period from 03/18/2020- 30/06/2020 on all loans granted within 'the program. In addition to postponing the collection of interest due on these loans during the same period.
- Allowing banks to postpone the instalments owed by borrowers within the program until the end of the 2020.
- The government bears 2% of the interest rates on loans granted to finance five- and four-star hotels with a ceiling of 750,000 dinars per hotel.

<b>Supporting clients of the microfinance sector:</b>
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- In order to mitigate the economic impacts on the clients of the microfinance sector, the microfinance companies were asked to postpone the instalments for loans / funds granted to clients affected by Covid-19 pandemic during April and May 2020, provided that the companies do not charge any additional rates delay, commissions, or any fees for this, while allowing companies, according to their discretion, to consider postponing the remaining instalments or making appropriate arrangements, upon the request of the customer, without impacting the credit record of customers with Jordan Crif, these arrangements shall be implemented until the end of 2020.
- A questionnaire was prepared and distributed to microfinance clients from various regions of the Kingdom in order to measure the economic and social impact of the emerged Coronavirus pandemic on clients.

- Work is currently underway to provide a financing program to be re-lent by microfinance companies at affordable costs and with appropriate maturities, in order to meet-their-financing needs.

<b>Enhancing the resilience of Entrepreneurial and start-ups companies:</b>
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- Allocating a tranche of the Jordanian Entrepreneurship Fund for direct investment in these companies given the negative impact of Covid-19 pandemic on startups and entrepreneurial businesses. In addition, discussing the possibility of finding sufficient capital to be allocated to invest also in these companies with the Social Security Investment Fund, through:
- Restructuring the investments of the Jordan Entrepreneurship Fund by transferring \$ 7.5 million from indirect investment to direct investment in entrepreneurial companies affected by the pandemic.

<b>Supporting national and non-national exports:</b>
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- Including exports sector within the Central Bank's refinancing program (JD 1.2 billion).
- The Central Bank supported the Export Credit Guarantee Program through the Jordan Loan Guarantee Corporation.
- Allowing banks and exchange companies to .operate after a very short period of lock-down closure, to provide their services, including foreign trade services.

<b>Supporting farmers:</b>
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- Granting the Agricultural Credit Corporation an additional advance amounted at JD 10 million at a fixed interest rate of 0.5%, with the aim of re-lending it through the institution to farmers for a period of 10 years, including a two-year-grace period.
- Postponing the instalments and interest due from the Agricultural Credit Corporation from 18/03/2020 until the end of June 2020, following allowing the Agricultural Credit Corporation to reschedule its loans to farmers for the same period.

- 3. Please specify the type of monitoring or compliance regime that has been applied to businesses receiving the support mentioned in question 2.**
- 4. Please specify the kinds of obstacles reported by businesses (if any) to cross-border trade and commerce due to measures implemented by States to overcome the pandemic.**
- 5. Aside from the measures specified in response to question 1, please specify: (a) any legislation that the Government has passed to overcome obstacles to cross-border trade, and (b) any other legislative measures to respond to the pandemic which may affect cross-border trade.**

- 6. Please specify the measures that have been put in place to mitigate the effects of the pandemic on commercial dispute settlement (for example, facilitating remote hearings, expanding fast-track proceedings, extension of limitation periods).**
- 7. Please indicate any issues related to COVID-19 response and recovery that would most benefit from harmonized legal solutions in the area of international commercial law.**

## **Responses submitted by the Kyrgyz Republic**

Organization: Ministry of Economy

1. Please specify the response measures that the Government has adopted to alleviate negative impacts of the pandemic on businesses in the following areas:

l) bankruptcy and insolvency,  
yes

m) support for small and medium-sized enterprises,  
yes

n) public procurement,  
yes

o) electronic commerce (including in the areas of electronic signatures, electronic authentication, and paperless trade),  
yes

p) business-to-business contractual relations (including drafting, interpretation and application of force majeure clause),  
yes

q) transportation and logistics, and  
yes

g) corporate governance.

If these measures were legislated, please provide a link to the legislation (or a separate copy if the legislation is not publicly accessible online).

2. Please specify the response measures adopted to support businesses (including in the form of financial assistance), and the criteria for businesses to receive support. Please also indicate the legislative basis for these measures and whether new legislation was needed.

according the government anti-crisis plan government supported medical sektor, food product.

3. Please specify the type of monitoring or compliance regime that has been applied to businesses receiving the support mentioned in question 2.

Government commission to combat pandemic

4. Please specify the kinds of obstacles reported by businesses (if any) to cross-border trade and commerce due to measures implemented by States to overcome the pandemic.

Every country has banned the export of medizine, food produts and others

5. Aside from the measures specified in response to question 1, please specify: (a) any legislation that the Government has passed to overcome obstacles to cross-border trade, and (b) any other legislative measures to respond to the pandemic which may affect cross-border trade.

Governments anti-crisis plan

6. Please specify the measures that have been put in place to mitigate the effects of the pandemic on commercial dispute settlement (for example, facilitating remote hearings, expanding fast-track proceedings, extension of limitation periods).

It was effects expanding fast-track proceeding, for example, medicine mask, and others medicine stuff

7. Please indicate any issues related to COVID-19 response and recovery that would most benefit from harmonized legal solutions in the area of international commercial law<sup>14</sup>.

All states helped each other. According bilateral cooperation many counries habe given humanitarian aid

Organization: Ministry of Economy

1. Please specify the response measures that the Government has adopted to alleviate negative impacts of the pandemic on businesses in the following areas:

r) bankruptcy and insolvency,

In connection by the order of the Government of the Kyrgyz Republic dated May 29, 2020 No. 196-r, until January 1, 2021, the initiation of the bankruptcy process by state bodies in relation to business entities that have signs of insolvency due to circumstances related to the spread of the coronavirus infection COVID-19 was suspended.

s) support for small and medium-sized enterprises,

In order to restore and ensure economic and social stability, support business entities, as well as regional development projects, the Government of the Kyrgyz Republic adopted a resolution "On approval of the Program" Financing of bussiness entities" dated 09.03.2020 №315

In accordance with paragraph 13 of the Action Plan of the Government of the Kyrgyz Republic for 2020 to Restore economic activity and support the activities of economic entities, approved by Order of the Government of the Kyrgyz Republic № 162-r of May 6, 2020, in 2020, economic entities are exempt from rent under all lease agreements of state property in cases of suspension of activities for the period of an emergency/State of emergency and one month after the resumption of activity.

In accordance with paragraph 40 of the Action Plan of the Government of the Kyrgyz Republic for 2020 on ensuring social stability, economic stability and maintaining the income of the population, approved by the Decree of the Government of the Kyrgyz Republic of August 13, 2020 No. 272-r, business entities are exempt from rent under all lease agreements of state property for the entire period of downtime (absence of activity) of the tenant, due to the epidemiological situation and/or restrictive measures imposed by the relevant authorities.

A "green channel" for food imports was also created, customs barriers, inspections and cost control were eliminated.

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<sup>14</sup> Note that the Commission has acknowledged ([A/75/17](#), part one, para. 27) that several UNCITRAL legislative tools can play an important role in assisting States to mitigate the effect of response measures, as well as their economic recovery efforts, and has, in particular, renewed calls for States to consider adopting UNCITRAL legislative texts in the field of electronic commerce and insolvency, as well as instruments supporting micro-, small and medium-sized enterprises and promoting the effective settlement of commercial disputes. Note also that the Secretariat is currently undertaking an appraisal of existing UNCITRAL texts to determine how they apply in light of emerging technologies and their applications and whether any gaps need to be addressed by future harmonization efforts ([A/75/17](#), part two, para. 76).

In order to exclude the accumulation of the population in the territorial tax authorities, as well as in connection with the numerous appeals of business entities, measures have been taken to support the population and business entities in terms of tax legislation:

- 1) From April 1 to October 1, 2020, providing taxpayers with the opportunity to submit applications for deferred or installment payments for the amount of tax arrears formed as a result of force majeure, without submitting documents on a bank guarantee for a period of no more than 1 year;
- 2) Until July 1, 2020-extension of the deadline for submitting tax reports for business entities;
- 3) Extension until April 1, 2021 of the deadline for individuals and individual entrepreneurs to submit a single tax return for 2019;
- 4) Until July 1, 2020-non-application of tax sanctions and penalties for late performance of tax obligations.

t) public procurement,

In order to implement the Plan of Priority Measures of the Government of the Kyrgyz Republic for 2020 to reduce the negative impact on economic and social stability due to the spread of the COVID-19 virus (hereinafter referred to as the Plan), approved by Order of the Government of the Kyrgyz Republic № 186 of March 30, 2020, the following work was carried out:

initiated the draft Law of the Kyrgyz Republic "On Amendments to the Law of the Kyrgyz Republic" On Public Procurement " and the draft resolution of the Government of the Kyrgyz Republic "On the draft Law of the Kyrgyz Republic "On Amendments to the Law of the Kyrgyz Republic "On Public Procurement", which proposes to establish a fixed amount of benefits (20 %) when evaluating applications from domestic suppliers (contractors).

Currently, the above-mentioned draft law and the draft resolution are being approved by the ministries and State Committees of the Kyrgyz Republic;

- circular letter № 20-1-2/364 dated April 7, 2020 was sent to purchasing organizations and suppliers (contractors) on amendments to public procurement contracts under conditions that were affected by the introduction of an emergency/state of emergency in accordance with the legislation in the field of public procurement;

- a circular letter № 20-2-2/360 dated April 3, 2020 was sent to the purchasing organizations on restrictions on public procurement of goods, works, and services, with the exception of goods, works, and services necessary to maintain public health, ensure public safety, and prevent emergencies, digitalization issues, and other state tasks of extreme necessity. Thus, a policy of curbing non-priority purchases was adopted.

In addition, in order to more quickly purchase medical devices and medicines, the Government of the Kyrgyz Republic initiated a draft law On amendments to the Law of the Kyrgyz Republic "On Public Procurement" regarding the conclusion of a direct contract for the purchase of goods, works, and services in the event of emergency prevention only in high-alert mode and (or) elimination of the consequences of an emergency, a state of emergency, localization of the consequences of force majeure, accidents requiring immediate recovery, as well as in the case of urgent medical intervention. This draft law was signed by the President of the Kyrgyz Republic on April 20, 2020 for № 48.

Also, in order for a common approach to procurement in emergencies and their implementation in the framework of the current legislation on public procurement developed by stepwise mechanism of

action on public procurement related to the prevention and prevention of further spread of coronavirus infection COVID-19 and the fight against it in the Kyrgyz Republic in an emergency.

- u) electronic commerce (including in the areas of electronic signatures, electronic authentication, and paperless trade),

No events were held on this issue.

- v) business-to-business contractual relations (including drafting, interpretation and application of force majeure clause),

In order to simplify the procedures and reduce the time for preparing public-private partnership projects and selecting a private partner for the project implementation, the Law of the Kyrgyz Republic "On Amendments to Certain Legislative Acts on Investment Support" № 12 of December 26, 2020 (Article 17-1. conclusion of a contract on the basis of direct negotiations with the introduction of a state of emergency and a state of emergency).

- w) transportation and logistics, and

Unimpeded passage of cargo vehicles engaged in international transportation was carried out through the checkpoint on the state border of the Kyrgyz Republic in accordance with the established algorithm of actions for passing vehicles.

Also, in order to receive humanitarian aid, the Operational Headquarters for Combating the Spread of Coronavirus Infection and Eliminating its Consequences on the territory of the Kyrgyz Republic was exempted from charging airport and air navigation fees from airlines carrying humanitarian goods.

- g) corporate governance.

In order to improve and improve the efficiency of corporate governance in the companies of the State Service for Regulation and Supervision of the Financial Market of the Kyrgyz Republic, together with experts of the International Finance Corporation (IFC), a new Code of Corporate Governance of the Kyrgyz Republic has been prepared. The Corporate Governance Code, approved by Gosfinnadzor Order № 263-P of December 30, 2020, is recommended for joint-stock companies and limited liability companies when issuing securities publicly.

If these measures were legislated, please provide a link to the legislation (or a separate copy if the legislation is not publicly accessible online).

Law of the Kyrgyz Republic "On Amendments to the Law of the Kyrgyz Republic "On Public Procurement" dated April 20, 2020 №. 48

Resolution of the Government of the Kyrgyz Republic "On approval of the Program "Financing of business entities" dated 09.06.2020 № 315.

2. Please specify the response measures adopted to support businesses (including in the form of financial assistance), and the criteria for businesses to receive support. Please also indicate the legislative basis for these measures and whether new legislation was needed.

The action Plan of the Government of the Kyrgyz Republic for 2020 to restore economic activity and support the activities of economic entities, approved by the Order of the Government of the Kyrgyz Republic dated 06.05.2020 No. 162-R., in accordance with which it is provided:



1. Creation of an anti-crisis fund in the amount of 14.0 billion rubles. some for concessional lending to business entities;
2. On the approval of the program of preferential financial support for business entities and benefits for enterprises.
3. Introduction of preferential lending to small and medium-sized businesses, subject to the introduction of automated systems for transparent accounting and reporting of economic activities (cash register-online, Electronic invoice)
4. Concessional lending to the manufacturing sector in the following areas:- export orientation and import substitution;
5. Concessional lending to regional projects, including those related to regionally significant clusters.
6. Consideration of obligations under tax contracts for the period of absence of economic/business activities (points of trade and services) for the period of a state of emergency/state of emergency;
7. Restructuring of debt on accrued interest, penalties, tax sanctions, fines on taxes and insurance premiums»;
8. Implementation of the legalization of capital and property with the provision of guarantees for the safety of property and exemption from the collection of any payments, taxes and fines on the legalized amount of capital.
9. Implementation of the mechanism of control and monitoring (supervision) to ensure the smooth operation of budget-forming enterprises.
10. Development of a comprehensive program for post-crisis recovery and further development of the economy of the Kyrgyz Republic

Ongoing public-private partnership projects received timely funding during the COVID-19 pandemic.

3. Please specify the type of monitoring or compliance regime that has been applied to businesses receiving the support mentioned in question 2.

Online monitoring of timely implementation of public-private partnership projects was conducted.

4. Please specify the kinds of obstacles reported by businesses (if any) to cross-border trade and commerce due to measures implemented by States to overcome the pandemic.

no

5. Aside from the measures specified in response to question 1, please specify: (a) any legislation that the Government has passed to overcome obstacles to cross-border trade, and (b) any other legislative measures to respond to the pandemic which may affect cross-border trade.

no

6. Please specify the measures that have been put in place to mitigate the effects of the pandemic on commercial dispute settlement (for example, facilitating remote hearings, expanding fast-track proceedings, extension of limitation periods).

no

7. Please indicate any issues related to COVID-19 response and recovery that would most benefit from harmonized legal solutions in the area of international commercial law<sup>15</sup>.

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<sup>15</sup> Note that the Commission has acknowledged ([A/75/17](#), part one, para. 27) that several UNCITRAL legislative tools can play an important role in assisting States to mitigate the effect of response measures, as well as their economic recovery efforts, and has, in particular, renewed calls for States to consider adopting UNCITRAL legislative texts in the field of electronic commerce and insolvency, as well as instruments supporting micro-, small and medium-sized enterprises and promoting the effective settlement of commercial disputes. Note also that the Secretariat is currently undertaking an appraisal of existing UNCITRAL texts to determine how they apply in light of emerging technologies and their applications and whether any gaps need to be addressed by future harmonization efforts ([A/75/17](#), part two, para. 76).

## **Responses submitted by Lebanon**

Organization: Ministry of Justice

1. Please specify the response measures that the Government has adopted to alleviate negative impacts of the pandemic on businesses in the following areas:

- a) bankruptcy and insolvency,

على الرغم من الوضع الاقتصادي المتردي للدولة اللبنانية، فإنها حاولت جاهدة الوقوف قدر الإمكان إلى جانب التجار خلال جائحة كوفيد 19 وبالطبع دون الإضرار بالمستهلك، وذلك تلافياً لتزايد حالات الإعسار وإعلان الإفلاس بين صفوفهم بسبب الإغلاق الذي فرضه الوضع الصحي وتوقف أعمالهم لما يؤدي إليه إعلان مثل هذه الحالات من أذى كبير إن على الصعيد الشخصي، الوطني، أو حتى على الصعيد الدولي، ولهذا الغرض فلقد أصدرت الدولة اللبنانية قانوناً يحمل الرقم ١٦٠ تاريخ ٢٠٢٠/٥/٨ (مستند رقم -١-) علقت بموجبه المهل القانونية والقضائية والعقدية ومدد هذا القانون بموجب قانون آخر يحمل الرقم ١٨٥ تاريخ ٢٠٢٠/٨/١٩ إنساحاً في المجال للتجار وللمواطنين لإعادة ترتيب أوضاعهم المالية والتأقلم مع الوضع الجديد الذي فرضه وجود جائحة كوفيد 19 إضافة إلى القانون أنف الذكر أصدرت الدولة أيضاً قانوناً يحمل الرقم ١٧٧ تاريخ ٢٠٢٠/٥/١٣ (مستند رقم -٢-) علقت بموجبه أقساط الديون والإستحقاقات المالية لدى المصارف وكونتورات التسليف وذلك لتمكين مختلف القطاعات الإنتاجية في الدولة من إيجاد حلول للمشاكل المالية التي استجنت بسبب وجود الوباء وبسبب تعطل أعمالها نتيجة قرارات الإغلاق الشامل التي أصدرتها الدولة لإحتواء الوباء.

b) support for small and medium-sized enterprises,

إن وزارة الاقتصاد في الدولة اللبنانية تعير اهتماماً كبيراً للمؤسسات الصغيرة والمتوسطة لإيمانها بقدرتها الكبيرة على تحريك عجلة الاقتصاد، لذلك فإن الوزارة المنكورة أعدت رؤية متكاملة لتلك المؤسسات قبل انتشار فيروس كوفيد 19 في العالم، وأكدت عليها بعد انتشار الفيروس المذكور وعلى الرغم من عدم قدرة الدولة على دعم تلك المؤسسات مباشرة، فإنها أفادت من القانونين أنقي الذكر في فقرة "الإفلاس والإعسار" وخصت بالذكر المؤسسات الصغيرة والمتوسطة عند تعليق أقساط الديون لعلها بقدرة تلك المؤسسات المحدودة على تحمّل الأزمات.

c) public procurement,

يقوم مجلس النواب اللبناني حالياً بدرس مشروع قانون "الشراء العام" (مستند رقم -٣-) الذي يتضمن في فصله الرابع نظاماً إلكترونياً للمشتريات يرتب كيفية إجراء المنقصات والتلزيّات بالطرق الإلكترونية للإستفادة من هذا القانون بصورة خاصة أثناء الأزمات كتلك الناتجة عن انتشار وباء كوفيد 19. كما أنه يجري حالياً درس مشروع مناقصة تجريبها وزارة الداخلية بخصوص مواصفات فنية لمعدات شخصية واقية من فيروس كوفيد 19 لعناصر المديرية العامة للدفاع المدني ومما لا شك فيه أن تنفيذ هذه المناقصة يدخل في عداد التعامل التجاري الدولي بهدف شراء هذه المعدات الضرورية الوقائية مع العلم أن الصناعة الوطنية لا تكفي لوحدها لتأمين كلّ المستلزمات المطلوبة (مستند رقم -4-).

d) electronic commerce (including in the areas of electronic signatures, electronic authentication, and paperless trade),

أصدر المشرع اللبناني بتاريخ 2018/10/10 القانون رقم 81 المتعلق بالمعاملات الإلكترونية والبيانات ذات الطابع الشخصي (مستند رقم -5-)، وقد تضمن أحكاماً تنظم التوقيع الإلكتروني والتجارة الإلكترونية والعقود الإلكترونية التي تشكل الوسيلة الأهم لإتمام المعاملات التجارية بصورة خاصة في وقت الأزمات لا سيما الصحية منها كوباء كوفيد 19، كونها تسهل عدد الصفقات التجارية الداخلية منها والخارجية عن بعد بالوسائل الإلكترونية من دون أن تعرّض أطراف تلك الصفقة لخطر الإصابة بأي فيروس ولا سيما الكوفيد 19 الذي لم يكتشف بعد أي دواء له، وإن الدولة اللبنانية تعمل حالياً على إصدار المراسيم التطبيقية لوضع تلك القانون موضع التطبيق في ما يتعلق بالمصادقة على السندات الرسمية، وتنظيم عمل الشركات المختصة في مجال حفظ التوقيعات الإلكترونية والمصادقة عليها، في حين أن العمل بموجب هذا القانون في ما يختص بالسندات العادية إنطلق منذ صدوره.

e) business-to-business contractual relations (including drafting, interpretation and application of force majeure clause),

شجعت الدولة المبادرات الخاصة لدعم تلك المؤسسات بشئى الوسائل من أجل مدها بالحد الأدنى من متطلبات الصمود بوجه الأزمة وقد استجابت بعض الشركات الخاصة لتلك المبادرات فاطلقت شركة "أرييا" مبادراتها الخاصة لدعم المؤسسات التجارية في لبنان وأعلنت ١٤٠٠٠ شركة وتاجر على الأراضي اللبنانية من الرسوم الشهرية الخاصة بنقاط البيع طيلة العام ٢٠٢٠ وقدمت خدمة تركيب مجانية لألات الدفع الإلكتروني من أجل تسهيل عمل تلك المتاجر أثناء الجائحة (مستند رقم -6-). وبعد انتهاء الإغلاق العام المقرر بتاريخ ٢٠٢١/٢/٨ (مستند رقم -7-) والانتقال لتطبيق خطة الفتح التدريجي لمختلف القطاعات في البلاد وقد طلبت وزارة الاقتصاد من أصحاب المصانع إيجاد آلية لمراقبة التزام مختلف المصانع بإجراءات السلامة العامة كما وبدليل الإجراءات الوقائية الذي تم وضعه بين أيديهم فبادرت جمعية الصناعيين اللبنانيين إلى التعاقد مع شركة تدقيق لمراقبة التزام المصنعين بالموجبات الملقة على عقدهم لهذه الناحية وتم توقيع إتفاقية بين الشركة والجمعية تنظم كيفية وآلية إجراء التدقيق بمواكبة مفتشي وزارة الصناعة (مستند رقم -8-) فلمعت بذلك وزارة الاقتصاد دوراً جوهرياً في تحفيز الشركات الخاصة على التعرف على



أعمال بعضها البعض والتعاقد في ما بينها من أجل تسيير أعمالها حسب الأصول الملحوظة في الدليل المشار إليه أما بخصوص بند "القوة القاهرة" فلم يتجلى لتاريخه بأنه جرى الاستعانة بهذا البند في العلاقات التجارية فيما بين هذه الشركات

f) transportation and logistics, and

تأثرت سلباً هذا القطاع بشكل كبير بسبب انتشار وباء كوفيد 19 في مختلف أرجاء العالم، وقد حاولت الدولة اللبنانية التخفيف من وطأة الأزمة على القطاع المذكور كونه من أكثر القطاعات حيوية وإنتاجية في الدولة، لذلك فإنها حاولت قدر المستطاع عدم إقفال المطارات والحدود إلا لفترات قصيرة جداً عند ارتفاع أعداد الإصابات بشكل كبير، كما أنها حرصت على استثناء مرفأ بيروت من قرارات الإقفال العام التي كانت تصدرها، وإستثناء العاملين في المرفأ من قرارات منع التجول وذلك من أجل تأمين الحد الأدنى من استمرارية العمل على المرفأ وفي المطار، إضافة إلى استثناء شركات الشحن الخاصة وعملها من تلك القرارات شرط التزامهم بأقصى درجات الوقاية من انتشار الفيروس (مستند رقم 9-).

g) corporate governance.

إن الدولة اللبنانية وإنطلاقاً من إيمانها الراسخ بحرية الشركات والقطاعات الخاصة في إدارة شؤونها وتسيير أعمالها ومصالحها لم تتدخل بشكل مباشر في طريقة إدارة أعمال تلك الشركات أثناء انتشار الجائحة، ولكنها وبموجب قرارات الإغلاق ومنع التجول التي كانت تصدرها وضعت إطاراً عاماً لتلك الشركات لتعمل ضمنه، فحددت ساعات فتحها وإغلاقها، وحثتها على تنظيم مناورات بين العمال من أجل تخفيف الإكتظاظ والإحتكاك بين الموظفين والحؤول دون انتشار الفيروس بين صفوف موظفيها، وقد تجسد هذا الإهتمام إلى جانب القوانين والمراسيم التي صدرت لهذا الغرض، بالقرارات والتعاميم التي صدرت عن مختلف الوزارات المختصة ومنها مختلف القرارات والتعاميم المذكورة في متن هذا الإستبيان مثل قرار تنظيم عمل مختلف القطاعات أثناء الإقفال العام كما أطلقت الدولة اللبنانية منصة إلكترونية تلزم العاملين في الشركات -المسموح لها بفتح أبوابها والعمل أثناء فترة الإغلاق- بطلب أذونات للتنقل مع تحديد الوجهة والوقت والشركة التي يعملون فيها، وذلك للتأكد من أن هؤلاء يتنقلون لدواعي العمل فقط وللتأكد من التزام الشركات والمؤسسات بقرارات الإغلاق وإجراءات السلامة العامة. (مستند رقم 9-).

If these measures were legislated, please provide a link to the legislation (or a separate copy if the legislation is not publicly accessible online).

2. Please specify the response measures adopted to support businesses (including in the form of financial assistance), and the criteria for businesses to receive support. Please also indicate the legislative basis for these measures and whether new legislation was needed.

إضافة إلى قانوني تعليق المهل وتعليق أقساط الديون التي تستفيد منها شركات الأعمال بالدرجة الأولى، فإن الدولة اللبنانية حرصت على استثناء الشركات التي تعمل في قطاعات حيوية من قرارات الإغلاق من أجل تأمين استمراريتها إضافة إلى تأمين الأمن الغذائي للمواطن فاستثنت شركات الشحن والنقل من قرار الإقفال وشركات تصنيع وتوزيع الأدوية، والمطاحن، وتجار الجملة والتجزئة، والمشاغل ومحطات المحروقات، ووكالات السفر، كما استثنت قطاع الزراعة والدواجن والمواشي كون القطاع يحتاج متابعة يومية من إطعام المواشي والإشراف على إجراءات الأمن الحيوي داخلها وقد يؤدي إهماله إلى خسائر فادحة، وغيرها من القطاعات التي يشكل قرار الإقفال عائقاً أمام استمراريتها بسبب طبيعة عملها، أو لإمتلاكها بضائع ومنتجات قد تفسد في حال لم يتم تصريفها طيلة فترة الإقفال العام مثل الألبان ولأجبان والخبز وغيرها (مستند رقم 9-).

وأصدرت الدولة اللبنانية المرسوم رقم ٦٢٥٥ تاريخ ٢٠٢٠/٤/٩ (مستند رقم ١٠-) الذي أعفت بموجبه استيراد المستلزمات والمعدات الطبية والإستشفائية والمخبرية المنحصر استعمالها بالوقاية من فايروس كوفيد ١٩ من الرسوم الجمركية ورسم الإستهلاك الداخلي والرسم المقطوع البالغ ٣ بالمئة وذلك لتمكين الشركات والمؤسسات المستوردة من الإستمرار في إستيراد تلك المستلزمات ومواجهة الضغوط الناجمة عن ارتفاع الطلب عليها، كما عملت على تسهيل عمل الشركات المصنعة للأدوية الضرورية والمستلزمات التي تستخدم في مواجهة فايروس كوفيد ١٩ كتصنيع الكمادات مثلاً وأجهزة تكييف الأوكسجين.

م



و أن مصرف لبنان أقر في أيار الماضي آلية يوفر بموجبها الدولار المدعوم؛ أي وفق سعر صرف خاص بقيمة ٣٩٠٠ ليرة، علماً أن سعر الصرف الرسمي هو ١٥٠٠ ليرة لبنانية للدولار الواحد وإن سعر الصرف في السوق السوداء وصل إلى خمس عشرة ألف ليرة لبنانية في بعض الأيام، لدعم استيراد المواد الغذائية الأساسية والمواد الأولية لصناعاتها من خلال إصدار القرار الوسيط رقم ١٣٢٢٨ تاريخ ٢٠٢٠/٥/٢٧ (مستند رقم ١١-) محدداً التسهيلات الممكن أن يمنحها مصرف لبنان للمصارف والمؤسسات المالية من أجل تمويل استيراد المواد الأولية الصناعية. وذلك لدعم كل المعنيين بالنشاط التجاري في الإستمرار في نشاطهم ومواجهة تداعيات الإقفال العام الوطني والدولي بسبب فيروس الكوفيد ١٩ وما أدى إليه من ركود في حركة التجارة الداخلية والدولية بالإضافة إلى تدهور العملة الوطنية، وحماية لأمن المواطن الغذائي وأصدرت الدولة اللبنانية القانون رقم ٢٠٨ تاريخ ٢٠٢٠/١٢/٣٠ (مستند رقم ١٢-) الذي أعفت بموجبه الآليات العمومية والخصوصية والدراجات النارية والمركبات الآلية المعدة للإيجار من رسم السير السنوي للمعنيين ٢٠٢٠ و ٢٠٢١ كون الإلتزام بالتعينة العامة وقرار الإقفال ألحق أضراراً فادحة بقطاع النقل البري (نقل السكان والبضائع) والسياحة وقطاع تأجير السيارات.

كما أصدرت القانون رقم ١٨٦ تاريخ ٢٠٢٠/١٠/١٦ (مستند رقم ١٣-) المتعلق بإبرام اتفاقية قرض واتفاقية تنفيذية بين الجمهورية اللبنانية والبنك الدولي للإنشاء والتعمير لمشروع الطرقات والعمالة يخصص لدعم صغار المزارعين بمواجهة الوضع الاقتصادي الصعب وتداعيات فيروس كوفيد ١٩ عبر توفير مواد وأسمدة زراعية وبذور وشتول وعلف للحيوانات، لما لذلك القطاع من تأثير مباشر على قطاعي التجارة والصناعة.

إضافة إلى ذلك وبسبب تأثير حركة الإستيراد والتصدير بفعل إقفال المطار في لبنان ومطارات الدول الأخرى إنطلقت مبادرة تشجيع الزراعة. وقد إتخذت هذه المبادرة شكلين الأول على مستوى الحكومة، والثاني على المستوى الفردي بالنسبة إلى المبادرة الأولى، فقد لجأ عدد من البلديات بالتعاون مع وزارة الزراعة اللبنانية، إلى تنظيم الأراضي الصالحة للزراعة في مختلف المناطق اللبنانية، والتواصل مع أصحابها، وتقديم القمح مجاناً للمساهمين. وقد لاقت هذه المبادرة مشاركة واسعة من قبل عدد كبير من المواطنين.

أما بالنسبة إلى المبادرة الثانية، فعلى سبيل المثال لا الحصر، إنطلقت من داخل ساحة النور في المدينة الشمالية (طرابلس)، حركة تحمل اسم "حب"، وتهدف إلى توزيع البذور وتشجيع المواطنين على الزراعة من أجل مواجهة التبعات الاقتصادية التي خلفتها أزمة كوفيد ١٩ والتي فاقمت الأزمة الاقتصادية التي تمر بها البلاد.

3. Please specify the type of monitoring or compliance regime that has been applied to businesses receiving the support mentioned in question 2.

تأبعت الدولة اللبنانية مراقبة حسن تنفيذ الإجراءات المتخذة لدعم شركات الأعمال والمؤسسات من خلال وضع منصة يمكن من خلالها التأكد من التزام الشركات المستثناة من قرار الإغلاق بالإجراءات الوقائية، كما وضع المصرف المركزي آلية لمراقبة الإستحصال على العملات الصعبة لتمويل الإستيراد مثل إلزام التجار -المقرر مساعدتهم على مواجهة المشاكل الناتجة عن الإغلاق الإلزامي بسبب الحجر- على تقديم بيانات مؤسساتهم مع كل طلب بتقديمهم إلى الحصول على الدولار المدعوم، إضافة إلى البيانات المتعلقة بالبضائع المنوي إستيرادها لتمكين المصرف المركزي من ممارسة رقابته على المبالغ التي يسلفها للتجار، وقد فرضت على الراغبين بالإستفادة من الإعفاءات الجمركية على المواد الضرورية لمواجهة وباء كوفيد ١٩ إرفاق كل بيان جمركي للبضائع المطلوب إفادتها من الإعفاء بلاتحة تفصيلية بالأصناف مصادق عليها من وزارة الصحة العامة تؤكد استخدام هذه البضائع للوقاية من فيروس كوفيد ١٩ (مستند رقم ١٠-).

4. Please specify the kinds of obstacles reported by businesses (if any) to cross-border trade and commerce due to measures implemented by States to overcome the pandemic.

على الرغم من ان الدولة اللبنانية حرصت على عدم إغلاق حدودها بالكامل في فترات الإغلاق لعدم التأثير على حركة التجارة الدولية، إلا ان الفترات القصيرة التي فرض فيها غلاق الحدود كان لها وقع مؤلم على الشركات والمؤسسات التجارية التي تستخدم الحدود بوابة لتصريف إنتاجها، أو التي تعتمد عليه لتأمين المواد الأولية لصناعاتها، لا سيما وأن لبنان يعتبر في عداد البلدان التي تعتمد على الإستيراد بصورة أساسية لتسيير أعمال التجار فيه وبلغ حجم الإستيراد لديه !! عام ٢٠١٩ حوالي سبعة عشر مليار دولار أميركي مقابل حجم تصدير يبلغ حوالي ثلاثة مليارات دولار أميركي فقط.

الله

إضافة إلى أن الإغلاق العام شكل عائقاً مهماً أمام متابعة شركات الأعمال لعملها، وقد أدى الإقفال وتراجع الأعمال إلى فقدان العملات الصعبة من البلاد ما فاقم الأزمة الاقتصادية وزاد معدلات التضخم وساهم في انهيار العملة الوطنية أكثر فأكثر

5. Aside from the measures specified in response to question 1, please specify: (a) any legislation that the Government has passed to overcome obstacles to cross-border trade, and (b) any other legislative measures to respond to the pandemic which may affect cross-border trade.

حاولت الدولة اللبنانية العمل جاهدة على إصدار جميع القوانين الضرورية لمواجهة تداعيات إنتشار فيروس كوفيد 19 على الإقتصاد والتجار وقد عملت على مستويين الأول وطني والثاني دولي

#### 1- على الصعيد الوطني

أشركت الدولة اللبنانية جميع إداراتها ووزاراتها في العمل على الحد من تأثير إنتشار فيروس كوفيد 19 على الإقتصاد والتجارة وقد تعاونت هذه الوزارات ونسقت جهودها للوصول قدر المستطاع إلى الهدف المنشود، والذي يؤدي إلى تحفيز الدول الأخرى على استيراد المنتجات اللبنانية لتكون المواصفات المطلوبة فيها مطابقة للأصول وبالتالي للشراء والتصدير متوافرة بصورة متكاملة،

في مجلس الوزراء

أصدرت الدولة اللبنانية مرسوم إعلان التعبئة العامة الذي يحمل الرقم ٦١٩٨ تاريخ 2020/3/15 (مستند رقم 14) لمواجهة فيروس كوفيد ١٩ وبالإستناد إلى المرسوم المذكور أصدرت قرارات عدة بإغلاق البلاد بالكامل، وقد أثرت قرارات الإقفال العام بشكل مباشر على التجارة عبر الحدود كون بعض الشركات أجبرت على وقف أعمالها أثناء فترة الإقفال فتراجع حجم إنتاجها وانخفض العرض، إضافة إلى إن إغلاق الحدود ولو لفترة قصيرة أثر على حركة البضائع عبره، وللحد من التبعات السلبية لقرار إغلاق الكامل الذي يحمل الرقم ٣/م ص تاريخ ٢٠٢٠/١/٥ (مستند رقم ٩-) عمدت الدولة اللبنانية إلى استثناء عمال المرفأ والمطار من قرارات الإغلاق للمحافظة على حركة البضائع عبرها كما سبق البيان أنفاً كما أن رئيس مجلس الوزراء أصدر القرار رقم ٤٢ تاريخ ٢٠٢٠/٣/١١ (مستند رقم 15-) طلب بموجبه من ارباب العمل في القطاعات الإنتاجية كافة (تجارية، صناعية، زراعية، سياحية...) اتخاذ التدابير الضرورية الكفيلة بحماية العمال وكل العاملين معهم بما يتماشى مع متطلبات الوقاية ويضمن استمرارية الإنتاج

في وزارة الصناعة

وحفاظاً على جودة المنتجات المصنعة في لبنان وسلامتها لا سيما لناعية المواد الغذائية والمستحضرات المستخدمة لمكافحة فيروس كوفيد ١٩ (كالمعقمات مثلاً) وعلى قدرتها التنافسية في الداخل والخارج، وعلى سلامة العاملين في القطاع الصناعي، وبناء على طلب وزارة الصناعة وضعت منظمة الأمم المتحدة للتنمية الصناعية بالتعاون مع حكومتى إيطاليا واليابان دليل الإجراءات الوقائية من فيروس كوفيد ١٩ للقطاع الصناعي (مستند رقم 16-) من أجل تدريب العاملين في هذا القطاع على حماية أنفسهم من النقاط العدوى وعلى كيفية تجنب تلويث المواد المصنعة في المصانع التي يعملون فيها، وذلك من أجل المحافظة على نشاط المؤسسات الصناعية وتلافياً لتأثير مستوى إنتاجها في حال انتشار العدوى بين العاملين في ذلك القطاع كما أن وزارة الصناعة بموجب المرسوم رقم ٥٧٠٥ تاريخ ٢٠١٩/١٠/١ (مستند رقم 17-) كثفت عملها ودوريات مراقبتها للتأكد من التزام المصانع المنتجة لمواد التعقيم بالمعايير المفروضة والمواصفات المطلوبة في المنتجات التي تصنعها وذلك حماية للمصانع وللتجار من مضاربتهم ومنافستهم ببضائع لا تستوفي المواصفات الصحية المفروضة وأصدر وزير الصناعة القرار رقم ١/٢١ تاريخ ٢٠٢٠/٥/١٩ (مستند رقم 18-) حدد فيه الشروط الواجب مراعاتها للأجهزة الطبية غير الناشطة وذلك بناء على مقتضيات السلامة العامة ومنعاً للغش في تصنيع تلك الأجهزة ولكي لا تطرح في الأسواق بضائع مغشوشة بأسعار منخفضة تنافس الصناعة المحلية وتؤثر عليها سلباً من خلال تخفيض الجودة وانخفاض أعمال المصانع والتجار الملتزمين بالقانون هذا بالإضافة للقرار رقم ١٥/١ تاريخ ٢٠٢٠/٣/١٢ (مستند رقم 19-) الذي حدد بموجبه الإجراءات الوقائية الإلزامية التي يتوجب على المصانع الغذائية الإلتزام بها كجزء من الوقاية والإستعداد لمواجهة فيروس كوفيد 19 المستجد وغيره من الأوبئة، وقرر أيضاً وزير الصناعة (قرار يحمل الرقم ٢٠/١) في تاريخ ٢٠٢٠/٥/١٤ (مستند رقم 20-) تحديد الشروط الواجب مراعاتها في مصانع الأقمشة الواقية المصنوعة من القماش بغية تحفيز هذه الصناعة المستجدة في لبنان من أجل تحسين جودة هذا المنتج وإعطائه الفاعلية والنتيجة المتوخاة من وراء تصنيعه

الحا



في وزارة الاقتصاد والتجارة

أصدر وزير الاقتصاد والتجارة قراراً يحمل الرقم ٤٢/١/أ.ت تاريخ ٢٠٢٠/٣/٢٦ حدد بموجبه التدابير الإحترازية اللازمة لبيع وتوزيع مياه الشرب المعبأة (مستند رقم 21-) وذلك لضمان استمرار عمل تلك المصانع وضمان جودة المنتجات الغذائية اللبنانية وهذا بالإضافة إلى تعميم يحمل الرقم ٣/١/أ.ت تاريخ ٢٠٢٠/١٢/١٠ (مستند رقم 22-) حدد بموجبه كيفية احتساب القدرة الاستيعابية القصوى لمحال البيع بالتجزئة والمصارف ومحال الصيرفة من أجل ضمان الإلتزام بالحد الأقصى من الأشخاص المسموح تواجدهم داخل هذه المحال وفي الوقت عينه المحافظة على عمل تلك المحال لما لها من تأثير مهم على التجارة والدورة الإقتصادية في البلاد

وبعد انتهاء الإغلاق العام المقرر بتاريخ ٢٠٢١/٢/٨ (مستند رقم 8-) والانتقال لتطبيق خطة الفتح التدريجي لمختلف القطاعات في البلاد طلبت وزارة الصناعة من أصحاب المصانع إيجاد آلية لمراقبة التزام مختلف المصانع بإجراءات السلامة العامة وبندليل الإجراءات الوقائية الذي تم وضعه بين أيديهم فبادرت جمعية الصناعيين اللبنانيين إلى التعاقد مع شركة تدقيق لمراقبة التزام الصناعيين بالموجبات الملقة على عاتقهم لهذه الناحية وتم توقيع إتفاقية بين الشركة المذكورة وجمعية الصناعيين تنظم آلية التدقيق وكيفية إجرائها (مستند رقم 8-)

في وزارة الزراعة

أصدر وزير الزراعة قراراً يحمل الرقم ١٩١/١ تاريخ ٢٠٢٠/٣/٢٠ (مستند رقم 23-) حدد بموجبه الإجراءات التي يجب العمل بها في القطاع الزراعي أثناء حالة الطوارئ الصحية، والقرار رقم ١٩٠/١ تاريخ ٢٠٢٠/٣/٢٠ (مستند رقم 24-) حدد بموجبه الإجراءات التي يجب العمل بها في أسواق الجملة للخضار والفاكهة أثناء حالة الطوارئ الصحية، وأخيراً يحمل الرقم ١٩٥/١ تاريخ ٢٠٢٠/٣/٣٠ (مستند رقم 25-) حدد بموجبه الإجراءات التي يجب العمل بها في مزارع وأسواق الأسماك والمسامك أثناء حالة الطوارئ، وأتبعهم بتعميم يحمل الرقم ٢٠/١ تاريخ ٢٠٢٠/٦/١٨ (مستند رقم 26-) يحدد الإرشادات الخاصة بالصحة والسلامة المهنية لمواجهة فيروس كوفيد 19 في مختلف أقسام قطاع الزراعة من القسم الحيواني إلى الزراعي ومصانع الأغذية وأسواق الخضار والفاكهة، وذلك للمحافظة على استمرارية العمل في القطاع المذكور لما له من تأثير كبير على التجارة والصناعة في البلاد من خلال ما يؤمن من مواد معدة للبيع في الداخل والتصدير للخارج ومواد أولية تدخل في العديد من الصناعات المحلية والعالمية ولا سيما صناعة المواد الغذائية.

في وزارة العمل

عمدت وزيرة العمل إلى تطوير العمل عن بعد من أجل تأمين استمرار سير الأعمال في الوزارة وفي المؤسسات الأخرى التي تسمح طبيعة عملها بإجاز الأعمال عن بعد دون التواجد في مركز العمل، وهي حالياً أي وزارة العمل في صدد إعداد مشروع قانون للعمل تضمنه مواداً قانونية تنظم العمل عن بعد، يمكن الاستفادة منه من قبل الشركات التجارية أثناء فترة الإغلاق العام لتسيير أعمالها دون تعريض موظفيها لخطر الإصابة بالوباء، وقد تابرت وزارة العمل على مراقبة المنشآت المستثناة من قرار الإغلاق والتأكد من التزامها معايير السلامة العامة للحد من إنتشار الوباء (مستند رقم 27-).

في إطار التنسيق المشترك بين الوزارات المعنية

أصدر وزراء الصناعة والاقتصاد والتجارة والزراعة والصحة العامة قراراً مشتركاً يحمل الرقم ١ تاريخ ٢٠٢٠/٥/١٩ (مستند رقم 28-) لضبط حركة السلع والمواد ونوعيتها وذلك حرصاً على الأمن الغذائي وحماية للإنتاج الوطني ورفع مستواه وتأمين تنافسيته ولعدم استغلال الظروف المنتشرة في لبنان والعالم للتلاعب بجودة المنتجات وكميتها وأسعارها نتيجة الإغلاق العام وانتشار الجائحة دولياً في العالم كله لمطابقت هذا الإنتاج للأصول وبالتالي تحفيز الدول الأخرى على استيراده ولا سيما في الدول التي يجري معها لبنان تبادلاً تجارياً مكثفاً، استيراداً وتصديراً.

في جمعية المصارف

وعلى صعيد الإجراءات النقدية أصدرت جمعية المصارف في لبنان بالإستناد إلى قرار التعبئة العامة وإغلاق البلاد، تعميماً (مستند رقم 29-) إلى جميع المصارف وفروعها في لبنان باستمرار تأمين العمليات التجارية الملحة للشركات والمؤسسات التجارية والصناعية لا سيما تلك المتعلقة بالأمن الغذائي والمستلزمات الطبية والعمليات المدعومة من قبل مصرف لبنان، وذلك لتسهيل أعمال التجار والصناعيين لا سيما الذين يتعاملون مع الخارج ويصدرون ويستوردون مختلف المنتجات وللحؤول دون تعطل حركة التجارة والدورة الإقتصادية في البلاد

على الصعيد الدولي

2-

هنا



أصدرت الدولة اللبنانية القانون رقم ١٨٦ تاريخ ٢٠٢٠/١٠/١٦ (مستند رقم ٦-) المتعلق بإبرام اتفاقية قرض واتفاقية تنفيذية بين الجمهورية اللبنانية والبنك الدولي للإنشاء والتعمير لمشروع الطرقات والعمالة يخصص لدعم صغار المزارعين بمواجهة الوضع الاقتصادي الصعب وتداعيات فيروس كوفيد ١٩ عبر توفير مواد وأسمدة زراعية وبذور وشتل وعلف للحيوانات، لما لذلك القطاع من تأثير مباشر على قطاعي التجارة والصناعة.

وأصدرت أيضاً القانون رقم ١٨٦ تاريخ ٢٠٢٠/١٠/١٦ (مستند رقم 29-) المتعلق بإبرام اتفاقية قرض واتفاقية تنفيذية بين الجمهورية اللبنانية والبنك الدولي للإنشاء والتعمير من أجل تأمين اللقاح ضد فيروس كوفيد 19 والذي يؤدي إعطائه للمقيمين في لبنان إلى تنشيط الدورة الاقتصادية وبالتالي التبادل التجاري على الصعيدين الداخلي والخارجي.

6. Please specify the measures that have been put in place to mitigate the effects of the pandemic on commercial dispute settlement (for example, facilitating remote hearings, expanding fast-track proceedings, extension of limitation periods).

أصدرت وزيرة العدل بالإشتراك مع المجلس الأعلى للقضاء قراراً بتاريخ ٢٠٢١/٢/٢١ (مستند رقم ٣٠-) لتنظيم عمل المحاكم أثناء فترة الإغلاق والتشديد على ضرورة إصدار الأحكام في مواعيدها من أجل مساعدة أصحاب الحقوق في الوصول لحقهم بأسرع وقت ممكن رغم انتشار الجائحة وإقفال البلاد، فجرى تنظيم عمل الدوائر القضائية والأقسام بشكل يحول دو عرقلة أمور المتقاضين ويؤمن التباعد الجسدي المطلوب للحد من انتشار الوباء، كما تم التأكيد على ضرورة استمرار البت في القضايا المستعجلة والطارئة لدى المراجع المدنية بما فيها القضايا التجارية أيضاً وكذلك أصدرت النيابة العامة التمييزية تعميماً يحمل الرقم ٦٥/ص/٢٠٢٠ تاريخ ٢٠٢٠/٣/١٦ (مستند رقم ٣١-) نظمت بموجبه كيفية إجراء الإستجواب عن بعد من قبل القضاة للحؤول دون تأخير الدعاوى بما فيها الدعاوى الناشئة عن علاقات تجارية بسبب إجراءات الوقاية من فيروس كوفيد ١٩.

7. Please indicate any issues related to COVID-19 response and recovery that would most benefit from harmonized legal solutions in the area of international commercial law<sup>1</sup>.

- إن التنسيق فيما بين الدول لإصدار قوانين وإجراءات يؤدي إلى نتائج إيجابية ومفيدة جداً لا سيما في المجالات الآتية:
- الحؤول دون إقفال الحدود بصورة مطلقة وعامة وشاملة (إنتقال الأشخاص والبضائع والخدمات)
  - الحؤول دون إنخفاض أسعار المواد الأولية بسبب إنخفاض الطلب عليها
  - الحؤول دون إغلاق المؤسسات أبوابها خصوصاً الصغيرة والمتوسطة منها،
  - تنظيم منع الذهاب إلى الدول التي تنتشر فيها الجائحة
  - الحؤول دون خسارة اليد العاملة لوظائفها

8. Please indicate whether these responses may be consulted by other States.

Yes ☒ No ☐

<sup>1</sup> Note that the Commission has acknowledged (A/75/17, part one, para. 27) that several UNCITRAL legislative tools can play an important role in assisting States to mitigate the effect of response measures, as well as their economic recovery efforts, and has, in particular, renewed calls for States to consider adopting UNCITRAL legislative texts in the field of electronic commerce and insolvency, as well as instruments supporting micro-, small and medium-sized enterprises and promoting the effective settlement of commercial disputes. Note also that the Secretariat is currently undertaking an appraisal of existing UNCITRAL texts to determine how they apply in light of emerging technologies and their applications and whether any gaps need to be addressed by future harmonization efforts (A/75/17, part two, para. 76).

## مقدمة:

وجهت جائحة كوفيد ١٩ ضربة موجعة للإقتصاد على الصعيدين الداخلي والعالمي، ومع أن النطاق الكامل للآثار البشرية والاقتصادية للجائحة لن يتضح قبل مرور بعض الوقت، فإن الخسائر في هذين المجالين كبيرة وكبيرة جداً. وتكون الأسواق العالمية القائمة على صعيد السياسات الإقتصادية، ولا سيما في بلدان الأسواق الصاعدة والبلدان النامية عرضة لاضطرابات اقتصادية ومالية، ما يحد من قدرة وفعالية مساندة الدول لبعضها البعض في وقت تشتد فيه الحاجة إليها. وحتى مع وجود مثل هذه السياسات، فمن المتوقع أن تكون التداعيات الاقتصادية لجائحة كورونا طويلة الأمد ،

وهذا الوباء انتشر دون سابق إنذار وبشكل أسرع من المتوقع فاضاً على جميع الدول سلسلة من التدابير الوقائية كالإقفال العام الذي اعتمدته أغلب الدول، وأقل ما يقال عن هذه التدابير أنها ذات أثر مباشر على الاقتصاد لا بل مدمرة لبعض مجالاته وقد وجدت معظم الدول نفسها مربكة أمام سرعة تفشي الوباء، وعاجزة عن اتخاذ الإجراءات الكفيلة بكبح انتشاره دون المسّ بالأمن الاقتصادي، وظهر ذلك من خلال غياب السياسات والخطط التي تمكن الدول من التوفيق بين الحفاظ على صحة المواطنين من جهة ومصالحهم وأعمالهم من جهة أخرى.

ولقد امتد أثر هذه الجائحة ليطلال الاقتصاد العالمي والتجارة الدولية بشكل مباشر، وبين بشكل واضح غياب التخطيط والسياسات الاستباقية على صعيد التجارة الدولية، كما وغياب التنسيق بين مختلف الدول في المجال المذكور فوجدت تلك الدول نفسها عاجزة عن تأمين الحد الأدنى من التنسيق لاتخاذ تدابير وإجراءات تحول دون تعطيل التجارة بينها وتحفظ في الوقت عينه سلامة العاملين وصحتهم في هذا المجال، ما يدفع للوقوف والتفكير جدياً بوضع مدونة لإجراءات وتدابير موحدة تستقي منها مختلف الدول سياسات للتجارة الداخلية كما والخارجية عبر عقد اتفاقات دولية تؤمن الاستجابة لأي حالة طارئة قد تستجد في المستقبل ويكون من شأنها المساس باستقرار الاقتصاد والتجارة الدوليين.

ومما لا شك فيه أنه بالرغم من الانعكاسات السلبية التي خلفها انتشار الوباء فإنه لا بدّ من التوقف عند بعض الإيجابيات، إذ يعتبر راهنا الشرارة التي أطلقت ورشة العمل المختصة بوضع سياسات وإجراءات داخلية وخارجية للاستجابة لحالات الطوارئ الاقتصادية التي قد يستدعيها أي حدث مستقبلي غير متوقع، إضافة إلى إيجابيات أخرى سيجري بيانها في ما بعد.

حلّ فيروس الكوفيد ١٩ ضيفاً ثقيلاً على الدولة اللبنانية التي تترزح تحت وطأة أزمة اقتصادية هي الأشدّ منذ وجودها، وفرض عليها اتخاذ إجراءات لحماية صحة المواطنين كان لها أثر مباشر على اقتصادها فحاولت من خلال سلسلة معاهدات وقوانين ومراسيم وقرارات وإجراءات، التخفيف من وطأة ذلك الوباء عليها وهذا ما سيتم بيانه من خال الإجابة على أسئلة الاستبيان المطلوب تعبئته.



## في الخاتمة:

كما سبق وأسلفنا إن إنتشار وباء كوفيد ١٩ بشكل مفاجئ وسريع جعل مختلف الدول في حالة من الإرباك والعجز عن التوفيق بين حماية صحة مواطنيها من جهة وحماية اقتصادها من الجهة الأخرى، وقد تجلّت حالة الإرباك هذه من خلال اختلاف الأطر التنظيمية والرقابية التي انتهجتها كلّ دولة واختلاف السياسات وإجراءات الحماية التي اتبعتها ما أدى إلى تأثير التجارة الدولية بشكل مباشر لعدم إلمام الدول بالإجراءات المتخذة في الدول الأخرى ومدى صرامتها في ظلّ غياب إجراءات موحدة متبعة في جميع دول العالم، إضافة إلى أن موضوع تنسيق الإجراءات بين الدول أقلّه تلك المجاورة لبعضها البعض كان أمراً في غاية الصعوبة بسبب سرعة انتشار الوباء والسرعة المطلوبة للاستجابة له ما أدى إلى غياب التنسيق المذكور بفعل غياب أية صكوك تنظيمية موحدة لتساعد الدول على وضع سياسة للتنسيق في ما بينها.

إنّ تدابير الإغلاق سواء الجزئي أو العام اتخذت تقريباً في معظم دول العالم وكان لها تأثير كبير على الاقتصاد والتجارة ولا تزال تداعياتها مستمرة حتى بعد رفع أو تخفيف تلك التدابير، ولا تزال جميع الدول تبحث لتبتكر إجراءات جديدة تنعش اقتصادها مع الحفاظ على الأمن الصحي لمواطنيها ولكن هذه الإجراءات تتسم بعدم الإتساق بين مختلف الدول وتندرج من الصارم حتى السهل ما يعيق حركة التجار الدولية بسبب تفاوت تلك الإجراءات، هذا الوضع يحتم على جميع الدول التعاون في ما بينها والمشاركة في خبراتها من أجل الوصول إلى قواعد تنظيمية موحدة أو نموذجية تستقي منها الدول لتنظيم أوضاعها الداخلية في حالات الطوارئ كذلك التي تنتشر حالياً.

إن ما يؤكد على ضرورة التعاون وتبادل الخبرات ومشاركة المعلومات هو اختلاف النظم القانونية بين دولة وأخرى وما يعتبر مقبولاً في دولة معينة قد يعتبر مخالفة صارخة في دولة أخرى فيكون التعاون ضرورياً في هذه الحالة للوصول إلى قواعد مشتركة مقبولة من الدول كافة، وتغدو المواضيع المطروحة للبحث بموجب الاستبيان المطلوب تعبئته من أهمّ المواضيع التي يجب تنظيمها ووضع قواعد ترعاها أثناء حالات الطوارئ وانتشار الأوبئة لما لها من تأثير مباشر على الاقتصاد والتجارة العالميين.

حاول لبنان التصدي لهذه المواضيع من خلال معاهدات وقوانين ومراسيم وقرارات وتعاميم أصدرتها الأجهزة والإدارات المختصة لتخفيف وطأة انتشار الوباء على التجارة الداخلية والدولية فتدخلت في العقود من خلال تعليق المهل وتعليق سداد الديون، وحاولت تنظيم موضوع المحاكمات عن بعد لمنع انتشار الوباء والمحافظة على استمرار مرفق العدالة الذي يعتبر حاجة أساسية في مجال التجارة والاستثمار، وحاولت التخفيف عن كاهل التجار من خلال قوانين أصدرتها لتخفيف أعبائهم كإلغاء الرسوم الجمركية عن بعض المواد الضرورية لمكافحة انتشار الوباء،

نستنتج من كل ما ذكر أعلاه أن التعاون والتنسيق أمر لا بدّ منه بين مختلف الدول لضمان استمرار التجارة الدولية وتأمين أقصى قدر ممكن من الأمن الاقتصادي والاجتماعي لمختلف سكان العالم.

ولما كانت الأمم المتحدة والهيئات والمنظمات المتفرعة عنها هي المنبر الدولي الجامع والذي يضع نصب عينيه دوماً الصالح العام لمختلف دول العالم، فلا بدّ لها من أن تكون المكان الأنسب لدراسة النظم القانونية

والاقتصادية الموحدة والمستدامة التي تمكن الاقتصاد العالمي من مواجهة ما قد يستجد في السنوات والعقود المقبلة لا سيما على صعيد الإجراءات الصحية وعلى صعيد توحيد الجهود الصحية لإيجاد علاجات ولقاحات لأوبئة ممكن أن تستجد في المستقبل بشكل يضمن سرعة إيجاد الحل للقضاء على الوباء قبل انتشاره بشكل كبير وتهديده مصالح العالم واقتصاده، وتنظيم مختلف القطاعات في الدولة والرقابة والإشراف عليها، واستبيان العوائق المستجدة أمام التجارة الدولية بعد انتشار وباء كوفيد ١٩ ومحاولة إيجاد الحلول المناسبة لها كتنظيم موضوع الإغلاق في حال انتشار الأوبئة وتنظيم تبادل البضائع وانتقال الأشخاص والخدمات، وتوحيد النظم الضريبية التي يمكن اعتمادها والإعفاءات التي يمكن إقرارها في مثل هذه الحالات للوصول إلى خطط جاهزة يمكن البدء بتطبيقها على مختلف الأصعدة فور حصول أي طارئ فيلعب عامل الوقت في حينه لصالح التجارة الدولية وليس عكس ذلك كما حصل عند انتشار وباء كوفيد ١٩.

إنّ إنتشار الوباء المذكور سيبقي بصمته على الاقتصاد العالمي لسنين قادمة، ولكن إضافة إلى انه لفت انظار العالم إلى ضرورة المضي قدماً في مجال التنسيق والتعاون، وأن استمرار الاقتصاد العالمي يحتاج إلى جانب المنافسة، تعاوناً وتضافراً للجهود في حالات الطوارئ، فإنه أيضاً غير في نمط حياة سكان الأرض ولفت أنظارهم إلى إجراءات وعادات مهمة لم تكن ذات أهمية في الماضي لا سيما على الصعيد الصحي كاستعمال وسائل الوقاية عند ممارسة الأعمال وعند الاختلاط بعدد كبير من الناس، فتطبيق تلك الوسائل مثلاً (ارتداء الكمامة والقفازات والتعقيم المستمر) في المصانع والمتاجر حتى عند عدم وجود انتشار لأي وباء سيعطي العالم منتجات أفضل من ناحية الجودة والنوعية ومن ناحية نظافة المنتج وسيخفف من خطر انتشار أي وباء قبل اكتشافه.

وكذلك إن ضرورة التصدي لهذا الوباء في أنحاء الدولة كلها فعل دور الإشراف والرقابة المنوطة به ومؤسساتها، وهذا بالطبع ليس للتدخل في كيفية التصنيع والإنتاج بقصد الإطلاع على سرية الإنتاج والخبرة فيه تمهيداً للنشر على المنافسين ، وإنما لتأمين سلامة الإنتاج وتقييد المنتجين بالأصول الواجبة التطبيق في هذا المجال وبالتالي حماية المنافسة المشروعة لهذه المنتجات وهذا على صعيد كل أنواع التبادل التجاري إن الداخلي أو الخارجي مما يؤدي إلى ضرورة التعاون لهذا الغرض بين كل المؤسسات المعنية داخلياً بهذا التبادل، إن رسمية أو غير رسمية، وكذلك أيضاً تمكن الدول بكل قطاعاتها المهنية تصدير أو استيراد المنتجات اللازمة لتفعيل الاقتصاد لديها،

وبناء على كل ما تقدم يمكن القول أن العامل الصحي أثبت نفسه كمؤثر مباشر على الاقتصاد يقتضي منحه اهتماماً كبيراً عند دراسة العوامل المؤثرة في اقتصادات الدول ويجعل من السهل القول أن أي تعافٍ اقتصادي يتوقف على حل الأزمة الصحية. وهذا بالطبع إلى جانب العوامل الأخرى التي لا يمكن فصلها عن هذا التعافي الصحي.

## **Responses submitted by Malta**

Organization: Department of Contracts

1. Please specify the response measures that the Government has adopted to alleviate negative impacts of the pandemic on businesses in the following areas:

- x) bankruptcy and insolvency,
- y) support for small and medium-sized enterprises,
- z) public procurement,

During 2020, the Department of Contracts published two (2) Contracts Circulars (dated March & June 2020) in relation to the Modus Operandi to be utilised during the COVID-19 crisis. In addition, on 8<sup>th</sup> March 2021, another Contracts Circular was published to re-emphasise the importance of electronic processes to enhance social distancing.

Physical processes were digitalised immediately to avoid physical contact as much as possible. However all processes ensured full transparency and business continuity at all stages.

The main points of the Circulars are detailed below, split per different Procurement Stage.

### **1. Pre-Contact Phase**

(i) All clarifications/corrigenda required for tenders under publication are to be approved internally via email rather than signed. These are uploaded and circulated to all through Government's procurement electronic platform (ePPS: electronic Public Procurement System) as per customary praxis.

(ii) Clarification Meetings are generally held via web conferencing by providing the relevant links and details within the procurement documents. Clarification Meeting Minutes are circulated via a Clarification Note and uploaded on ePPS, in line with standard practices.

(iii) Site Visits were initially not permitted. However, after the easing of measures prior to Summer 2020, when strictly necessary, Site Visits started being held again. However, Contracting Authorities were instructed that the relevant clause in the Procurement Documents shall read as follows: 'Prospective bidders are encouraged to visit the site prior to submitting their offer and submit any related clarifications via the eProcurement platform. However, the applicable health protocols and guidelines issued by the local Health Authorities (or any other Authority) have to be followed and adhered to during the visit. In order to control the number of persons attending, interested bidders need to register in advance with the Contracting Authority.' In the latest Circular, Contracting Authorities were advised that Site Visits should be avoided and if held, the instructions issued by the Health Authorities shall be strictly adhered to.

(iv) Opening of electronic tenders continued remotely as scheduled through ePPS.

v) Evaluation Committees were requested to avoid convening physically since the evaluation is carried out remotely through the ePPS, thus, each member may continue to evaluate independently through the system. Endorsement of Evaluation Reports and any subsequent Addenda are accepted via email and via the ePPS, specifying that they agree with the respective document and its contents. The hard copy of the Evaluation Report / Addendum (endorsed through email or in person) is still sent to the respective competent authority.

(vi) Any documentation, as applicable, at Tendering/Evaluation Stage (such as, but not limited to, the Power of Attorney, Key Expert-related Forms, Declarations, Endorsed Documentation from the Primary Resource Supplier) that requires a signature by the bidder must be signed. Bidders were



advised that the most preferred option would be that the document in question is printed and physically signed in blue ink, scanned and uploaded on ePPS. Alternatively, a photo of the signed document is also permissible.

(vii) The Contract Agreement was initially replaced by a Letter of Intent and the customary signed contracts would follow in due course. However, after the easing of measures prior to Summer 2020, the Contract Agreement procedures prior to COVID-19 Contracts Circular (dated March 2020) resumed accordingly. In addition, in the latest circular, Contracting Authorities were advised that Contract Agreements are to be compiled and ready for eventual signatures, avoiding any Backlogs; The Contract Agreement shall invariably bear the customary physically signed signatures of all parties involved.

(viii) Submission of bank guarantees:

- Performance Guarantees, Pre-Financing Guarantees and Retention Guarantees were initially accepted in electronic format; The contractors had to be informed that the original guarantee/s will eventually be requested to be submitted within 5 days from notification. However, further to the June Contracts Circular, Contracting Authorities were able to revert to the applicable procedures prior to COVID-19 Contracts Circular (dated March 2020).

In the latest Circular, it was clarified and specified that the original Performance Guarantees and Pre-Financing Guarantees will be requested together with the submission of the signed contract. Requests for extension for the submission of the signed contract together with respective guarantees may be accepted by Contracting Authorities; Such communication shall be in writing. On the other hand, Retention Guarantees are to be accepted in electronic format and the contractors are to be informed that the original guarantee will eventually be requested to be submitted within 5 working days from notification.

Furthermore, the latest Circular also specified that the Contract Agreement will not be signed without the submission of the applicable original Performance Guarantee and/or Pre-Financing Guarantee

- Bid Bond (Tender Guarantee) for the time being is generally not being requested.

(ix) Compliance Certificates for procurement estimated above €500,000 excluding VAT, are being requested and submitted in electronic format.

(x) Committees i.e. Departmental Contracts Committees and the General Contracts Committee (main filters of the procurement processes, at departmental and above local threshold procedures respectively) are making arrangements for meetings via web conferencing. Minutes of Meetings are indicated as signed/agreed to in the respective document and its contents circulated via email.

(xi) Recommendations for Award/Cancellation proceed normally and appeals period granted.

(xii) Remedies; the new procedure for appeals was liaised with the Public Contracts Review Board (PCRB). In fact, from the onset of the pandemic way back in March 2020, the remedies procedures was immediately updated providing for electronic submission of objections to the PCRB and payments for deposits were for the first time allowed to take place via bank transfer.

(xiii) Prior to Contract Agreement Stage; Contracting Authorities were advised that unless otherwise stated in any other relevant communication, the Modus Operandi detailed in the latest Circular is also applicable for other documentation that shall be required prior to Contract Agreement Stage and necessitates a signature.

## 2. Post-Contract Phase

Modification requests and approved Addenda/Corrigenda to the Contract follow the usual procedure by providing justification, endorsement and obtaining relevant approvals electronically. The procedure including any minutes are circulated via email. With regard to any Addenda/Corrigenda to the Contract, the Contractor must print, sign, scan and submit a coloured scanned copy by return email.

Organization: Malta Business Registry

1. Please specify the response measures that the Government has adopted to alleviate negative impacts of the pandemic on businesses in the following areas:

aa) bankruptcy and insolvency,

Maltese Courts have been closed with effect from 16 March 2020 and only urgent cases where the Court ruled that it would be in the public interest were to be allowed. This temporarily provided for the imminent situation with regards to certain actions (wrongful trading) which could have been filed against directors if they did not file for insolvency.

As a consequence of the closure of Courts, and therefore the right of debtors to enforce contracts, the government ordered the temporary suspension until further notice, of any legal and judicial time established in any agreement, including any time period for the performance of any obligation set out in such agreement. This inter alia includes the running of all the legal periods imposed on a notary public by law to register any deed, will, act or private writing; the running of any period within which a notary public, in terms of any applicable law, must pay taxes collected by him in the exercise of his profession; the running of any time period related to fiscal benefits, incentives or exemptions; the running of any time period within which a notary public is to submit any information or documentation to any authority or regulator pursuant to relevant notarial activity; and the running of time with respect to the performance of any obligation contained in any deed or private writing, including a registered promise of sale agreement; and the running of time with respect to the expiration of any registered promise of sale agreement.

On 5 June 2020, the Closure of the Courts of Justice Order 2020 was repealed. All Courts have been reopened.

Thus, all legal and judicial times, including prescription in civil matters and any peremptory time limits will continue to run. In order to protect the rights of the court users, a short suspension came into force on the 5th June 2020: (i) a twenty day suspension of legal and judicial times for those Tribunals, boards, commissions, committees or entities which do not operate from a building of the Courts of Justice; and (ii) and a seven day suspension of legal and judicial times relative to court or other tribunal, board, commission, committee or other entity which operates from the building of the Courts of Justice.

On 15 September 2020, Legal Notice 373 of 2020, entitled 'Companies Act (Suspension of Filing for Dissolution and Winding Up) Regulations, was published. This LN provided for the suspension of the right of creditors to file for insolvency, and a stay of procedures for those cases filed after the 16 March 2020 (the deemed date of a state of emergency related to COVID-19 in Malta), together with a temporary suspension of directors' duty to file for insolvency (Act XXXI of 2020 amending the Companies Act (Cap. 386 of the Laws of Malta) empowered the Minister for the Economy and Investment to provide for a temporary suspension of directors' duty to file for insolvency, until such time as is considered necessary, as well as the right of creditors to file for the dissolution of a companies in view of their insolvency). These measures were therefore effective retrospectively from 16 March 2020.

The suspension included cases of wrongful trading against directors for failure to dissolve a company, or incurring debts in good faith at a time when the company is in a likelihood of insolvency. The suspension and stay is still to date in force and will remain in force for a period of 40 days from the date the Minister for Economy and Investment orders that the suspension and stay are revoked.

Notwithstanding the suspension and stay the Court still has the power to allow a case to commence or proceed if there is prima facie proof that the insolvency occurred prior to the 16 March 2020.

This temporary enactment also provided for a system of backdating the deemed date of dissolution of a company to the date when the debenture holder, creditor or creditors would have filed for dissolution but was prohibited to do so in view of the suspension. This will apply to those applications for winding up filed within 6 months following the lifting of the suspension and is a measure intended to balance the rights of debtors and creditors.

The phasing out of the aforementioned suspensions will undoubtedly result in an increased number of court applications for the dissolution of corporates. A 40 day period from the date the Minister for Economy and Investment orders that the suspension and stay are revoked, will allow some time for such corporates and the courts to prepare for the wave of applications for the dissolution of Corporates.

The financial difficulties brought about by COVID-19 to businesses, also pushed Malta to conclude swiftly on its plans to offer professional help to Corporates in financial distress. One of the main restructuring procedures in Malta is the procedure commonly referred to as the Company Recovery Procedure (Art 329B of the Companies Act, Chapter 386). During this procedure a Company would be given some breathing space in view of a moratorium for a period of 4 months which may be extended if there is just cause to a maximum period of 12 months. A Special Controller would be appointed by the Court to help prepare a restructuring plan.

In order to aid the Court in the selection of SCs, the Office of the Official Receiver within the Malta Business Registry was entrusted with identifying a pool of individuals which are suited for being appointed as SCs.

Furthermore, recent Regulations provided for the setting up of a Fund by the Malta Business Registry to be administered through the Office of the Official Receiver, for the payment of fees due to SC up to a maximum of five thousand Euros per company. An additional sum of five thousand Euros may be used for the payment of immediate and necessary expenses of the company. These maximum amounts can be exceptionally extended in complex and in cross border cases.

The funds which are paid out in relation to a company are recoverable interest free from the company itself, if the company returns to profitable business, or if the procedure fails, from the liquidation proceeds.

It is not expected that these schemes are to be phased out in the future.

bb) support for small and medium-sized enterprises,

We have extended the period for those companies that were affected by the COVID-19 pandemic for filing annual returns or financial statements and no fines were imposed for the late filing of the mentioned documents, if same were filed within a stipulated period. The same approach was also applied for companies that were unable to submit other statutory notifications with the Registrar because of the restrictions imposed to limit the effects of the pandemic. A public notice was published by the Registrar, accessible on the MBR's portal - <https://mbr.mt/2020/03/25/important-notice-submission-of-annual-returns/>



The process to transpose Directive (EU) 2019/1151 of the European Parliament and of the Council of 20 June 2019 amending Directive (EU) 2017/1132 as regards the use of digital tools and processes in company law was also stepped up to ascertain the digital benefits arising from the simplification of company law procedures.

cc) public procurement,

As a public entity we follow the Contracts Circular Number 03/2020 entitled Modus Operandi of the Department of Contracts and public procurement processes in view of COVID-19.

dd) electronic commerce (including in the areas of electronic signatures, electronic authentication, and paperless trade),

We have enhanced our online portal by providing guidance on how statutory notifications can be filed with the Registrar of Companies using a qualified electronic signature, as defined under the EIDAS Regulation (Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC). A public notice was published on the MBR's portal, accessible through - <https://mbr.mt/2020/10/26/notice-on-the-use-of-electronic-signatures/>

In addition to that, the MBR has also introduced a new system whereby users could proceed to the ordering of company certificates online, without the need of having to be physically present at the MBR's premises, including online payment services - <https://registry.mbr.mt/static-resources/documents/docs/CertificatesGuide.pdf>

ee) business-to-business contractual relations (including drafting, interpretation and application of force majeure clause),

We did not encounter any issues with the existing contracts however a new clause in relation to a pandemic will be included.

ff) transportation and logistics, and

The MBR continued with its operations however such operations had to take into account the directives issued by the Health Authorities and implemented them in our office. Some of the measures introduced include the strict checking of temperatures of all employees and clients before entering the premises; the partitioning of desks of all employees, as well as front desks and cash office to protect employees between themselves as colleagues and also to serve as protection from limited contact with clients. Employees of the MBR were also divided into 'bubbles' (clusters), resulting in different groups composed of staff members, some of which would be working from the office and others remotely, on an alternating roster. This helps in ensuring that the MBR continues with its operations when a staff member is found to be positive towards contracting the virus. The MBR also introduced the compulsory wearing of masks at all times at the office premises, working from home initiatives, and also the provision of technological devices such as laptops and telephony systems to staff members working remotely. Employees were advised not to use public transport and transport was provided by the MBR itself to minimize the risks. Corporate transportation was restricted to one passenger only per route and all passenger elevators at the premises had to be made use of by only one person at a time. The relevant notices were affixed in all our premises, including reminders to respect social distance, the suitable wearing of masks and hands sanitization.

g) corporate governance.

The Companies Act (Public Companies - Annual General Meetings Regulations), 2020 came into force on 10<sup>th</sup> July 2020. The Regulations are applicable to those public companies whose annual general meeting was due during the global COVID-19 pandemic. The rationale behind

such Regulations is that since public companies would normally have a large number of shareholders, the closure of certain venues and restrictions on gatherings imposed by the Superintendent of Public Health, which at certain times was to a maximum of six (6) individuals, such annual general meetings could not be held under the usual circumstances. The Regulations provide the possibility for the affected public companies to either opt for extending the period for holding the annual general meeting by five months; or alternatively, to hold the general meeting virtually.

If these measures were legislated, please provide a link to the legislation (or a separate copy if the legislation is not publicly accessible online).

<https://legislation.mt/eli/sl/386.23/eng> [COMPANIES ACT (PUBLIC COMPANIES - ANNUAL GENERAL MEETINGS) REGULATIONS]

2. Please specify the response measures adopted to support businesses (including in the form of financial assistance), and the criteria for businesses to receive support. Please also indicate the legislative basis for these measures and whether new legislation was needed.

(TO REFER TO MALTA ENTERPRISE)

3. Please specify the type of monitoring or compliance regime that has been applied to businesses receiving the support mentioned in question 2.

(TO REFER TO MALTA ENTERPRISE)

4. Please specify the kinds of obstacles reported by businesses (if any) to cross-border trade and commerce due to measures implemented by States to overcome the pandemic.

Travelling restrictions in case of meetings between shareholders given the fact that most Memorandum and Articles of companies did not cater for online meetings.

Delays in mail services due to the requirement of receiving wet ink signatures.

Non-harmonised legal regulations or rules between jurisdictions concerning the digitalisation aspect of company law processes, including online requirements such as virtual meetings and authentication methods, including signatures.

5. Aside from the measures specified in response to question 1, please specify: (a) any legislation that the Government has passed to overcome obstacles to cross-border trade, and (b) any other legislative measures to respond to the pandemic which may affect cross-border trade.

(STATE ADVOCATE - to confirm whether laws were implemented)

6. Please specify the measures that have been put in place to mitigate the effects of the pandemic on commercial dispute settlement (for example, facilitating remote hearings, expanding fast-track proceedings, extension of limitation periods).

(STATE ADVOCATE - LAW COURTS)

7. Please indicate any issues related to COVID-19 response and recovery that would most benefit from harmonized legal solutions in the area of international commercial law<sup>16</sup>.

Harmonised digital processes, including legislative frameworks to cater for online/hybrid methods of corporate meetings and online filing of documentation.

Organization: Economic Policy Department and Department of Customs

4. Please specify the kinds of obstacles reported by businesses (if any) to cross-border trade and commerce due to measures implemented by States to overcome the pandemic.

In 2020, business representatives have informed that business in the health sector where experiencing export restrictions in third countries on Active Pharmaceutical Ingredients. There also where similar export restrictions on finished pharmaceutical products and personal protective equipment (PPE). However, it does not seem that Malta (its businesses in the health sector and the health sector) was impacted, in part given that we already had high stocks as a preparation for a hard Brexit and in part, as production in certain products have been ramped up in a number of sectors. With regard to the latter, it is not clear to which extent restrictions on pharma – APIs and finished goods – persist. Trade Malta might have more information on this.

5. Aside from the measures specified in response to question 1, please specify: (a) any legislation that the Government has passed to overcome obstacles to cross-border trade, and (b) any other legislative measures to respond to the pandemic which may affect cross-border trade. MFE through the Department of Customs has noted and observed the guidelines in Decision (EU) 2020/491 that the European Commission adopted on relief from import duties and VAT exemption on importation granted for goods needed to combat the effects of the COVID-19 outbreak during 2020. Since this decision is valid until 30 April 2021, the Commission has consulted Member States for a further extension in the validity of this temporary measure for an additional period of 8 months (i.e. until 31 December 2021). Malta has supported this extension and informed the Commission accordingly.

This decision allows EU Member States to grant a relief from import duties and VAT exemption for COVID-19 related goods, including vaccines, imported in the EU.

The Decision provides a beneficial customs and fiscal treatment of imported goods for organisations (e.g. hospital, State bodies, charities) for which both import duties and VAT constitute a cost. However, it does not apply, for example, to goods imported to be subsequently sold and neither to goods imported by private companies for their own needs.

The Council Directive (EU) 2020/2020, adopted on 7 December 2020, however, allows Member States to apply a reduced VAT rate to the supply of COVID 19 in vitro diagnostic medical devices (and services closely linked thereto) or to grant an exemption with deductibility of VAT paid at the preceding stage

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<sup>16</sup> Note that the Commission has acknowledged ([A/75/17](#), part one, para. 27) that several UNCITRAL legislative tools can play an important role in assisting States to mitigate the effect of response measures, as well as their economic recovery efforts, and has, in particular, renewed calls for States to consider adopting UNCITRAL legislative texts in the field of electronic commerce and insolvency, as well as instruments supporting micro-, small and medium-sized enterprises and promoting the effective settlement of commercial disputes. Note also that the Secretariat is currently undertaking an appraisal of existing UNCITRAL texts to determine how they apply in light of emerging technologies and their applications and whether any gaps need to be addressed by future harmonization efforts ([A/75/17](#), part two, para. 76).

(zero rate) in respect of the supply of COVID 19 vaccines and in vitro diagnostic medical devices (and services closely linked thereto).

Legal Notice 186/2020 has amended the Eight Schedule to the VAT Act (Chapter 406 of the Laws of Malta) adding 'protective face masks and visors excluding diving equipment' to the list of products which are subject to VAT at a reduced rate of 5%.

With the Commission Implementing Regulation (EU) 2020/2159 of 16 December 2020 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff, the EU introduced as from 01/01/2021 a specific code for "Vaccines against SARS-related coronaviruses (SARS-CoV species)" in its nomenclature in order to facilitate the movement of such goods.

6. Please specify the measures that have been put in place to mitigate the effects of the pandemic on commercial dispute settlement (for example, facilitating remote hearings, expanding fast-track proceedings, extension of limitation periods).

As far as MFE is concerned, no measures were put in place to facilitate commercial dispute settlement

7. Please indicate any issues related to COVID-19 response and recovery that would most benefit from harmonized legal solutions in the area of international commercial law<sup>17</sup>.

Within the Ottawa group (working to make proposals inside the WTO), the EU was discussing a proposal for new work on liberalisation on goods in the health sector which we support. This might be a longer term objective, but there could also be a proposal for a short term action to promote liberalisation in the medical goods sector on a voluntary basis.

Organization: Malta Enterprise

2. Please specify the response measures adopted to support businesses (including in the form of financial assistance), and the criteria for businesses to receive support. Please also indicate the legislative basis for these measures and whether new legislation was needed.

Malta Enterprise has administered the following measures in relation to supporting business during the COVID-19 pandemic:

Quarantine Leave: Employers who have or had a member of their staff (including themselves) on mandatory quarantine leave in accordance with the directives of the Superintendent of Public Health are entitled to a one-off lump sum grant of €350. The grant is also applicable for members of staff who had to quarantine themselves in view of possible contact with individuals who were directly at risk of infection, such as living in the same dwelling or in the same workplace.

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<sup>17</sup> Note that the Commission has acknowledged ([A/75/17](#), part one, para. 27) that several UNCITRAL legislative tools can play an important role in assisting States to mitigate the effect of response measures, as well as their economic recovery efforts, and has, in particular, renewed calls for States to consider adopting UNCITRAL legislative texts in the field of electronic commerce and insolvency, as well as instruments supporting micro-, small and medium-sized enterprises and promoting the effective settlement of commercial disputes. Note also that the Secretariat is currently undertaking an appraisal of existing UNCITRAL texts to determine how they apply in light of emerging technologies and their applications and whether any gaps need to be addressed by future harmonization efforts ([A/75/17](#), part two, para. 76).

Covid Wage Supplement provides employees with a basic wage cover to address the disruption caused by the COVID-19 pandemic. In order to simplify administrative processes funds will be forwarded to employers who will be obliged to guarantee that the Covid Wage Supplement as established below is forwarded to the employee. Full time employees of enterprises operating in sectors that suffered drastically due to the COVID-19 pandemic or had to temporarily suspend operations on the order of the Superintendent of Public Health will be entitled to up to five days' salary based on a monthly wage of up to €800. This includes all self-employed. Part-time employees will be eligible for up to €500 per month.

Rent and Electricity refunds: Enterprises that have been granted the Wage Supplement were also eligible for a grant of up to €2,500 to cover rental costs of 2020 and up to €7,500 to cover 50% of the electricity bills of July, August and September.  
<http://maltaenterprise.com/support/rent-and-electricity-refund-scheme>

support for Teleworking: Between March and June, Enterprises could request a grant of up to €5,000 to cover costs of equipment and software required for teleworking.

## **Responses submitted by the Russian Federation**

**Note:** Answers of the Russian Federation to the Questionnaire of the UNCITRAL on COVID-19 related measures as of 15 April 2021.

**1. Please specify the response measures that the government has adopted to address obstacles faced by businesses in the following areas:**

- a) bankruptcy and insolvency,**
- b) support for small and medium-sized enterprises,**
- c) public procurement,**
- d) electronic commerce (including in the areas of electronic signatures, electronic authentication, and paperless trade),**
- e) business-to-business contractual relations, and**
- f) corporate governance.**

**If these measures were legislated, please provide a link to the legislation (or a separate copy if the legislation is not publicly accessible online).**

The Russian Parliament passed two laws on measures during the pandemic situation (Federal Law No. 98-FZ of 1 April 2020<sup>18</sup> and Federal law No. 166-FZ of 8 June 2020<sup>19</sup>) and the Government of the Russian Federation passed 20 orders<sup>20</sup>, implementing provisions of such laws.

The response measures that the Government of Russia has adopted to address obstacles faced by businesses in the following areas:

**a) bankruptcy and insolvency**

Bankruptcy freeze for certain legal entities and individuals was applied to:

- companies and individual entrepreneurs doing business in the industries the most affected by the pandemic,
- strategic and systemic (the most important entities for economy) organisations.

The measure was being in effect starting from 4 April 2020. The moratorium has banned the following debtors' actions:

- allocation of equity shares of a debtor's exiting shareholder, buy-back or acquisition of outstanding shares or payment of the face value of the shareholding by the debtor,
- claims setoff in breach of priority rules,
- payment of dividends and other distributions to debtors' shareholders.

The moratorium could be voluntarily waived by debtors.

The moratorium rules were also applied to pending bankruptcies.

Enforcement of adjudged property claims arising prior to the moratorium was suspended until the moratorium had been lifted.

Seizure of debtor's property or other injunctive remedies imposed as part of enforcement proceedings were remained in full force and effect.

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<sup>18</sup> [www.Kremlin.ru/acts/bank/45400](http://www.Kremlin.ru/acts/bank/45400) (available only in Russian).

<sup>19</sup> [www.Kremlin.ru/acts/bank/45570](http://www.Kremlin.ru/acts/bank/45570) (available only in Russian).

<sup>20</sup> All the information about government measures taken on COVID-19 can be found at [www.Government.ru/rugovclassifier/section/2662](http://www.Government.ru/rugovclassifier/section/2662) (available only in Russian).

A simplified free debt settlement procedure was established for people who were in a challenging financial situation, based on a digital platform and with no court proceedings.

**b) support for small and medium-sized enterprises**

SMEs had got the possibility of deferring payments due for property leased by the state. SMEs were able to conclude additional agreements providing the condition on deferring mandatory payments, which were to be paid until 2020, and paying these in equal shares in 2021 or on other conditions proposed by the tenant. State-owned enterprises and institutions were also be able to conclude additional agreements with the SMEs on deferred rental payments. The conditions were being based on the agreement of the parties.

Social insurance contributions' rate on employee compensations in excess of the above minimum wage was established as low as 15 percent (the previous rate was 30 percent).

SMEs operating in virus-hit industries were being granted tax benefits.

Businesses from COVID-2019 affected economy sectors could claim interest-free loans to finance salary payments. An interest-free loan was granted for six months and could be extended for another six months at 4 percent.

The access of SMEs to low-interest loans was facilitated. They have had access to financing at a rate of 8.5 percent from 99 banks.

State-owned microfinance organisations were being received RUB 12 billion (EUR 132 million) in allocations towards reduced-rate microloans.

The measure was expected to improve the accessibility of soft loans during the COVID-19 outbreak and, would help to preserve up to 150,000 jobs.

Tenants of federal and municipal property were being entitled to rent renewal. Rent of federal or municipal land plots could be extended for a period at the tenant's choice, but not more than for the term of the original rent agreement, or for three years, if the agreement term exceeds three years.

Rent agreement for other federal or municipal real estate could be extended for a period determined by the tenant, which could not exceed one year. A request for the renewal of federal and municipal property rent had to be filed with the landlord by 1 March 2021 or during 2020 for another real estate. Rent could be renewed on the same or different terms, but without prejudice to the tenant's rights. Signing a rent renewal agreement were not require bidding or a re-valuation of the rented property.

**c) public procurement**

If a default on a government contract resulted from the COVID outbreak, including the related restrictive measures imposed in Russia or in a foreign state, suppliers are entitled to invoke force majeure to avoid liability. Upon the agreement of parties, the alteration of contract terms was allowed in case of force-majeure.

**d) electronic commerce (including in the areas of electronic signatures, electronic authentication, and paperless trade),**

Only remote audits were permitted, including via audio/video conferencing. Site visits were being restricted to exceptional cases.

Tax control measures involving face-to-face contacts with taxpayers have been resumed.

Such measures (including interviews, examinations, summons to the tax authority, document seizure, inventory checks, etc.) must be carried out in line with the decisions of the regional government, recommendations of Rospotrebnadzor<sup>21</sup> and chief sanitary inspector of the region based on the sanitary and epidemiological situation in the region.

Pharmacies holding a pharmaceutical license and a permit from Roszdravnadzor<sup>22</sup> were able to sell over-the-counter medicines online (except prescription medicines, narcotic and psychotropic medicines, and medical products containing over 25 percent of ethanol by volume).

Pre-installation of Russian software were being mandated from 1 January 2021 instead of 1 July 2020.

Amended accreditation and functioning rules for certification centres safekeeping digital signatures keys entered into force on 1 January 2021.

Accreditation centres that had been accredited might create and issue qualified certificates throughout the entire accreditation term, but not after 1 July 2021.

**e) business-to-business contractual relations**

According to the Supreme Court<sup>23</sup>, the spread of the novel coronavirus infection cannot be acknowledged as a force majeure for all categories of debtors; therefore, force majeure circumstances must be declared with regard to the circumstances of each particular case (obligation performance deadline, nature of defaulted obligation, reasonable care and good faith of the debtor, etc.).

The court can decide on the existence of force majeure, preventing the parties from timely seeking judicial protection of their rights, only based on the circumstances of a particular case.

It should be noted that, under the general rule, non-availability of sufficient funds does not relieve the debtor from liability for failure to perform an obligation.

However, if such non-availability resulted from the imposed restrictions, including suspension of certain types of activities, self-isolation, etc., it can be cited to waive liability for failure to perform/duly perform an obligation under Article 401 of the Civil Code of the Russian Federation.

Free certificates are being issued by the Chamber of Commerce and Industry starting from 26 March 2020 and certify not the COVID-19 outbreak per se, but the restrictions and other response measures taken by the authorities to curb the spread of the coronavirus causing Russian companies to default on their contractual obligations.

Landlords were being obliged to grant rent relief to tenants from distressed industries upon a tenant's request. This had been applied to all property rent agreements, except residential, signed before the state of emergency/high alert was declared by a region, irrespective of property ownership (federal, municipal, or private).

Landlords – legal entities and individual entrepreneurs – were recommended to reduce the rent depending on the period of business shutdown and a number of days-off declared in the country.

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<sup>21</sup> Federal Service for Surveillance on Consumer Rights Protection and Human Wellbeing. [www.rospotrebnadzor.ru/region/korono\\_virus/koron\\_ofdoc.php](http://www.rospotrebnadzor.ru/region/korono_virus/koron_ofdoc.php) (available only in Russian).

<sup>22</sup> Federal service for Surveillance in Healthcare. [www.roszdravnadzor.gov.ru/covid-19](http://www.roszdravnadzor.gov.ru/covid-19) (available only in Russian).

<sup>23</sup> Review of cases from Supreme Court of the Russian Federation of April 21, 2020 No. 1.



The SMEs that utilise rented non-residential properties to carry out activities in hardest-hit industries might seek rent reduction for up to one year or, should the agreement with the landlord not be reached for 14 days, unilaterally terminate the rent agreement. This right was granted until 1 October 2020.

In case of termination of the rent agreement the security deposit was not be returned.

At the same time the tenants were not obliged to compensate indemnify losses arising from such unilateral termination.

**f) corporate governance**

Deadlines of corporate procedures were being extended. The following changes were envisaged:

- the deadline for holding the annual general meeting of shareholders/members was extended until 30 September 2020,
- annual consolidated reporting in 2020 could be filed within 180 days after the end of the reporting period (150 days – for interim consolidated reporting),
- interim/annual consolidated reporting in 2020 could be disclosed within 180/210 days after the end of the reporting period,
- if a company's net assets value goes below its charter capital in 2020, it would not trigger liquidation,
- a simplified share buy-back procedure was being available until 31 December 2020 (subject to several conditions),
- joint-stock companies must be established audit committees and internal audit procedures by 1 January 2021 instead of 1 July 2020,
- the Government was being authorized to approve annual reports of certain state-owned companies.

General shareholder meetings could be held online without determining their particular venue.

**g) other measures**

Special federal and municipal control (oversight) rules had been set for 2020:

- for SMEs and non-profits, only ad hoc checks were being permitted, mostly to investigate or prevent damage/threats to public health and safety,
- for other organisations, scheduled checks were being conducted only if their activities/facilities belong to the High or Very High-risk category,
- no new field customs audits were being scheduled/conducted (with minor exceptions), earlier scheduled audits had been suspended.

The Government approved the procedure for state registration of certain medical supplies that are intended for use during warfare, in emergencies, or for prevention and treatment of dangerous diseases. Their list was included lung ventilators, oxygenators, insulating and operating gowns, masks, thermometers, etc. (363 items).

The Government had also adopted the temporary procedure for certification of products originating from epidemically unsafe countries. For products with certificates whose expiry falls on the period between 15 March and 31 December 2020 and for new products that have immaterial differences in design/formulation/manufacturing technology, new certificates were

being issued. Products certificated under the above rules must be inspected no later than 1 July 2021. Sampling, manufacturing facilities analysis, and management system evaluation can be conducted remotely.

Russian manufacturers and importers of anti-COVID-19 medicines must weekly submit to the Ministry of Health of the Russian Federation<sup>24</sup> and the Ministry of Industry and Trade of the Russian Federation<sup>25</sup> their distribution plans, listing requests for medicines from pharmacies and regional authorities. Those rules were applied until 1 January 2021.

Agricultural producers that signed agreements on enhancing competitiveness were remained eligible for soft loans even if they fail to achieve their 2020 export targets.

Soft loans at a reduced rate for investment purposes (up to 15 years) and short-term loans (up to one year) could also be claimed by companies from the fishing, fish-breeding, and timber processing sectors, as well as producers of canned fish, crustaceous, and mollusks.

Since March 26, 2020, force majeure certificates could be obtained for free by all forms of organizations and types of enterprises. The Chamber of Commerce and Industry of the Russian Federation<sup>26</sup> and its regional divisions begin issuing free force majeure certificates in accordance with the terms of foreign trade transactions and international treaties.

**2. Please specify the response measures adopted to support businesses (including in the form of financial assistance), and the criteria for businesses to receive support. Please also indicate the legislative basis for these measures and whether new legislation was needed.**

The Government approved a list of industries that were most affected by the deteriorating situation due to the spread of a new coronavirus infection to provide them with priority targeted support.

The following list of industries were being approved: air transportation, airport activities, automobile transportation; culture, leisure and entertainment; fitness and sports; activities of travel agencies and other tourist organizations; hotels; catering, organizations of additional education and non-governmental educational institutions; organization of conferences and exhibitions; household services (repairs, washing, dry cleaning, hairdressing and beauty salons).

The following assistance was provided to these industries:

- 6 months deferral for payment of all taxes (excluding VAT);
- 6 months deferral for payment of insurance premiums to state extra-budgetary funds (for microenterprises);
- 6 months deferral for loans (for small and medium-sized enterprises);
- additional measures to ensure sustainable lending to the real sector, including state guarantees and subsidies;
- 6 months moratorium on filing creditors' applications for corporate bankruptcies and recovery of debts and fines from enterprises;
- deferral for rental payments (for small and medium-sized businesses that are renting the federal property);

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<sup>24</sup> [www.minzdrav.gov.ru/en](http://www.minzdrav.gov.ru/en).

<sup>25</sup> [www.minpromtorg.gov.ru](http://www.minpromtorg.gov.ru).

<sup>26</sup> [www.tpprf.ru/en](http://www.tpprf.ru/en).

- expanding the SMEs ability to obtain loans at a reduced rate of not more than 8.5%;
- moratorium on state authorities' test purchases and scheduled and unscheduled inspections.

The Government approved stimulus measures for systemically important enterprises

The following support could be sought:

- subsidies to reimburse expenses,
- deferral or installment plans for paying taxes and social contributions,
- government guarantees for loans and bonds.

To claim government support, the following three prerequisites should be met:

- a foreign shareholding in the enterprise must not exceed 50 percent (this requirement may be waived by a decision of the Government Commission on Economic Resilience),
- a stress test must be performed according to the rules approved by the Ministry of Economic Development,
- the enterprise must have returned all unused subsidies/government investments on time and have no tax arrears (except for deferred taxes).

Companies seeking support were required to apply to the sectoral ministry and the Ministry of Economic Development of the Russian Federation<sup>27</sup> and indicate the type and volume of support, based on the financial health test results (a procedure for such test to be approved by the authorities by 15 May 2020).

Soft loans were being available to companies on the list of industries affected by the pandemic as well as on the additional list in annex to the respective Government Resolution.

Loan rate – 2 percent; interest was capitalised.

Banks were compensated for their interest income foregone and loan write-off expenses.

The Government had also adopted the soft loan programme for systemically important enterprises approved. The loans were being capped at RUB 3 billion (EUR 33 million) and being provided for 12 months at a rate of five percent.

### **3. Please specify the type of monitoring or compliance regime that has been applied to businesses receiving the support mentioned in question 2.**

Please see the answers to the question 2.

### **4. Please specify the kinds of obstacles reported by businesses (if any) to cross-border trade and commerce due to measures implemented by States to overcome the pandemic.**

Business has claimed the travel restrictions imposed by states.

A significant amount of services trade requires physical proximity between producers and consumers. International mobility to consume or provide services abroad is one way to attain this proximity. Mobility is also important to the operations of services providers who establish a commercial presence in other countries, as well as to those who ordinarily provide services remotely across international borders.

Mobility barriers also significantly affect trade in goods, through their impact on transport services and on information and transaction costs.

Face-to-face contact continues to play a critical role in addressing some of the information and transaction costs involved in trading goods internationally.

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<sup>27</sup> [www.en.economy.gov.ru](http://www.en.economy.gov.ru).

Physical proximity between producers and consumers is essential for many types of services trade. In some instances, this proximity is achieved when individuals' cross international borders.

The effect of border closures and travel restrictions is being felt, first and foremost, by services trade.

Even if advances in IT have enabled the outsourcing of unregulated parts of certain services, such as basic plan preparation in architecture, bookkeeping in accounting, or research and documentation in legal services, the final stage of the supply chain often requires the physical presence of the professional.

Business travel is essential to establish new commercial relationships, interact with customers, set up new investments and manage existing operations.

Travel restrictions have also had indirect repercussions on the transport sector more broadly, with the grounding of many passenger flights leading to a sharp reduction of air cargo capacity. These outcomes have made goods trade slower and more expensive and uncertain and have impacted the operation of value chains.

**5. Aside from the measures specified in response to question 1, please specify (a) any legislation that the government has passed to overcome obstacles to cross-border trade or (b) any other legislative measures to respond to the pandemic which may affect cross-border trade.**

Eurasian Economic Commission approved a list of goods that were being exempt from import charges. The exemption was granted to the goods imported for anti-COVID-19 purposes (bandages, disinfectants, diagnostic substances, syringes, etc.) and was conditional on the registration of import declaration by 30 September 2020 and confirmation of their target users. The exemption was applied retrospectively as of 16 March 2020.

If targeted use was confirmed, no public registration certificates or confirmation of compliance with technical standards were being required.

On 3 April 2020, the Eurasian Economic Commission Council approved the list of critical imports, which in the short term may be of high demand or deficit in the member states. The list included certain agricultural and food products (potatoes, onions, garlic, cabbage, carrots, peppers, rye, long grain rice, buckwheat, juices and prepared foods for baby food), medical products (endoscopes, non-contact thermometers, disposable pipettes, mobile disinfection units). The import of these products into the EAEU was being duty-free from 1 April to 30 June 2020.

The list of goods used for the production of medicines and medical products had been expanded to include thermal bags, bottle-sealing film, and medical freezers, which could be imported duty-free from 16 March to 30 September 2020 subject to confirmation of intended use.

The Council also has simplified the procedure of issuance of certificates of origin, issued for goods originating from certain countries.

On 3 June 2020, the EEC Council temporarily lowered down to zero import duties on disposable personal protective equipment and certain types of goods used for the production of medicines, disinfectants, and medical devices. In particular, the list includes phosphoric acid, hydrogen peroxide, polymer film, disposable caps, etc.

On 10 April 2020, the Intergovernmental Council instructed the EEC Board to join efforts with the national governments in developing amendments to the EAEU's international e-commerce powers.

The amendments mainly concern the segregation of goods purchased through international e-commerce platforms by individuals or businesses subject to special customs regulation, duties, and taxes as well as non-tariff, technical, and other measures.

The establishment of an e-commerce operator for the buyers' convenience is also on the table.

The operator will handle the declaration of goods and payment of customs duties, which will expedite customs administration and improve the online shopping experience.

The export of certain food products (onions, garlic, turnips, rye, rice, buckwheat, millet, groats, coarse flour and granules made from cereal grains, buckwheat kernels, prepared buckwheat foods, crushed and uncrushed soybeans, and sunflower seeds) from the EAEU countries was banned until 30 June 2020.

**6. Please specify the measures that have been put in place to mitigate the effects of the pandemic on commercial dispute settlement (for example, facilitating remote hearings, expanding fast-track proceedings, an extension of limitation periods).**

It was already possible to hold remote hearings in Russian courts before the pandemic, but the process had its own organizational and technical specifics – a video broadcast was conducted from a court that had the technical capabilities and through special secure channels (Article 155.1 of the Civil Procedure Code of the Russian Federation and Article 153.1 of the Arbitration Procedure Code of the Russian Federation. Yet, due to COVID-19 the courts started testing the possibility to hold remote hearing via platforms such as WhatsApp, Zoom and others. Until now at the legislative level no changes were made on the procedure for holding such hearings.

**7. Please indicate any issues related to COVID-19 response and recovery that would most benefit from harmonized legal solutions in the area of international commercial law**

Legal aid to small business,

Contractual obligations,

Financial instruments,

Force-majeure clause,

Digital trade.

## **Responses submitted by Singapore**

**Note:** the questionnaire responses reflect the measures as they stood as at March 2021.

### **I. Introduction**

- 1.1 The Singapore Government adopted a multi-pronged response to the economic challenges posed by COVID-19. This included: -
- a. Temporary measures under the COVID-19 (Temporary Measures) Act;
  - b. A simplified insolvency programme;
  - c. Financial and other assistance in the form of four budgets introduced between 18 February 2020 to 26 May 2020; and
  - d. Various sectoral support measures.
- 1.2 This section addresses (a) – (b). (c) – (d) are addressed in Q2 and Q3.

### **II. Relief under the COVID-19 (Temporary Measures) Act**

- 1.3 The COVID-19 (Temporary Measures) Act 2020 (“**COTMA**”) was passed in Parliament on 7 April 2020. Amendments were introduced to the Act on 5 June 2020, 18 September 2020 and 3 November 2020.
- 1.4 Amongst other things, COTMA introduced:
- a. Temporary relief when a party in certain contracts are unable to perform contractual obligations due to COVID-19 (Part 2 of COTMA);
  - b. The Rental Relief Framework for Small and Medium Enterprises and specified Non-Profit Organisations (Part 2A of COTMA);
  - c. Temporary relief for financially distressed individuals and businesses (Part 3 of COTMA);
  - d. Temporary measures for the conduct of meetings (Part 4 of COTMA);
  - e. Reliefs for contracts affected by construction delays (Part 8 of COTMA); and
  - f. The Re-Align Framework to help small and micro business that have been significantly impacted by COVID-19 to renegotiate contracts with their counterparties (Part 10 of COTMA).
- 1.5 A copy of the COTMA can be found at <https://sso.agc.gov.sg/Act/COVID19TMA2020>.

#### **Part 2 of COTMA: Temporary Relief for Inability to Perform Contractual Obligations**

- 1.6 Part 2 of COTMA provides temporary and targeted relief from legal and enforcement action for individuals and businesses that are unable to perform contractual obligations in certain contracts due to COVID-19.
- 1.7 The relief measures apply to contracts entered into before 25 March 2020, for contractual obligations to be performed on or after 1 February 2020. The measures only apply to contracts specified in the First Schedule to the COTMA, namely:
- a. Leases or licences for non-residential immovable property;
  - b. Construction contract or supply contract;
  - c. Contract for the provision of goods and services for events (e.g. weddings, business meetings);
  - d. Tourism-related contracts (e.g. cruises and hotel accommodation bookings);
  - e. Certain secured loan facilities granted by banks or finance companies to Small & Medium Enterprises;
  - f. Hire-purchase agreements or conditional sales agreements for commercial equipment or commercial vehicles;
  - g. Rental agreements for commercial equipment or commercial vehicles which are not private-hire cars or taxis; and
  - h. Options to purchase and sale & purchase agreements granted by developers.
- 1.8 The temporary relief under Part 2 of COTMA works as follows:
- a. The party seeking relief has to serve a Notification for Relief (“**NFR**”) on the other party or parties to the contract.
  - b. Once the NFR is served, certain types of legal and enforcement actions are prohibited for the prescribed period of the Act. The prescribed period started from 20 April 2020, and lasted until 19 November 2020 to 31 March 2021, depending on the category of contract.
  - c. The prohibited actions include:
    - (i) The commencement or continuation of Court, arbitration or insolvency proceedings;
    - (ii) The enforcement of security over immovable property;
    - (iii) The enforcement of security over movable property used for the purpose of a trade, business or profession;
    - (iv) The commencement or levying of execution, distress or other legal proceedings against the non-performing party’s property;

- (v) The repossession of goods used for the purpose of a trade, business or profession under a hire-purchase agreement;
  - (vi) The termination of certain contracts for the inability to pay rent or other moneys;
  - (vii) The exercise of right of re-entry or forfeiture under a lease or licence of immovable property, or the exercise of any other right that has a similar outcome;
  - (viii) The enforcement of Court judgments, arbitral awards or adjudication determinations under the Building and Construction Security of Repayment Act; and
  - (ix) The unilateral introduction or increase of late payment interest or fees unless certain conditions are specified.
- d. The intent of the temporary moratorium explained in (c) is to give parties time and space to negotiate and work out a mutually acceptable solution, without the pressure of legal proceedings or enforcement action.
- e. Additional relief for construction and supply contracts:
- (i) If the inability to supply goods or services is caused to a material extent by a COVID-19 event, this will be a defence to a claim for breach of contract or a claim for liquidated damages for delays.
- f. Additional relief for event and tourism-related contracts:
- (i) If a deposit has been paid by the customer, the vendor must not forfeit the deposit for an event or tour that could not be performed due to COVID-19, unless an Assessor makes a determination that the forfeiture is just and equitable.
  - (ii) The inability to perform an obligation in an event or tourism-related contract due to COVID-19 is a defence to a claim for a cancellation fee, unless an Assessor makes a determination that it is just and equitable for a cancellation fee to be paid.
- g. Additional relief against late payment interest and charges:
- (i) Late payment interest and charges for arrears that arose due to COVID-19 during the prescribed period are capped at 5% per annum of simple interest.
- h. Additional relief for tenants who were unable to vacate business premises:



- (i) In order to slow down the spread of COVID-19, the Singapore Government introduced safe management measures, including the suspension of non-essential businesses between 7 April 2020 to 1 June 2020 (the “circuit breaker” measures). Restrictions have been relaxed progressively in stages since then.
  - (ii) As a result of the safe management measures, some tenants were unable to vacate their business premises after their lease or licence ended. These tenants are ordinarily liable for significant charges to their landlords, such as double rent.
  - (iii) Relief under Part 2 of COTMA provided that such tenants are only liable for an amount prescribed by the Minister for Law.
- 1.9 If the parties are not able to reach an agreement after the NFR is served, either party to the contract may apply to the Ministry of Law’s Panel of Assessors for COVID-19 Temporary Relief (“PACT”) for an Assessor’s determination.
- a. PACT comprises of professionals from the legal, accountancy, business, and other sectors. They are guided by senior District Judges, who serve as Lead Assessors.
  - b. When an application is made, the Assessor may determine whether the case is one to which relief under Part 2 of COTMA applies, and must seek to achieve an outcome that is just and equitable in the circumstances of the case.
  - c. The process of applying for an Assessor’s determination is free, and designed to be fast and simple, without the need for lawyers.

### **Part 2A of COTMA: The Rental Relief Framework**

- 1.10 Part 2A of COTMA introduced a Rental Relief Framework for Small and Medium Enterprises (“SMEs”) and specified Non-Profit Organisations. The Framework provides for the mandated co-sharing of rental obligations between the Government, landlords and tenants for up to 4 months for the months of April to July 2020.
- 1.11 This aims to help affected SMEs that need more time and support to recover from the impact of COVID-19.

### **Part 3 of COTMA: Temporary Relief for Financially Distressed Individuals and Businesses**

- 1.12 Part 3 of COTMA introduced relief for individuals and businesses in financial distress by, among other things, temporarily:
- a. Increasing the monetary threshold for bankruptcy from \$15,000 to \$60,000 for individuals;
  - b. Increasing the monetary threshold for corporate insolvency from \$10,000 to \$100,000 for companies and partnerships; and
  - c. Lengthening the statutory period to respond to demands from creditors.

- 1.13 Directors are also temporarily relieved from their obligations to prevent their companies from trading while insolvent if the debts are incurred in the company's ordinary course of business. However, directors remain criminally liable if the debts are incurred fraudulently.
- 1.14 The main purpose of these measures was to allow individuals and businesses time and space to manage their affairs, without going into insolvency and bankruptcy proceedings.
- 1.15 This temporary relief lasted for a prescribed period of six months, from 20 April 2020 to 19 October 2020.

#### **Part 4 of COTMA: Temporary Measures for Conduct of Meetings**

- 1.16 Part 4 of COTMA allows the Minister for Law to prescribe temporary alternative arrangements for the holding of meetings.
- 1.17 These alternative arrangements allow companies and other organisations to hold meetings by electronic means, where such meetings would otherwise have been required to be held in person, subject to safeguards to protect members' participation rights. The alternative arrangements ensure that organisations have the option to hold meetings virtually to minimise COVID-19 transmission risks, notwithstanding existing legal provisions for personal attendance at meetings.

#### **Part 8 of COTMA: Reliefs for Contracts Affected by Construction Delays**

- 1.18 Part 8 of COTMA extends relief to persons whose contracts were affected by a delay or breach in a construction or supply contract. It was introduced in light of the severe impact of COVID-19 on the built environment sector.
- 1.19 For example, many contractors had rented construction equipment from a supplier in order to carry out construction work, and fulfil their obligations under a separate construction contract. These contractors found themselves saddled with wasted rental costs when construction work was halted as part of the Government's measures to minimise the spread of COVID-19; they were unable to use their rented equipment to perform construction work, but still remained liable to their suppliers for equipment rental costs.
- 1.20 Qualifying persons may apply to an Assessor, who is empowered to make just and equitable adjustments to specific terms and obligations of contracts which are covered by the relief measure.

#### **Part 10 of COTMA: The Re-Align Framework**

- 1.21 Although economic and social activities in Singapore had gradually resumed in a careful and calibrated manner in the later part of 2020, COVID-19 had fundamentally altered the assumptions upon which certain businesses had entered into their contracts and substantially affected the viability of these businesses. On 3 November 2020, the Re-Align Framework was passed in Parliament. Its objective was to provide leverage for small and micro businesses significantly impacted by COVID-19 to renegotiate certain

contracts with their counterparties, to re-align their contracts with the current economic conditions and business objectives. The Framework came into operation on 15 January 2021.

1.22 The Re-Align Framework only covers certain categories of business-to-business contracts. The contracts must be governed by Singapore law, entered into before 25 March 2020, and at least one party to the contract must have a place of business in Singapore. Businesses are eligible for relief under the Re-Align Framework if:

- a. Their annual revenues for the Financial Year 2019 does not exceed S\$30 million on a global group basis; and
- b. They experienced at least a 70% fall in monthly average gross income for July to December 2020, compared to July to December 2019.

1.23 The relief under the Re-Align Framework works as follows:

- a. Between 15 January 2021 to 26 February 2021 (both dates inclusive), eligible businesses that wish to renegotiate their contracts must serve a Notice of Negotiation, accompanied by relevant documents proving their eligibility, on the other party or parties to the contract.
- b. Once a Notice of Negotiation is served, parties have a period of four weeks from the date of the Notice of Negotiation to engage in negotiations.
- c. If negotiations are successful, parties may proceed with the amended terms of their contract, or terminate the contract on their own agreed terms.
- d. If negotiations are unsuccessful, the contract will be terminated on just and fair outcomes prescribed under the Re-Align Framework. Generally, obligations which have accrued on or before the date of termination remain payable while prospective obligations after the date of termination are discharged. Early termination fees are also not payable.

1.24 Any disagreements arising from the application of the Re-Align Framework are determined by Assessors appointed by the Minister for Law, who will seek to achieve just and fair outcomes. Similar to the proceedings under Part 2 of COTMA, the proceedings before the Assessors under the Re-Align Framework are intended to be quick and expedient. Parties will not need to pay any fees for applications, and legal representation is not allowed unless permission is given.

### **III. The Simplified Insolvency Programme (“SIP”)**

1.25 The SIP was introduced into Singapore’s restructuring and insolvency regime and provides for two temporary and bespoke insolvency processes tailored for micro and small companies\* (“MSCs”) – the simplified debt restructuring programme and the simplified winding up programme.

*\* “MSCs” refer to micro and small companies with an annual revenue of less than \$1 million and \$10 million respectively.*

- 1.26 Singapore's restructuring and insolvency framework is found in the Insolvency, Restructuring and Dissolution Act 2018 (Act 40 of 2018) ("**IRDA**") which commenced on 30 July 2020. The IRDA is the fruit of a multi-phase reform process to Singapore's restructuring and insolvency regime over a five-year period spanning 2015 to 2020. While the commencement of the IRDA ensures that Singapore's restructuring and insolvency regime is progressive and robust, the IRDA was not designed with the effects of a global pandemic like COVID-19 in mind. The IRDA may not be well suited for financially distressed MSCs, particularly MSCs whose businesses have been affected by the COVID-19 pandemic and have depleted their resources. It is further noted that small businesses form about 95% of the enterprise landscape in Singapore.
- 1.27 In order to address the concern of a potential increase in numbers of financially distressed MSCs requiring assistance to restructure their debts to rehabilitate their businesses or to wind up their businesses which have ceased to be viable, the SIP was introduced. The features of the SIP are intended to allow for low-cost, faster and more efficient debt restructuring and winding up proceedings.
- 1.28 The SIP is administered by the Official Receiver and is open for applications by MSCs that qualify under the statutory eligibility criteria, for a period of 6 months starting from the commencement of the SIP on 29 January 2021 (the application period may be further extended by the Minister). The statutory eligibility criteria includes, among others, limits on the aggregate total liabilities of the company, the number of creditors and employees, and the amount and value of realisable assets in winding up.
- 1.29 If a company is accepted into the SIP by the Official Receiver, the Official Receiver may assign private insolvency practitioners to administer the winding up or debt restructuring process. There is a co-payment component for the applicant companies under the programme.
- 1.30 The SIP was introduced by way of legislation in the Insolvency, Restructuring and Dissolution (Amendment) Act 2020, which introduces a new Part 5A on the simplified debt restructuring programme and a new Part 10A on the simplified winding up programme, into the IRDA.
- 1.31 A copy of the IRDA (containing Parts 5A and 10A) can be found at <https://ssso.agc.gov.sg/Act/IRDA2018>.

### **Remote Hearings**

- 6.1 Legislative measures were enacted in order to temporarily facilitate the wider use of remote communication technology in court proceedings.
- 6.2 Prior to COVID-19, our laws already allowed for witnesses to give evidence remotely in court proceedings through a live video or television link, under specific circumstances. Temporary measures were introduced under Part 5 of COTMA, which facilitated the wider use of remote communication technology (e.g. teleconference, video conference, written submissions and email) in any court proceedings, including trials. Alongside these

legislative measures, the courts also issued a series of circulars to provide guidance on the appropriate procedures that should be followed for virtual hearings.

- 6.3 These measures have been positively received by court users and legal practitioners. They ensure continued access to justice notwithstanding the safe management measures, and provide an efficient, and accessible means of resolving disputes.
- 6.4 A copy of COTMA can be found at <https://ssso.agc.gov.sg/Act/COVID19TMA2020>.

## **Responses submitted by Slovakia**

### **Ministry of Economy**

1. Please specify the response measures that the Government has adopted to alleviate negative impacts of the pandemic on businesses in the following areas:

- a) bankruptcy and insolvency,
- b) support for small and medium-sized enterprises,

### **Subsidies for rent compensation (<https://najmy.mhsr.sk/> )**

- 1) Call for applications according to section 3.1 of the Temporary Framework according to § 13c) of Act no. 71/2013 Coll. on the provision of subsidies within the competence of the Ministry of Economy of the Slovak Republic as amended (hereinafter the "Act") and the approved State Aid Scheme to support the economy in connection with the outbreak of COVID-19 - Rent subsidy as amended by Supplement no. 1 SA. 57599 (2020 / N)
- 2) Call for application for minimum aid - de minimis according to § 13c of Act no. 71/2013 Coll. on the provision of subsidies within the competence of the Ministry of Economy of the Slovak Republic, as amended (hereinafter the "Act") and the approved Minimum Aid Scheme to support the economy in connection with the outbreak of COVID-19 - (DM-10/2020)
- 3) Call for applications according to section 3.1 of the Temporary Framework according to § 13c) of Act no. 71/2013 Coll. on the provision of subsidies within the competence of the Ministry of Economy of the Slovak Republic as amended (hereinafter the "Act") and the approved State Aid Scheme to support the economy in connection with the outbreak of COVID-19 - Rent subsidy as amended by Supplement no. 1 SA. 59809 (2020 / N) and State Aid Scheme to support the economy in connection with the outbreak of COVID-19 - Rent subsidy as amended by Supplement no. 2 SA. 64688 (2021 / NN)
- 4) Call for applications according to section 3.1 of the Temporary Framework according to § 13c) of Act no. 71/2013 Coll. on the provision of subsidies within the competence of the Ministry of Economy of the Slovak Republic as amended (hereinafter the "Act") and the approved State Aid Scheme to support the economy in connection with the outbreak of COVID-19 - Rent subsidy as amended by Supplement no. 3 SA. 100900 (2021 / N)
- 5) Call for application for minimum aid - de minimis according to § 13c of Act no. 71/2013 Coll. on the provision of subsidies within the competence of the Ministry of Economy of the Slovak Republic, as amended (hereinafter the "Act") and the approved Minimum Aid Scheme to support the economy in connection with the outbreak of COVID-19 - (DM-28/2021)

### **Subsidy to support SMEs in the segment of culture and creative industry**

- 1) State aid scheme to support enterprises in connection with the outbreak of COVID-19 - Fixed cost subsidies SA.59996 (2020 / N)
- 2) State aid scheme to support enterprises in connection with the outbreak of COVID-19 - Fixed cost subsidies SA.59996 as amended by Supplement no. 1 SA. 64688 (2021 / NN)
- 3) Minimum Aid Scheme to support SMEs in connection with the outbreak of COVID-19 - DM-11/2020

### **Subsidy for the segment of special regular transport and occasional transport**

- 1) Minimum Aid Scheme to support SMEs in connection with the outbreak of COVID-19 DM-11/2020
- 2) Call for application for minimum aid - de minimis according to § 3 letter (a) point 2 of Act no. 290/2016 Coll. on the support of small and medium-sized enterprises and on the amendment of Act no. 71/2013 Coll. on the provision of subsidies within the competence of the Ministry of Economy of the Slovak Republic, as amended

- c) public procurement,
- d) electronic commerce (including in the areas of electronic signatures, electronic authentication, and paperless trade),
- e) business-to-business contractual relations (including drafting, interpretation and application of force majeure clause),
- f) transportation and logistics, and
- g) corporate governance.

If these measures were legislated, please provide a link to the legislation (or a separate copy if the legislation is not publicly accessible online).

2. Please specify the response measures adopted to support businesses (including in the form of financial assistance), and the criteria for businesses to receive support. Please also indicate the legislative basis for these measures and whether new legislation was needed.

### **Subsidies for rent compensation (<https://najmy.mhsr.sk/> )**

The subject of the subsidy is rent paid in a money based on a lease agreement or a similar agreement under the law of another state. Based on the lease agreement, the lessee has the right to use the leased object no later than 01.08.2020. Changes to the contract that occurred after 31.8.2020 are not taken into account for the rent subsidy. The use of the leased object was prevented by the conclusion of the leased object, the interruption of teaching in schools and school facilities, or significantly restricted by the ban on public presence in the leased object, as a result of measures against COVID-19 (hereinafter "difficult use").

#### **BENEFICIARY: LESSEE**

- The state pays part of the rent for the lessee in the form of a direct subsidy (max. 50%) for days of difficulty in use

#### **APPLICATION SUBMITTED BY: LESSOR (owner)**

- The State pays part of the rent for the lessee if the lessor gives up the same part of the
- Natural person - non-entrepreneur, natural person - entrepreneur (self-employed), legal entity – entrepreneur, legal entity - non-entrepreneur.

The eligible object of a lease for the subsidy: a) a room or part thereof or a set of rooms, which are by the decision of the building authority intended for other purposes such as housing and in which the lessee sells the goods or provides services to final consumers, including related service areas and warehouses premises, (b) market place.

Form of aid:

- Direct subsidy for days of difficulty in the amount of the lessor's discount
- Paid to the lessor as payment of part of the rent for the lessee

The last call for submission is announced by 30.4.2022.

### **Subsidy to support SMEs in the segment of culture and creative industry**

The call aims to provide a subsidy for uncovered fixed costs for micro, small and medium-sized enterprises in the field of culture and/or creative industry for the period in which they had significantly difficult conditions for carrying out their business activities - March to December 2020.

The Ministry of Economy of the Slovak Republic created aid for business entities (SMEs) in the form of a subsidy to cover fixed costs if an entrepreneur in the segment of culture and creative industries recorded a decrease in turnover of at least 30% in March-December 2020 compared to the same period in 2019. The total amount of the subsidy is determined as a% of uncovered fixed costs. This is 90% for micro and small businesses and 70% for medium-sized businesses. The Ministry of Economy of the Slovak Republic has provisionally allocated 5 mil. EUR, the budget will be allocated by the Ministry of Finance of the Slovak Republic gradually according to the number of applications.

### **Subsidy for the segment of special regular transport and occasional transport**

The subsidy intended to offset the economic losses of the operator's special regular services and occasional services caused by the spread of the disease Covid-19. It aimed at recovering the decline in sales for which came business in the period in which it was significantly more difficult conditions to carry out their business in the period from the declaration of emergency.

Eligible applicants: Natural person, entrepreneur, or legal entity that:

- is a micro, small or medium-sized enterprise,
- is a bus transport operator under § 24a §25 of Act no. 56/2012 Coll. on road transport, as amended, vehicles with a capacity of more than nine persons,
- does not operate under a public service contract.

3. Please specify the type of monitoring or compliance regime that has been applied to businesses receiving the support mentioned in question 2.

4. Please specify the kinds of obstacles reported by businesses (if any) to cross-border trade and commerce due to measures implemented by States to overcome the pandemic.

- As a result of the introduction of anti-pandemic measures by Hungary, the cross-border transition and arrival of workers from Hungary to Slovakia has become more complicated, what created a problem with the availability of labour for certain companies (September 2020).



- Turkish Republic has taken measures to prevent the spread of COVID-19. However these measures discriminated drivers of international freight transport with nationality of the European Union (with the exception of Bulgaria). Before entering Turkey, such drivers were required to undergo a 14-day quarantine, excluding drivers from Bulgaria, Georgia, Azerbaijan and Nakhichevan (April 2020). We have received an information that this issue was solved.

5. Aside from the measures specified in response to question 1, please specify (a) any legislation that the Government has passed to overcome obstacles to cross-border trade, and (b) any other legislative measures to respond to the pandemic which may affect cross-border trade.

- Exemption from import duties and VAT for certain types of goods. This applies for persons who are affected, at risk or involved in the fight against COVID-19:
  - I. Goods imported for the benefit of disaster victims;
  - II. Goods imported in consignments of negligible value. This applies if the value of a consignment, without transport charges, does not exceed EUR 150. If the value of the shipment does not exceed EUR 22, they are also exempt from VAT;
  - III. Goods in consignments sent by one natural person to another natural person, which contain goods of a non-commercial nature intended exclusively for the personal use of the consignee. This applies if the value of the goods, without fees, does not exceed EUR 45.
- Abolition of the ban on the export of vital goods from the Slovak Republic. With effect from 13 May 2020, the ban on the export of specified vital goods from the territory of the Slovak Republic was lifted. The measure applies to personal protective equipment, antibacterial soaps, gels and disinfectants and devices for artificial lung ventilation.
- Prohibition on the export and supply of pharmaceuticals to another state. With effect from 7 April 2020, the Ministry of Health of the Slovak Republic issued a decision prohibiting holders of registration and holders of permits for the wholesale distribution of pharmaceuticals export and supplying certain types of pharmaceuticals to another state. This prohibition shall not apply to a holder of a manufacturing authorization for pharmaceuticals, if the holder manufactures pharmaceuticals for another state.

6. Please specify the measures that have been put in place to mitigate the effects of the pandemic on commercial dispute settlement (for example, facilitating remote hearings, expanding fast-track proceedings, extension of limitation periods).

7. Please indicate any issues related to COVID-19 response and recovery that would most benefit from harmonized legal solutions in the area of international commercial law<sup>28</sup>.

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<sup>28</sup> Note that the Commission has acknowledged ([A/75/17](#), part one, para. 27) that several UNCITRAL legislative tools can play an important role in assisting States to mitigate the effect of response measures, as well as their

## **Ministry of Finance and Social Affairs**

1. Please specify the response measures that the Government has adopted to alleviate negative impacts of the pandemic on businesses in the following areas:

- a) bankruptcy and insolvency,
- b) support for small and medium-sized enterprises,

### **Subsidies for rent compensation (<https://najmy.mhsr.sk/> )**

- 6) Call for applications according to section 3.1 of the Temporary Framework according to § 13c) of Act no. 71/2013 Coll. on the provision of subsidies within the competence of the Ministry of Economy of the Slovak Republic as amended (hereinafter the "Act") and the approved State Aid Scheme to support the economy in connection with the outbreak of COVID-19 - Rent subsidy as amended by Supplement no. 1 SA. 59809 (2020 / N)
- 7) Call for application for minimum aid - de minimis according to § 13c of Act no. 71/2013 Coll. on the provision of subsidies within the competence of the Ministry of Economy of the Slovak Republic, as amended (hereinafter the "Act") and the approved Minimum Aid Scheme to support the economy in connection with the outbreak of COVID-19 - (DM-10/2020)

### **Subsidy to support SMEs in the segment of culture and creative industry**

- 4) State aid scheme to support enterprises in connection with the outbreak of COVID-19 - Fixed cost subsidies SA.59996 (2020 / N) (hereinafter "State aid scheme")
- 5) Minimum Aid Scheme to support SMEs in connection with the outbreak of COVID-19 - DM-11/2020 (hereinafter referred to as the "de minimis scheme")

### **Subsidy for the segment of special regular transport and occasional transport**

- 3) Minimum Aid Scheme to support SMEs in connection with the outbreak of COVID-19 DM-11/2020
  - c) public procurement,
  - d) electronic commerce (including in the areas of electronic signatures, electronic authentication, and paperless trade),
  - e) business-to-business contractual relations (including drafting, interpretation and application of force majeure clause),
  - f) transportation and logistics, and
  - g) corporate governance.

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economic recovery efforts, and has, in particular, renewed calls for States to consider adopting UNCITRAL legislative texts in the field of electronic commerce and insolvency, as well as instruments supporting micro-, small and medium-sized enterprises and promoting the effective settlement of commercial disputes. Note also that the Secretariat is currently undertaking an appraisal of existing UNCITRAL texts to determine how they apply in light of emerging technologies and their applications and whether any gaps need to be addressed by future harmonization efforts ([A/75/17](#), part two, para. 76).

If these measures were legislated, please provide a link to the legislation (or a separate copy if the legislation is not publicly accessible online).

2. Please specify the response measures adopted to support businesses (including in the form of financial assistance), and the criteria for businesses to receive support. Please also indicate the legislative basis for these measures and whether new legislation was needed.

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#### **BENEFICIARY: LESSEE**

- The state pays part of the rent for the lessee in the form of a direct subsidy (max. 50%) for days of difficulty in use

#### **APPLICATION SUBMITTED BY: LESSOR (owner)**

- The State pays part of the rent for the lessee if the lessor gives up the same part of the
- Natural person - non-entrepreneur, natural person - entrepreneur (self-employed), legal entity – entrepreneur, legal entity - non-entrepreneur.

The eligible object of a lease for the subsidy: a) a room or part thereof or a set of rooms, which are by the decision of the building authority intended for other purposes such as housing and in which the lessee sells the goods or provides services to final consumers, including related service areas and warehouses premises, (b) market place.

#### **Form of aid:**

- Direct subsidy for days of difficulty in the amount of the lessor's discount
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### **Subsidy to support SMEs in the segment of culture and creative industry**

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EUR, the budget will be allocated by the Ministry of Finance of the Slovak Republic gradually according to the number of applications.

The call for submission is announced by 31.3.2021.

### **Subsidy for the segment of special regular transport and occasional transport**

The subsidy intended to offset the economic losses of the operator's special regular services and occasional services caused by the spread of the disease Covid-19. It aimed at recovering the decline in sales for which came business in the period in which it was significantly more difficult conditions to carry out their business in the period from the declaration of emergency.

Eligible applicants: Natural person, entrepreneur, or legal entity that:

- is a micro, small or medium-sized enterprise,
- is a bus transport operator under § 24a §25 of Act no. 56/2012 Coll. on road transport, as amended, vehicles with a capacity of more than nine persons,
- does not operate under a public service contract.

3. Please specify the type of monitoring or compliance regime that has been applied to businesses receiving the support mentioned in question 2.

4. Please specify the kinds of obstacles reported by businesses (if any) to cross-border trade and commerce due to measures implemented by States to overcome the pandemic.

- As a result of the introduction of anti-pandemic measures by Hungary, the cross-border transition and arrival of workers from Hungary to Slovakia has become more complicated, what created a problem with the availability of labour for certain companies (September 2020).
- Turkish Republic has taken measures to prevent the spread of COVID-19. However these measures discriminated drivers of international freight transport with nationality of the European Union (with the exception of Bulgaria). Before entering Turkey, such drivers were required to undergo a 14-day quarantine, excluding drivers from Bulgaria, Georgia, Azerbaijan and Nakhichevan (April 2020). We have received an information that this issue was solved.

5. Aside from the measures specified in response to question 1, please specify (a) any legislation that the Government has passed to overcome obstacles to cross-border trade, and (b) any other legislative measures to respond to the pandemic which may affect cross-border trade.

- Exemption from import duties and VAT for certain types of goods. This applies for persons who are affected, at risk or involved in the fight against COVID-19:
  - I. Goods imported for the benefit of disaster victims;

II. Goods imported in consignments of negligible value. This applies if the value of a consignment, without transport charges, does not exceed EUR 150. If the value of the shipment does not exceed EUR 22, they are also exempt from VAT;

III. Goods in consignments sent by one natural person to another natural person, which contain goods of a non-commercial nature intended exclusively for the personal use of the consignee. This applies if the value of the goods, without fees, does not exceed EUR 45.

- Abolition of the ban on the export of vital goods from the Slovak Republic. With effect from 13 May 2020, the ban on the export of specified vital goods from the territory of the Slovak Republic was lifted. The measure applies to personal protective equipment, antibacterial soaps, gels and disinfectants and devices for artificial lung ventilation.
- Prohibition on the export and supply of pharmaceuticals to another state. With effect from 7 April 2020, the Ministry of Health of the Slovak Republic issued a decision prohibiting holders of registration and holders of permits for the wholesale distribution of pharmaceuticals export and supplying certain types of pharmaceuticals to another state. This prohibition shall not apply to a holder of a manufacturing authorization for pharmaceuticals, if the holder manufactures pharmaceuticals for another state.

6. Please specify the measures that have been put in place to mitigate the effects of the pandemic on commercial dispute settlement (for example, facilitating remote hearings, expanding fast-track proceedings, extension of limitation periods).

7. Please indicate any issues related to COVID-19 response and recovery that would most benefit from harmonized legal solutions in the area of international commercial law<sup>29</sup>.

### **Ministry of Labour, Social Affairs and Family**

1. Please specify the response measures that the Government has adopted to alleviate negative impacts of the pandemic on businesses in the following areas:

- gg) bankruptcy and insolvency,
- hh) support for small and medium-sized enterprises,

Since March 2020, the Slovak Republic has been implementing a national “Prvá pomoc” (First Aid) project, the aim of which is to support employers and self-employed persons during a time of declared emergency in order to maintain employment while minimizing the impact of coronavirus on economic life.

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<sup>29</sup> Note that the Commission has acknowledged ([A/75/17](#), part one, para. 27) that several UNCITRAL legislative tools can play an important role in assisting States to mitigate the effect of response measures, as well as their economic recovery efforts, and has, in particular, renewed calls for States to consider adopting UNCITRAL legislative texts in the field of electronic commerce and insolvency, as well as instruments supporting micro-, small and medium-sized enterprises and promoting the effective settlement of commercial disputes. Note also that the Secretariat is currently undertaking an appraisal of existing UNCITRAL texts to determine how they apply in light of emerging technologies and their applications and whether any gaps need to be addressed by future harmonization efforts ([A/75/17](#), part two, para. 76).

As part of the primary activities of the project, four measures have been implemented that support employers or self-employed persons who were forced to shut down their operations due to the pandemic. Furthermore, the support is being targeted on employers, including self-employed persons, who will maintain jobs even if their activities are interrupted or reduced during the time of the declared emergency. Finally, self-employed persons who have no other income at the time of declaring the emergency will also be included in the pandemic rescue network.

“First Aid” instruments are being used most intensively by large enterprises and micro-enterprises, but also by the self-employed. In terms of sectors, aid has gone mainly to industrial production, wholesale, retail and construction. Since the start of the emergency situation up to 1 February 2021, approximately 909 million euros have been paid to employers and the self-employed through individual “First Aid” and “First Aid+” measures.

The project’s eligibility period is the period from the date of closure of certain operations, i.e. from 13 March 2020, for the entire duration of the emergency situation up through its end. The temporary framework has been extended until 30 June 2021 (First Aid++). In order to remove the consequences of the crisis, it is assumed it will need to be extended until at least the end of 2021. The introduction of a permanent “Kurzarbeit/short term working” is a step to be introduced early 2022. All additional informations as regards the First Aid (upgraded as First Aid+ and First Aid++) projects can be found on the web page: Pomáhame ľuďom - Prvá pomoc PLUS ([pomahameludom.sk](http://pomahameludom.sk)).

The provision of art. 25 of Act no. 67/2020 Coll. on certain extraordinary measures in the financial area in connection with the spread of dangerous contagious human disease COVID-19 (hereinafter the Act) has set up a legal basis for the Ministry of Finance of the Slovak Republic to provide financial assistance in order to support operation of small and medium-sized enterprises through loan programs of the Slovak Guarantee and Development Bank and of the Export-Import Bank of the Slovak Republic. Financial assistance is provided in the form of a loan guarantee and in the form of interest payments on the loan.

The Export-Import Bank of the Slovak Republic and the Slovak Investment Holding can provide financial assistance too in order to alleviate negative impacts of the pandemic and ensure liquidity for small-sized employers and big enterprises. Financial assistance is provided through banks and branches of foreign banks and can be provided in the form of a loan guarantee provided by a bank and a waiver of a loan guarantee fee provided by a bank.

Last but not least, the government adopted an amendment to the law concerning the deferral of repayment of loans provided by banks and non-bank institutions to debtors, which are both consumers as well as self-employed persons and small and medium-sized enterprises. The aim is to protect citizens and businesses from the harsh effects of the COVID-19 pandemic. The law regulates the rules for deferral of repayment for debtors. According to these rules, banks and branches of foreign banks are required to defer payments by up to nine months at the request of the borrower. Other (non-bank) lending companies must do so for a period of three months, with the possibility for the borrower to extend this deferral for another three months. It is possible to request a deferral until the end of the pandemic period, as the effects on borrowers may not be immediate and need to be protected in this way throughout the crisis.

- ii) public procurement,
- jj) electronic commerce (including in the areas of electronic signatures, electronic authentication, and paperless trade),
- kk) business-to-business contractual relations (including drafting, interpretation and application of force majeure clause),

- ll) transportation and logistics, and
- g) corporate governance.

If these measures were legislated, please provide a link to the legislation (or a separate copy if the legislation is not publicly accessible online).

Act No. 5/2004 Coll. on employment services and on amendment of certain acts as amended by the Act No 63/2020 Coll. effective from 27 March 2020 introduced into the Slovak legal order a new provision as regards the active labour market measures stipulated in § 54.

#### § 54 Projects and Programmes

(1)

Active labour market measure shall also be deemed:

e) projects to support the maintenance of jobs, including those in which self-employment is carried out or operated, and to support the retention of employees in employment in connection with the declaration of an emergency situation, emergency or state of emergency and the elimination of their consequences, approved by the Ministry or headquarters after approval of the conditions by the Government of the Slovak Republic and implemented by the headquarters or office,

2. Please specify the response measures adopted to support businesses (including in the form of financial assistance), and the criteria for businesses to receive support. Please also indicate the legislative basis for these measures and whether new legislation was needed.

Answer can be found in 1b)

3. Please specify the type of monitoring or compliance regime that has been applied to businesses receiving the support mentioned in question 2.

4. Please specify the kinds of obstacles reported by businesses (if any) to cross-border trade and commerce due to measures implemented by States to overcome the pandemic.

5. Aside from the measures specified in response to question 1, please specify: (a) any legislation that the Government has passed to overcome obstacles to cross-border trade, and (b) any other legislative measures to respond to the pandemic which may affect cross-border trade.

6. Please specify the measures that have been put in place to mitigate the effects of the pandemic on commercial dispute settlement (for example, facilitating remote hearings, expanding fast-track proceedings, extension of limitation periods).

7. Please indicate any issues related to COVID-19 response and recovery that would most benefit from harmonized legal solutions in the area of international commercial law<sup>30</sup>.

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<sup>30</sup>Note that the Commission has acknowledged ([A/75/17](#), part one, para. 27) that several UNCITRAL legislative tools can play an important role in assisting States to mitigate the effect of response measures, as well as their economic recovery efforts, and has, in particular, renewed calls for States to consider adopting UNCITRAL legislative texts in the field of electronic commerce and insolvency, as well as instruments supporting micro-, small and medium-sized enterprises and promoting the effective settlement of commercial disputes. Note also

## **Responses submitted by Sweden**

**Note:** this response was updated to March 2022 by Sweden

Organization: Swedish Government Offices

1. Please specify the response measures that the Government has adopted to alleviate negative impacts of the pandemic on businesses in the following areas:

mm) bankruptcy and insolvency,

No special measures related to insolvency proceedings have been introduced. So far it has been deemed more effective and efficient to introduce economic measures. The Swedish Enforcement Authority is continuously adapting its activities to the circumstances as they develop.

support for small and medium-sized enterprises,

- A central government loan guarantee to make it easier for companies to access financing.
- Support to facilitate and speed up renegotiation of rents (the government will cover 50 per cent of the rental reduction up to 50 per cent of the fixed rent).
- A temporary reinforcement of the unemployment insurance.
- A temporary reduction of employers' social security contributions and possibility to defer payment of employers' social security contributions and tax.
- A range of measures to make it easier for Swedish businesses, particularly small- and medium-sized businesses, to access finance.
- Short-term layoffs (Korttidsstöd)
- Compensation scheme for undertakings faced with turnover losses due to COVID-19 (Omställningsstöd)
- Deferral of tax payments (Anstånd med skatteinbetalning)

public procurement,

No changes have been made to the legislation. On the contrary, it has worked well in the current situation. The legislation is adapted to work in emergency situations. The support authority, The national procurement agency launched a guide early when the pandemic began. Then they have gathered all current information about procurement and Covid under one link.

<https://www.upphandlingsmyndigheten.se/information-covid-19/>

nn) electronic commerce (including in the areas of electronic signatures, electronic authentication, and paperless trade),

There is an ongoing inquiry on the use of trust services within the public sector. An interim report from the inquiry has been presented, SOU 2021:9, aiming to simplify the use of trust services (such as electronic signatures/stamps/authentication) in public administration". The pace of digitalisation of the public administration has accelerated due to the pandemic, thereby increasing its need for trust services. The inquiry has proposed measures to simplify the use of trust services throughout the public

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that the Secretariat is currently undertaking an appraisal of existing UNCITRAL texts to determine how they apply in light of emerging technologies and their applications and whether any gaps need to be addressed by future harmonization efforts ([A/75/17](#), part two, para. 76).



sector, including a number of legislative proposals. One of the proposals is to ensure, through a validation service, whether electronic signatures or the provider of such services meet the requirements of the eIDAS Regulation. Private companies mainly involved in education and the care sectors would be able to use the electronic signature and seal validation service.

Link to SOU 2021:9:

([https://regeringen.se/491bc5/contentassets/81e6f02d08824037abce705a6351d1f0/vem-kan-man-lita-pa\\_enkel-och-andamalsenlig-anvandning-av-betrodda-tjanster-i-den-offentliga-forvaltningen-sou-20219](https://regeringen.se/491bc5/contentassets/81e6f02d08824037abce705a6351d1f0/vem-kan-man-lita-pa_enkel-och-andamalsenlig-anvandning-av-betrodda-tjanster-i-den-offentliga-forvaltningen-sou-20219))

oo) business-to-business contractual relations (including drafting, interpretation and application of force majeure clause),

No action has been taken by the Government in this regard.

pp) transportation and logistics, and

Transport and logistics operators/stakeholders have to a large extent applied and benefitted from the general support measures as described under letter b) above. In addition, a range of more specific support measures directly dedicated to the transport sector have been undertaken, for example:

- 5 BSEK in support to public transport operators/stakeholders
- 5 BSEK in guarantees for loans directed to Swedish registered Airlines
- Additional procurement of non-profitable flight routes
- 100 MSEK in additional support to operation of regional non-state-owned airports
- 17 MSEK in additional procurement of temporary emergency stand-by services at regional non-state-owned airports (enable socially important flights such as ambulance flights)
- 164 MSEK in loans at reduced interest rate directed to providers of terminal Air Traffic Control
- 105 MSEK for the imposition of temporary public service obligations and procurement of air services to the northern parts of Sweden and to the island of Gotland.

In the regulatory field a large number of temporary exceptions have been introduced with the aim of supporting various actors/operators/stakeholders in the transport sector, especially when it comes to duration in validity regarding certifications and licences.

g) corporate governance.

A temporary law to make it easier to hold general meetings of company shareholders and association members has been passed. The temporary law makes it possible to hold general meetings without shareholders or members being physically present, by making it easier to participate by proxy, by generally allowing voting by mail, by allowing general meetings to be held digitally (online, by telephone etc.) and by allowing general meetings to be held only by mail.

If these measures were legislated, please provide a link to the legislation (or a separate copy if the legislation is not publicly accessible online).

<https://svenskfattningssamling.se/doc/2022121.html>

2. Please specify the response measures adopted to support businesses (including in the form of financial assistance), and the criteria for businesses to receive support. Please also indicate the legislative basis for these measures and whether new legislation was needed.

See question 1 b.

Compensation scheme for undertakings faced with turnover losses due to COVID-19:

In order to qualify for aid, the undertaking must have lost more than a certain percentage (ranging from 30–50 percent, depending on the period) of its turnover compared to the corresponding period in 2019. The turnover loss must be caused by the pandemic. Moreover, the undertaking's annual turnover must exceed SEK 250 000 in the most recently concluded financial year prior to the outbreak of the pandemic. The aid scheme was introduced by way of an Act adopted by the Swedish Parliament. The act is supplemented by more detailed provisions in Government Ordinances.

[https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/lag-2020548-om-omstallningsstod\\_sfs-2020-548](https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/lag-2020548-om-omstallningsstod_sfs-2020-548)

[https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/forordning-2020552-om-omstallningsstod\\_sfs-2020-552](https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/forordning-2020552-om-omstallningsstod_sfs-2020-552)

[https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/forordning-2020838-om-omstallningsstod-for\\_sfs-2020-838](https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/forordning-2020838-om-omstallningsstod-for_sfs-2020-838)

[https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/forordning-2021126-om-omstallningsstod-for\\_sfs-2021-126](https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/forordning-2021126-om-omstallningsstod-for_sfs-2021-126)

Short-term layoffs:

Short-term layoffs is a temporary reinforcement of the support for short-time work scheme. Compared to the short-time work scheme the subsidy level is significantly increased. The central government will cover three quarters of the cost of staff reducing their working hours, while employers and employees share the remaining quarter, rather than central government covering a third of the cost. The employee receives more than 90 per cent of their wage.

To qualify for the allowance, the employer must have serious financial difficulties caused by circumstances beyond the employer's own control, such as the pandemic. Moreover, the short-time work must be based on an agreement between the employer and the employee who is short-time working. The working hours can be reduced to 20, 40 or 60 per cent. For some periods the system of short-term layoffs has been temporarily reinforced by allowing the working hours to be reduced for up to 80 percent. The aid scheme for Short-term layoffs was introduced by way of temporary regulations in the permanent Act on Support Related to Short-time Working adopted by the Swedish Parliament. The act is supplemented by more detailed provisions in Government Ordinances. Legislative amendments have been made to make the reinforced system apply for a longer period.

[https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/lag-2013948-om-stod-vid-korttidsarbete\\_sfs-2013-948](https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/lag-2013948-om-stod-vid-korttidsarbete_sfs-2013-948)

[https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/lag-2020375-om-tillfallig-forstarkning-av-stod\\_sfs-2020-375](https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/lag-2020375-om-tillfallig-forstarkning-av-stod_sfs-2020-375)

[https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/lag-202154-om-stod-vid-korttidsarbete-i-vissa\\_sfs-2021-54](https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/lag-202154-om-stod-vid-korttidsarbete-i-vissa_sfs-2021-54)

[https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/forordning-2020208-om-stod-vid-korttidsarbete\\_sfs-2020-208](https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/forordning-2020208-om-stod-vid-korttidsarbete_sfs-2020-208)

### Deferral of tax payments

Companies can defer a maximum of six months payments of employers' social security contributions, preliminary tax on salaries and value-added tax that is reported monthly or quarterly. A deferral can last up to two years, but until 12 February 2023 at the latest. There is also a possibility to defer one (1) payment of value-added tax that is reported annually. This type of deferral can also last up to two years, but until 17 January 2024 at the latest. A deferral shall be granted provided that there are no special circumstances in the individual case, such as that the company has not paid its taxes or that the company has gone bankrupt. A company which has been granted a deferral must pay interest and a deferral fee, which are calculated based on the length of the deferral period. The aid scheme was introduced by way of an Act adopted by the Swedish Parliament (Act on Deferral of Tax Payments in Certain Cases). Legislative amendments have been made continuously since March 2020, e.g. in order to expand the possibilities to defer the payments in question.

Link: [https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/lag-200999-om-anstand-med-inbetalning-av-skatt\\_sfs-2009-99](https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/lag-200999-om-anstand-med-inbetalning-av-skatt_sfs-2009-99)

3. Please specify the type of monitoring or compliance regime that has been applied to businesses receiving the support mentioned in question 2.

### Compensation scheme for undertakings faced with turnover losses due to COVID-19:

A company that has applied for or received compensation must give the Swedish Tax Agency an opportunity to review the business with regard to the company's right to support and provide the information needed for the review. The Swedish Tax Agency may request that the company submits an auditor's certificate, may decide on an audit with regard to the company's right to compensation and may decide on inspection visits. In order to check a company the Swedish Tax Agency may carry out an audit of the auditee's business premises, search for and dispose of documents and seal the premises, storage space or other space. A company is liable for repayment for the adjustment aid that has been credited incorrectly or with an excessive amount. The Swedish Tax Agency may use the property of a debtor to ensure payment of recovery of adjustment support. For breach of the compensation scheme, a person who provides incorrect information or does not report changed circumstances that he or she is obliged to, can be sentenced to a fine or imprisonment up to six years.

### Short-term layoffs

An employer who has applied for or received support must give the managing authority an opportunity to review the activity with regard to the employer's right to support and provide the information needed for the review. An injunction may be combined with a fine. The managing authority may request that the company submit an auditor's certificate and may decide on inspection visits.

### Deferral of tax pay

The Swedish Tax Agency can revoke a deferral in whole or in part if the taxpayer is prohibited from doing business or has been declared bankrupt, the decision on deferral is incorrect and the error is due to the taxpayer having provided incorrect or misleading information, or there are special reasons.

4. Please specify the kinds of obstacles reported by businesses (if any) to cross-border trade and commerce due to measures implemented by States to overcome the pandemic.

The development of Covid-19 and the measures taken by countries to combat the spread of infection have caused a shock to both the world economy and world trade. The major closure has posed major challenges for the global value chains and a debate about the re-nationalization of value chains or the need to shorten value chains has arisen.

An important part of the crisis measures is that large parts of the internal market temporarily ceased to function. For several months, three of the four freedoms that form the basis of the internal market have been affected: people have not been able to move freely across borders, exports of certain health-related products have been stopped and trade in services has fallen sharply.

Most sectors have reported that supply chain disruption was limited and the restrictions prohibiting free movement in the EU market had severe consequences. A particular disruption was that of the supply of personal protective equipment and related supplies. A shortage of PPE and other medical equipment had a substantial impact on our health care system and put patient safety at risk.

On the supply side, there were constraints on the ability of manufacturers to scale up production due to labour shortages, factory shutdown, components and raw material shortages. In addition, intervention by some governments - export bans, state requisitioning of supplies, cancellation of existing contracts and the driving up of prices through acquisition on behalf of state-funded entities – had curtailed the availability of existing PPE. As a result, the market for PPE didn't function properly.

5. Aside from the measures specified in response to question 1, please specify: (a) any legislation that the Government has passed to overcome obstacles to cross-border trade, and (b) any other legislative measures to respond to the pandemic which may affect cross-border trade.

We have had close contacts with businesses and business organisations across our country to understand their situation and try to solve identified problems in dialogue with our counterparts in the EU and in the Nordic countries, with different ministers in the EU MS and the responsible EU commissioner for the EU single market and the EU commissioner for Trade.

Sweden continues to take an active and constructive role in the on-going discussion within the EU on how to restore and deepen the functioning of the single market, not least in order to contribute to our collective recovery. Sweden was one of the EU Member States behind a new task force for the EU single market within the European Commission. The task force works as a platform for the common work for better enforcement between the European Commission and the EU Member States and with the task to identify barriers on the single market and how to avoid these barriers. The National Board of Trade was also asked to present a study on how to strengthen the EU single market even in times of crisis. In November 2020 a non-paper was sent to the European Commission

and all EU MS with suggestions on how to maintain and reinforce the functioning of free movement for goods.

6. Please specify the measures that have been put in place to mitigate the effects of the pandemic on commercial dispute settlement (for example, facilitating remote hearings, expanding fast-track proceedings, extension of limitation periods).

The Swedish courts are independent from the Government and have taken diverse measures to face the current situation. The courts have for example increased the use of video- and telephone conference using the already existing rules in that regard.

7. Please indicate any issues related to COVID-19 response and recovery that would most benefit from harmonized legal solutions in the area of international commercial law<sup>31</sup>.

Sweden does not have any suggestions at this point.

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<sup>31</sup> Note that the Commission has acknowledged ([A/75/17](#), part one, para. 27) that several UNCITRAL legislative tools can play an important role in assisting States to mitigate the effect of response measures, as well as their economic recovery efforts, and has, in particular, renewed calls for States to consider adopting UNCITRAL legislative texts in the field of electronic commerce and insolvency, as well as instruments supporting micro-, small and medium-sized enterprises and promoting the effective settlement of commercial disputes. Note also that the Secretariat is currently undertaking an appraisal of existing UNCITRAL texts to determine how they apply in light of emerging technologies and their applications and whether any gaps need to be addressed by future harmonization efforts ([A/75/17](#), part two, para. 76).

## **Responses submitted by Switzerland**

Organisation : Office fédéral de la justice

Remarque générale: les mesures décrites dans les réponses se limitent aux domaines couverts par le mandat de la CNUDCI, à savoir les réglementations qui concernent directement le commerce international ou les entreprises actives dans ce secteur, sans aborder les mesures générales prises pour lutter contre les effets sanitaires ou sociales la pandémie, telles que mesures d'hygiène, modification des conditions pour bénéficier de certaines prestations de l'assurance-chômage tel que le travail de courte durée, etc. Aussi, il faut noter que de nombreuses mesures ont été prises au niveau cantonal (p.ex. mesures de soutien pour certains secteurs économiques, tels la culture, la restauration, etc.); les réponses ci-après se limitent pour l'essentiel aux mesures prises au niveau fédéral

1. Veuillez préciser les mesures de réponse que le Gouvernement a adopté pour atténuer les effets négatifs de la pandémie sur les entreprises dans les domaines suivants :

a) faillite et insolvabilité ;

Les mesures du gouvernement suisse en matière de faillite et insolvabilité ont principalement porté sur les points suivants:

- suspension temporaire générale des procédures de poursuite/exécution;
- dérogation transitoire à l'obligation d'aviser le juge en cas de surendettement;
- simplifications en matière de notification (sans remise obligatoire d'un reçu);
- permettre les enchères d'exécution forcée sur des plateformes en ligne;
- suspension spécifique des poursuites en faveur du secteur du voyage;
- prolongement du délai du sursis concordataire de 4 à 8 mois;
- simplification de la procédure concordataire (pas d'émoluments; pas de nomination obligatoire d'un commissaire; etc.)

Dans une première phase d'urgence, le gouvernement suisse a usé de sa compétence pour ordonner la suspension des poursuites. La suspension des poursuites avait effet du 19 mars 2020 jusqu'au 4 avril 2020. Pendant cette période, les débiteurs ne pouvaient pas être mis en poursuite et il n'était pas possible de notifier des actes de poursuite à des débiteurs (accessible à l'adresse <https://www.fedlex.admin.ch/eli/cc/2020/157/fr>).

Afin de prévenir les faillites dues au coronavirus et les pertes d'emploi qui s'ensuivraient par des mesures ciblées, le gouvernement suisse a adopté le 16 avril l'Ordonnance instaurant des mesures en cas d'insolvabilité pour surmonter la crise du coronavirus (Ordonnance COVID-19 insolvabilité, accessible à l'adresse <https://www.fedlex.admin.ch/eli/cc/2020/235/fr>), qui prévoyait une dérogation transitoire à l'obligation d'aviser le juge en cas de surendettement, ce qui aboutit généralement à une faillite immédiate, et a instauré un sursis COVID-19 de durée limitée, que les PME en particulier pouvaient requérir de manière non bureaucratique. En situation normale, l'art. 725, al. 2, du code des obligations (CO) contraint les entreprises menacées de surendettement à prévenir immédiatement le juge de la faillite. Avec les nouvelles dispositions adoptées, les entreprises dont la situation financière était saine à la fin de 2019 et dont il y avait lieu de penser qu'elles auraient la capacité de surmonter leurs problèmes de surendettement une fois la crise du coronavirus passée pouvaient déroger à cette obligation. Ces mesures couraient jusqu'au 19 octobre 2020.

Le 16 avril 2020, le gouvernement suisse a adopté dans le cadre de l'Ordonnance instaurant des mesures en lien avec le coronavirus dans le domaine de la justice et du droit procédural (Ordonnance COVID-19 justice et droit procédural, cf. <https://www.fedlex.admin.ch/eli/cc/2020/234/fr>) des mesures extraordinaires dans le domaine des procédures de poursuite. Ces mesures ont été prolongées le 25 septembre 2020 avec des modifications jusqu'au 31 décembre 2021 et portent notamment sur les exigences de notification et les enchères sur des plateformes en ligne.

Le 20 mai 2020, le gouvernement suisse a ordonné, à la demande du Parlement, une suspension des poursuites d'une durée limitée en faveur du secteur du voyage. Les agences de voyages ne pouvaient pas être mises en poursuite pour les sommes à rembourser suite aux annulations de voyages, et ce jusqu'au 30 septembre 2020. En adoptant cette mesure spécifique, le gouvernement suisse a tenu compte des défis particuliers, notamment d'ordre légal, que doivent relever les agences de voyages (cf. <https://www.fedlex.admin.ch/eli/cc/2020/342/fr>). Le 26 août 2020, le gouvernement suisse a réexaminé la situation des agences de voyage et a décidé de prolonger jusqu'au 31 décembre 2020 la suspension des poursuites pour ce secteur.

Le 14 octobre 2020, le gouvernement suisse a décidé de mettre en vigueur dès le 20 octobre 2020 une nouvelle disposition (art. 293a LP) adoptée par le Parlement le 19 juin 2020 qui fait passer la durée totale du sursis concordataire provisoire de quatre à huit mois. Cette mesure favorise l'assainissement des entreprises et peut avoir son importance en période de crise. Le gouvernement suisse a décidé de mettre en vigueur la nouvelle disposition dès le 20 octobre 2020 (cf. [https://www.fedlex.admin.ch/eli/cc/11/529\\_488\\_529/fr](https://www.fedlex.admin.ch/eli/cc/11/529_488_529/fr)).

Le 25 novembre 2020, le gouvernement suisse a décidé dans le cadre de l'Ordonnance concernant les mesures pour les cas de rigueur destinées aux entreprises en lien avec l'épidémie de COVID-19 (Ordonnance COVID-19 cas de rigueur) (cf. <https://www.fedlex.admin.ch/eli/oc/2020/875/fr>) une simplification de la procédure concordataire: à titre de mesure d'accompagnement visant à soutenir les entreprises se trouvant en situation de rigueur, des simplifications de la procédure concordataire sont possibles (p.ex. il est renoncé à la nomination obligatoire d'un commissaire; il n'est pas perçu d'émolument; etc.). Cette mesure est entrée en vigueur le 1er décembre 2020.

#### b) soutien aux petites et moyennes entreprises ;

Les mesures du gouvernement suisse pour donner un soutien aux petites et moyennes entreprises ont principalement porté sur les points suivants:

- accès rapide à des crédits (octroyés par les banques privées, mais garantis par l'Etat);
  - cautionnement de la part de l'Etat pour les crédits obtenus par les start-up;
  - mesure financières pour cas de rigueur.
- (s'y ajoutent des mesures générales tels que l'extension du chômage partiel et simplification des démarches administratives; sur [travail.swiss](https://www.travail.swiss): "Indemnité en cas de RHT (COVID-19)" on trouvera des informations sur le chômage partiel liées à la l'épidémie de Covid 19: <https://www.arbeit.swiss/secoalv/fr/home/menue/unternehmen/versicherungsleistungen/kurzaarbeit-covid-19.html>)

Le 25 mars 2020, le gouvernement suisse a traité la question de l'aide aux PME en matière de liquidités. Les PME pouvaient accéder rapidement à des crédits afin d'atténuer les problèmes de liquidités liés au coronavirus. À l'aide de crédits de transition, il était prévu de fournir aux entreprises des liquidités suffisantes pour leur permettre de couvrir leurs coûts fixes malgré les

pertes de chiffre d'affaires liées au coronavirus. L'ordonnance comprenait un programme d'un montant de 20 milliards de francs destiné à aider les entreprises à surmonter leurs problèmes de liquidités. Les crédits pouvaient être sollicités par les PME auprès de leur banque principale et sont garantis par la Confédération. L'ordonnance correspondante est entrée en vigueur le 26 mars 2020 (cf. <https://www.fedlex.admin.ch/eli/oc/2020/194/fr>).

Le 22 avril 2020, le gouvernement suisse a décidé d'utiliser le système de cautionnement dont bénéficient déjà les PME afin de soutenir les start-up. Une nouvelle procédure était ainsi créée pour les start-up d'ici au 30 avril 2020 sur la base du système de cautionnement existant. La Confédération pouvait cautionner 65 % d'un crédit, et le canton les 35 % restants (cf. <https://www.admin.ch/gov/fr/accueil/documentation/communiques.msg-id-78872.html>)

Le 25 novembre 2020, le gouvernement suisse a adopté l'ordonnance qui règle les détails du programme d'aide pour les cas de rigueur mis sur pied par la Confédération et les cantons. L'ordonnance règle en particulier la répartition entre les cantons des fonds alloués par la Confédération et les critères d'éligibilité auxquels doivent répondre les entreprises qui demandent une mesure pour cas de rigueur (Ordonnance concernant les mesures pour les cas de rigueur destinées aux entreprises en lien avec l'épidémie de COVID-19 (Ordonnance COVID-19 cas de rigueur), accessible à l'adresse <https://www.fedlex.admin.ch/eli/oc/2020/875/fr>) et les cantons. Cf. également <https://covid19.easygov.swiss/fr/>).

D'autres mesures d'aide ont visé plus particulièrement certains secteurs. Ainsi, le Parlement suisse a adopté des bases légales pour le soutien du secteur culturel et le sport d'équipe: <https://www.fedlex.admin.ch/eli/cc/2020/759/de>  
<https://www.fedlex.admin.ch/eli/cc/2020/975/de>

c) les marchés publics ;

La Conférence de coordination des services de la construction et des immeubles des maîtres d'ouvrage publics KBOB (<https://www.kbob.admin.ch/kbob/fr/home.html>) a émis différentes recommandations et fiches d'information visant les marchés publics.

- Recommandations de la KBOB du 27 mars 2020 « Coronavirus; Marge de manœuvre en vue d'atténuer les conséquences pour l'économie suisse du point de vue des marchés publics » (voir lien).
- Recommandations de la KBOB du 25 septembre 2020 « COVID-19; indications sur le versement d'une rémunération supplémentaire dans le cadre de la norme SIA 118 (2013) en raison de l'évolution de la situation liée à la pandémie » (voir lien).
- Fiche d'information de la KBOB du 5 mai 2020 « Travaux de construction menés pendant la situation extraordinaire au sens de l'ordonnance 2 COVID-19 du 13 mars 2020: indications pratiques concernant les droits découlant de la norme SIA 118 [2013] » (voir lien).
- Fiche d'information de la KBOB du 9 décembre 2020 « Mise en œuvre des procédures d'adjudication lors de circonstances particulières dues à la pandémie » (voir lien).

d) commerce électronique (y compris dans les domaines des signatures électroniques,

Une dispense de l'obligation de se présenter en personne pendant la pandémie de COVID-19 a été prévue dans l'Ordonnance sur les services de certification dans le domaine de la signature électronique et des autres applications des certificats numériques (Ordonnance sur la signature électronique, OSCSE, accessible à l'adresse <https://www.fedlex.admin.ch/eli/oc/2020/210/fr>).



A titre d'information, il convient d'indiquer que des travaux pour faciliter le commerce électronique (notamment l'identité électronique) sont en cours, indépendamment de la crise du COVID. D'autres initiatives indépendantes de la pandémie visent à faciliter l'utilisation de documents électroniques dans les relations commerciales.

e) de l'authentification électronique et du commerce sans papier) ;

Le commerce électronique n'a pas fait l'objet de mesures particulières en lien avec la pandémie.

A titre d'information, il convient d'indiquer que des travaux pour introduire des actes authentiques électroniques et la légalisation électronique sont en cours, indépendamment de la crise du COVID. Plus d'informations sont disponibles à l'adresse <https://www.bj.admin.ch/bj/fr/home/wirtschaft/e-beurkundungen.html>.

f) les relations contractuelles interentreprises (y compris la rédaction, l'interprétation et l'application des clauses de force majeure) ;

Le 27 mars 2020, le gouvernement suisse a porté de 30 à 90 jours le délai pour s'acquitter du terme d'un logement locatif ou de locaux commerciaux en cas de retard de loyer. La règle s'appliquait aux retards de paiement en lien avec les mesures de lutte contre le coronavirus et aux loyers échus entre le 13 mars et le 31 mai 2020. Aux mêmes conditions, il a porté en outre de 60 à 120 jours le délai imparti aux fermiers pour s'acquitter d'un terme échu conformément à l'art. 282, al. 1, CO et à 30 jours avec effet immédiat le délai de congé extrêmement court prévu par le droit en vigueur (2 semaines, art. 266e CO) pour les chambres meublées et les places de stationnement. (cf. <https://www.fedlex.admin.ch/eli/cc/2020/195/fr>).

g) le transport et la logistique ;

Pendant la première phase de la pandémie, du 20 mars au 22 juin 2020, les prestataires de services étaient autorisés à distribuer à la population dans l'ensemble du pays sept jours par semaine les denrées alimentaires et les biens de consommation courante commandés en ligne. Pour les transports d'approvisionnement correspondants, l'exigence d'une autorisation exceptionnelle du Secrétariat d'Etat à l'économie (SECO) pour le travail dominical et d'une autorisation exceptionnelle pour circuler le dimanche n'étaient plus nécessaires. Les prestataires de services postaux ne devaient plus respecter les interdictions de circulation et les autres restrictions de circulation, notamment dans les centres-villes et les zones piétonnes, lorsqu'ils délivraient les denrées alimentaires et les biens de consommation courante commandés en ligne. L'Ordonnance correspondante est accessible à l'adresse <https://fedlex.data.admin.ch/filestore/fedlex.data.admin.ch/eli/cc/2020/141/20200620/fr/pdf-a/fedlex-data-admin-ch-eli-cc-2020-141-20200620-fr-pdf-a.pdf>

Une Loi fédérale sur le soutien des transports publics durant la crise du COVID-19 (<https://www.fedlex.admin.ch/eli/oc/2020/708/fr>) permet le soutien financier aux entreprises des transports publics.

Le 6 mai 2020, le Parlement suisse a aussi décidé des bases légales formelles pour les mesures spécifiques afin d'aider les compagnies aériennes suisses à surmonter leurs problèmes de liquidités en les faisant bénéficier de garanties. En outre, les entreprises dites connexes qui fournissent dans les aéroports nationaux des services nécessaires à l'opération du trafic aérien ont reçu elles aussi un appui financier sous certaines conditions. Le gouvernement suisse a

demandé au Parlement des crédits d'engagement pour un montant total de près de 1,9 milliard de francs. Cf. l'article 102a de la Loi fédérale sur l'aviation ([https://www.fedlex.admin.ch/eli/cc/1950/471\\_491\\_479/fr#part\\_3/lvl\\_II\\_a](https://www.fedlex.admin.ch/eli/cc/1950/471_491_479/fr#part_3/lvl_II_a)).

h) la gouvernance d'entreprise.

Les mesures du gouvernement suisse en matière de gouvernance d'entreprise ont principalement porté sur la tenue des assemblées de sociétés (assemblées générales), p.ex. par écrit ou sous forme électronique, sans participation physique nécessaire;

Conformément à l'article 6 alinéa 2 lettres a et b de la Loi sur les épidémies du 28 septembre 2012 (LEp, RS 818.101, <https://www.fedlex.admin.ch/eli/cc/2015/297/fr>), le Conseil fédéral peut ordonner des mesures visant les individus et la population. Sur cette base, a été adoptée l'Ordonnance sur les mesures destinées à lutter contre l'épidémie de Covid-19 en situation particulière (Ordonnance Covid-19 situation particulière, RS 818.101.26 ; <https://www.fedlex.admin.ch/eli/cc/2020/439/fr>). Cette ordonnance régit les mesures visant des personnes, les mesures visant les installations, les établissements et les manifestations accessibles au public, les mesures de protection des employés ainsi que l'obligation des cantons d'informer à propos des capacités sanitaires. Selon l'art. 6 al. 1 de l'Ordonnance COVID-19 situation particulière, les manifestations sont interdites. Cette interdiction s'applique également aux assemblées de sociétés (assemblées générales). Toutefois, les manifestations internes nécessaires au déroulement normal de leurs activités (comme les réunions du conseil d'administration) ne tombent pas sous le coup de l'interdiction des manifestations. Dans la mesure du possible, de telles réunions doivent se tenir de manière virtuelle.

L'art. 8 de la Loi fédérale du 25 septembre 2020 sur les bases légales des ordonnances du Conseil fédéral visant à surmonter l'épidémie de COVID-19 (Loi COVID-19, RS 818.102), accessible à l'adresse <https://www.fedlex.admin.ch/eli/cc/2020/711/fr>, précise que le Conseil fédéral peut déroger aux dispositions du code civil et du code des obligations si l'exercice des droits des participants aux assemblées de sociétés l'exige et prévoir que ceux-ci exercent leurs droits:

- a. par écrit ou sous forme électronique;
- b. par l'intermédiaire d'un représentant indépendant.

Cette loi a servi de base légale pour l'ordonnance correspondante, en vertu de laquelle l'organisateur d'une assemblée de société peut, quel que soit le nombre prévu de participants et sans respecter le délai de convocation, imposer aux participants d'exercer leurs droits exclusivement par écrit ou sous forme électronique ou encore par l'intermédiaire d'un représentant indépendant (art. 27 de l'Ordonnance 3 du 19 juin 2020 sur les mesures destinées à lutter contre le coronavirus (COVID-19) (Ordonnance 3 COVID-19, RS 818.101.24), accessible à l'adresse [https://www.fedlex.admin.ch/eli/cc/2020/438/fr#art\\_27](https://www.fedlex.admin.ch/eli/cc/2020/438/fr#art_27)).

L'organisateur est habilité à prendre la décision relative à la tenue de l'assemblée générale durant toute la période visée à l'art. 29 al. 4 de l'Ordonnance 3 COVID-19, soit jusqu'au 31 décembre 2021. Il doit la notifier par écrit ou la publier sous forme électronique au plus tard 4 jours avant l'assemblée. Le moment où l'AG a lieu n'est par contre pas pertinent. Il est donc possible que l'assemblée générale soit convoquée avant le 31 décembre 2021 et que les décisions appropriées aient été indiquées dans l'invitation conformément à l'art. 27 de l'Ordonnance 3 COVID-19, mais que l'AG elle-même n'ait lieu qu'après le 31 décembre 2021.

L'AG a lieu sans droit de participation physique des actionnaires/ associés/ sociétaires/ membres de l'association. Toutefois, doivent continuer à y assister un président (membre de l'organe supérieur de direction ou d'administration), un secrétaire/scrutateur, le cas échéant, un représentant indépendant et un notaire pour les décisions nécessitant la forme authentique. Une « assemblée résiduelle » physique continue donc à avoir lieu. Dans ce cadre, les représentants de l'organe de révision et, dans le cas d'une AG selon la let. a, tous les autres participants, peuvent également y prendre part par la voie électronique, pour autant que l'identification soit assurée.

En ce qui concerne la participation électronique, il doit être assuré que chaque participant soit identifié/authentifié et qu'il puisse s'exprimer à l'assemblée générale, entendre les votes des autres participants et exercer ses droits, à savoir le droit de vote (cela signifie que tous les participants doivent se réunir en même temps électroniquement, ce qui ne serait pas possible par e-mail). Toutefois, l'exigence d'un visuel n'est pas prescrite. Même dans le cas d'une conférence téléphonique ou visioconférence un procès-verbal de l'assemblée générale doit être rédigé.

Un référendum contre la Loi COVID-19 a été déposé le 14 janvier 2021 ; la votation populaire va avoir lieu le 13 juin 2021(<https://www.admin.ch/gov/fr/accueil/documentation/communiques.msg-id-82214.html>). Si la Loi COVID-19 ne devait pas être approuvée par le peuple, elle prendrait alors fin le 25 septembre 2021. Toutefois, toutes les assemblées tenues jusqu'à cette date sur la base de l'art. 27 Ordonnance 3 COVID-19 restent valables et les résolutions adoptées ne peuvent être contestées suite à l'abrogation des bases légales. Les assemblées dont la tenue a été ordonnée avant le 25 septembre 2021, selon l'art. 27 Ordonnance 3 COVID-19, peuvent toujours avoir lieu conformément à cette base légale. Les résolutions ne sont pas contestables, même si le déroulement effectif de la réunion a lieu après l'abrogation de la Loi COVID-19 et de l'Ordonnance 3 COVID-19.

Pour plus de détails quant à l'organisation d'une assemblée, selon les différentes formes d'entités juridiques existantes en Suisse, la convocation d'une telle assemblée et les procédures à respecter, il est renvoyé aux FAQ préparées par l'OFJ et mises à disposition sur internet (<https://www.bj.admin.ch/dam/ejpd/fr/data/aktuell/news/2020/2020-03-06/faq-gv-f.pdf.download.pdf/faq-gv-f.pdf>)

Si ces mesures ont fait l'objet d'une réglementation spéciale, veuillez fournir un lien vers le texte de loi ou le règlement (ou une copie numérisée si la réglementation n'est pas accessible au public en ligne).

Cf. par exemple les compilations sous <https://www.bj.admin.ch/bj/fr/home/aktuell/coronavirus.html> et <https://www.bag.admin.ch/bag/fr/home/krankheiten/ausbrueche-epidemien-pandemien/aktuelle-ausbrueche-epidemien/novel-cov/massnahmen-des-bundes.html>

2. Veuillez préciser les mesures de réponse adoptées pour soutenir les entreprises (y compris sous forme d'aide financière), et les critères fixés pour que les entreprises bénéficient d'un tel soutien. Veuillez également indiquer le fondement juridique de ces mesures et si une nouvelle réglementation a été rendue nécessaire.

Mesures générales:

Cf. les réponses à la première partie du questionnaire ci-dessus (notamment 1b), par rapport à l'accès aux crédits, au cautionnement par l'Etat, aux mesures financières pour cas de rigueur, etc.

En vertu de l'art. 12 de la Loi fédérale du 25 septembre 2020 sur les bases légales des ordonnances du gouvernement suisse visant à surmonter l'épidémie de COVID-19 (Loi COVID-19), accessible à l'adresse <https://www.fedlex.admin.ch/eli/cc/2020/711/fr>, la Confédération peut soutenir les mesures des cantons pour les cas de rigueur destinées aux entreprises particulièrement touchées par les conséquences de l'épidémie de COVID-19 en raison de la nature même de leur activité économique, en particulier les entreprises actives dans la chaîne de création de valeur du secteur événementiel, les forains, les prestataires du secteur des voyages, de la restauration et de l'hôtellerie ainsi que les entreprises touristiques.

Il y a cas de rigueur si le chiffre d'affaires annuel de l'entreprise est inférieur à 60 % de la moyenne pluriannuelle. La situation patrimoniale et la dotation en capital globales doivent être prises en considération, ainsi que la part des coûts fixes non couverts.

Pour pouvoir bénéficier d'une mesure pour les cas de rigueur, l'entreprise soutenue ne doit pas, pour l'exercice concerné, distribuer de dividendes ou de tantièmes ou décider de leur distribution, ni rembourser d'apports en capital ou décider de leur remboursement.

Le soutien de la Confédération n'est accordé que si les entreprises étaient rentables ou viables avant l'apparition du COVID-19 et à condition qu'elles n'aient pas droit à d'autres aides financières de la Confédération au titre du COVID-19. Ces dernières n'incluent pas les indemnités en cas de réduction de l'horaire de travail, les allocations pour perte de gain et les crédits et cautionnements solidaires liés au COVID-19.

S'y ajoutent des mesures générales tels que l'extension du chômage partiel et simplification des démarches administratives; sur [travail.swiss](https://www.travail.swiss): "Indemnité en cas de RHT (COVID-19)" on trouvera des informations sur le chômage partiel liées à la l'épidémie de Covid 19: <https://www.arbeit.swiss/seco/v/fr/home/menue/unternehmen/versicherungsleistungen/kurzarbeit-covid-19.html>

#### Mesures spécifiques:

Le 29 avril 2020, le gouvernement suisse a décidé d'aider les compagnies aériennes Swiss et Edelweiss à surmonter leurs problèmes de liquidités en les faisant bénéficier de garanties. Pour reprendre le trafic aérien, les compagnies aériennes sont tributaires des services que les entreprises dites connexes fournissent dans les aéroports nationaux. C'est pourquoi ces entreprises recevront elles aussi un appui si nécessaire et pour autant que les conditions strictes de la Confédération puissent être respectées. Le gouvernement suisse demande au Parlement des crédits d'engagement pour un montant total de près de 1,9 milliard de francs.

Une Loi fédérale sur le soutien des transports publics durant la crise du COVID-19 (<https://www.fedlex.admin.ch/eli/oc/2020/708/fr>) permet le soutien financier aux entreprises des transports publics.

3. Veuillez préciser le type de régime de surveillance ou de contrôle de conformité appliqué aux entreprises bénéficiant du soutien mentionné à la question 2.

En vertu de l'article 11 de l'Ordonnance du 25 novembre 2020 concernant les mesures pour les cas de rigueur destinées aux entreprises en lien avec l'épidémie de COVID-19 (Ordonnance COVID-19 cas de rigueur), accessible à l'adresse <https://www.fedlex.admin.ch/eli/cc/2020/875/fr>, la Confédération participe uniquement aux

coûts et aux pertes que les mesures pour les cas de rigueur qu'il a prises occasionnent au canton si celui-ci:

- a. veille à prendre des mesures appropriées pour gérer les prêts, les cautionnements ou les garanties;
- b. prend des mesures appropriées après la survenance de pertes liées à des prêts ou à des cautionnements pour pouvoir recouvrer le montant de la créance;
- c. lutte contre les abus par des moyens appropriés.

Les offices fédéraux responsables des aides financières au titre du COVID-19 destinées spécifiquement aux domaines de la culture, du sport, des transports publics ou des médias sont tenus de communiquer aux offices cantonaux compétents, au Secrétariat d'État à l'économie (SECO) et au Contrôle fédéral des finances, les données personnelles et les informations dont ceux-ci ont besoin pour exécuter leurs tâches.

La Confédération peut effectuer à tout moment des contrôles ponctuels auprès des cantons.

Le contrat que le canton conclut avec une entreprise concernant l'octroi de contributions, de prêts, de cautionnements ou de garanties ou la décision du canton prévoit que le canton peut se procurer des données sur l'entreprise concernée auprès d'autres offices de la Confédération et des cantons ou qu'il peut communiquer à ces offices des données sur l'entreprise, dans la mesure où celles-ci sont nécessaires à l'examen des demandes, à la gestion des aides et à la lutte contre les abus (art. 9 de l'Ordonnance du 25 novembre 2020 concernant les mesures pour les cas de rigueur destinées aux entreprises en lien avec l'épidémie de COVID-19 (Ordonnance COVID-19 cas de rigueur), accessible à l'adresse <https://www.fedlex.admin.ch/eli/cc/2020/875/fr>)

Cf. le plan de contrôle pour la lutte contre les abus:

<https://covid19.easygov.swiss> > Crédits COVID-19 > Autres informations

4. Veuillez préciser les types d'obstacles aux échanges économiques transfrontaliers et au commerce signalés par les entreprises (le cas échéant), en raison des mesures prises par les États pour surmonter la pandémie.

Fermeture des frontières sous certaines conditions, ou conditions à l'entrée en Suisse (quarantaine, exigence d'un test négatif, formulaires, etc.). Toutefois, le passage des frontières par les personnes résidentes dans les pays voisins et employées en Suisse était toujours possible. Cf. les informations sous <https://www.bag.admin.ch/bag/fr/home/krankheiten/ausbrueche-epidemien-pandemien/aktuelle-ausbrueche-epidemien/novel-cov/empfehlungen-fuer-reisende/quarantaene-einreisende.html>

5. Outre les mesures évoquées en réponse à la question 1, veuillez préciser (a) toute réglementation que le Gouvernement a prise pour surmonter les obstacles au commerce transfrontalier, et (b) toute autre mesure législative prise pour répondre à la pandémie qui a pu affecter le commerce transfrontalier.

Fermeture des frontières sous certaines conditions, ou conditions à l'entrée en Suisse (quarantaine, exigence d'un test négatif, formulaires, dispositions spéciales pour les frontaliers, etc.). Cf. les informations sous

<https://www.bag.admin.ch/bag/fr/home/krankheiten/ausbrueche-epidemien-pandemien/aktuelle-ausbrueche-epidemien/novel-cov/empfehlungen-fuer-reisende/quarantaene-einreisende.html>

Il est renoncé à donner plus d'indications sur ces mesures, puisqu'elles sortent du mandat de la CNUDCI.

6. Veuillez préciser les mesures qui ont été mises en place pour atténuer les effets de la pandémie sur le règlement des différends commerciaux (par exemple, faciliter les audiences à distance, étendre les procédures accélérées, prolonger les délais de prescription).

Le gouvernement suisse a décidé le 20 mars 2020 d'étendre la durée des fêtes judiciaires en matière civile et administrative. (cf. <https://www.fedlex.admin.ch/eli/cc/2020/160/fr>).

Avec l'Ordonnance du 16 avril 2020 instaurant des mesures en lien avec le coronavirus dans le domaine de la justice et du droit procédural (Ordonnance COVID-19 justice et droit procédural), accessible à l'adresse <https://www.fedlex.admin.ch/eli/cc/2020/234/fr>, les audiences peuvent sous certaines conditions (p.ex. consentement des parties, urgence, etc.) être tenues par vidéoconférence.

L'ordonnance précitée allège aussi provisoirement les conditions de notification des actes de poursuite : dans certains cas, ces actes pourront être notifiés valablement sans reçu, contre une autre preuve de notification.

Le 25 septembre 2020, le gouvernement suisse a, dans un souci de continuité de l'application du droit, décidé de prolonger la validité de l'ordonnance de nécessité consacrée à la justice et au droit procédural, tout en l'adaptant à la nouvelle situation épidémiologique. La durée de validité de l'ordonnance est limitée au 31 décembre 2021.

Autres exemples: L'Office fédéral des routes a décidé de prolonger les délais pour la prolongation obligatoire des permis de conduire temporaires ou pour personnes âgées. Il a aussi renoncé à des examens obligatoires pour renouveler les permis. Le gouvernement suisse a en outre prolongé les délais pour les forains et exploitants de cirque et les attestations de sécurité délivrée par un organisme d'inspection accrédité ou reconnu. Le cercle des organisme d'inspection accrédité ou reconnu a été élargi.

7. Veuillez indiquer tout problème lié à la réponse et au redressement économiques dans le contexte du COVID-19 qui bénéficierait le plus de solutions juridiques harmonisées dans le domaine du droit commercial international<sup>32</sup>.

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<sup>32</sup> A noter que la Commission a reconnu ([A/75/17](#), première partie, para. 27) que plusieurs instruments législatifs de la CNUDCI pouvaient jouer un rôle important pour aider les États à atténuer les effets des mesures nécessaires pour contrôler la pandémie ainsi que dans leurs efforts de redressement économique, et qu'elle a en particulier renouvelé son invitation faite aux États pour qu'ils envisagent d'adopter les textes législatifs de la CNUDCI dans le domaine du commerce électronique et de l'insolvabilité, ainsi que les instruments d'appui aux micro, petites et moyennes entreprises et de promotion du règlement efficace des différends commerciaux. Il convient également de noter que le Secrétariat procède actuellement à une évaluation des textes de la CNUDCI pour déterminer comment ils s'appliquent à la lumière des technologies émergentes et de leur utilisation et si des lacunes doivent être comblées par des efforts d'harmonisation futurs ([A/75/17](#), deuxième partie, para. 76).

## **Responses submitted by Türkiye**

1. Please specify the response measures that the Government has adopted to alleviate negative impacts of the pandemic on businesses in the following areas:

a) Bankruptcy and insolvency,

b) Support for small and medium-sized enterprises,

*1. Payroll support by the government for sustainable employment (by Ministry of Family, Labor and Social Services)*

*2. Postponing of debts regarding the reimbursable supports. (by KOSGEB)*

*3. Extensions for the project-based and entrepreneurship programs. (by KOSGEB)*

*4. Postponing of loan repayments. (by KOSGEB)*

*5. Increasing upper limit of financial support and extending the period of the support. (by KOSGEB)*

*6. With the legal regulation introduced on 17 April 2020, activities of “Technopark” companies, R&D and “Design Center” companies can be carried out from outside the Region, and exemptions and incentives can be used within the scope of the COVID-19 outbreak. It started as 100% as of March 15, 2020 and these rates were gradually reduced according to the spread rate of the pandemic in the following months and they were allowed to continue to benefit from the reductions, exceptions, supports and incentives under the Law No.4691 and No.5746 until 30 April 2021.*

c) Public procurement,

d) Electronic commerce (including in the areas of electronic signatures, electronic authentication, and paperless trade),

e) business-to-business contractual relations (including drafting, interpretation and application of force majeure clause),

f) Transportation and logistics, and

g) Corporate governance.

If these measures were legislated, please provide a link to the legislation (or a separate copy if the legislation is not publicly accessible online).

*Yes, they were all legislated and all announced by the government publicly. Examples to such legislations are as follows in Turkish:*

*Presidential Decision no. 2278 - The decision to change the decision related to the determination of value added tax rates to be applied to goods and services (the decrease of value added tax rate applied to the domestic airline passenger transportation services until 30.06.2020).*

<https://www.resmigazete.gov.tr/eskiler/2020/03/20200322-1.pdf> Presidential Decision no. 2279 - The ceasing of the follow-up of enforcement proceedings (until 30.04.2020) <https://www.resmigazete.gov.tr/eskiler/2020/03/20200322-2.pdf>

Please also refer to: <https://www.resmigazete.gov.tr/eskiler/2020/04/20200417-2.htm>

2. Please specify the response measures adopted to support businesses (including in the form of financial assistance), and the criteria for businesses to receive support. Please also indicate the legislative basis for these measures and whether new legislation was needed.

1. *Within the scope of KOSGEB Support Programs as well as application, evaluation and payment processes have been transferred to the digital platform.*
2. *For reimbursable supports of KOSGEB, payments was postponed until January 31, 2021.*
3. *The beneficiaries of KOSGEB's project-based support programs and entrepreneurship supports were able to extend their reimbursement dues 4 additional months.*
4. *The loan repayments have been postponed by three months for SMEs which have received loans through KOSGEB loan support package. SMEs do not pay any expenses in return for the deferral. KOSGEB covers the financing costs (713 billion TL ~ USD 96 billion), arising from the deferral.*
5. *The upper limit of KOSGEB's finance support changed from 300.000 TL to 3 million TL (404.000 USD). Besides, the maturity period of loans qualifying for KOSGEB's finance support has been extended from 48 months to 60 months.*

*(All of these measures has been taken depending on the stimulus package unveiled by The President of Turkish Republic on 18th March 2020.)*

6. *COVID-19 was evaluated within the scope of the "force majeure" article in the contracts, and additional time was given to the enterprises to complete their work under their responsibilities.*
7. *Additionally, all necessary actions were applied to support businesses and they were all announced by the government publicly. The examples of such measures are as follows:*
  - *Presidential Decision no. 2283 (the postponement of loan debts of crafts and artisanal businesses to Türkiye Halk Bankası A.Ş. and regional unions)*
  - *Please also look at the link:*

[https://www.resmigazete.gov.tr/eskiler/2020/04/20200402\\_21.pdf](https://www.resmigazete.gov.tr/eskiler/2020/04/20200402_21.pdf)

*(New legislation about the measures adopted to support businesses may be needed.)*

3. Please specify the type of monitoring or compliance regime that has been applied to businesses receiving the support mentioned in question 2.

1. *KOSGEB has a database named KBS (SME Information System) for SMEs which benefit from the supports. In this context, all support processes of SMEs are being monitored through KBS.*
2. *Interest free-loan, employee support allowance, giving additional time to projects, giving additional time to bid for tenders are some of the examples on that issue.*



4. Please specify the kinds of obstacles reported by businesses (if any) to cross-border trade and commerce due to measures implemented by States to overcome the pandemic.

1. *Export routes passing through countries where coronavirus is common have been carried out through alternative routes. (Truck routes of Central Asian exports made through Iran, where the epidemic is common, have been directed to Georgia and Azerbaijan.)*
2. *Ro-Ro flights to Italy and France have been made possible without human contact.*
3. *Export train services have been scheduled and started to China.*

*(These are some of the examples on that issue.)*

5. Aside from the measures specified in response to question 1, please specify (a) any legislation that the Government has passed to overcome obstacles to cross-border trade, and (b) any other legislative measures to respond to the pandemic which may affect cross-border trade.

*Positive results have been achieved on this issue. For example, exports to Iraq started to be made with contactless trade. The measures taken can be accessed from the link:*

<https://ticaret.gov.tr/haberler/irak-ile-ticaret-temassiz-surduruluyor>

6. Please specify the measures that have been put in place to mitigate the effects of the pandemic on commercial dispute settlement (for example, facilitating remote hearings, expanding fast-track proceedings, extension of limitation periods).

*All measures and cautions have been taken by the Turkish Government, including facilitating remote hearings, expanding fast-truck proceedings, extensions of limitation periods, announcing the cautions and results to the public every day etc. An example to such a measure is as follows:*

*It has been implemented by law that, for a certain time period (01.03.2020 to 30.06.2020), the failure in the payment of the workplace rents would not be counted as a reason for the dissolution of contracts.*

*Law no.7226 - The law related to the change in certain laws - Provisional article no.2*

<https://www.resmigazete.gov.tr/eskiler/2020/03/20200326M1-1.htm>

7. Please indicate any issues related to COVID-19 response and recovery that would most benefit from harmonized legal solutions in the area of international commercial law<sup>33</sup>.

*Implementation of vaccines in a certain time schedule, activating measures and cares per the decisions of the Scientific Committee.*

## **Responses submitted by the United States**

Note: Information current as of 31 March 2022, date of submission to UNCITRAL.

### **1. Please Specify the response measures that the Government has adopted to alleviate negative impacts of the pandemic on businesses in the following areas:**

#### **a. Bankruptcy and insolvency**

The [Coronavirus Aid, Relief, and Economic Security Act](#) (CARES Act) signed March 27<sup>th</sup> 2020 increased the debt limit under the Small Business Reorganization Act of 2019 from \$2.7 million to \$7.5 million for small business (500 employees or less) that choose to restructure under Chapter 11 of the Bankruptcy Code. This provision is valid until March 27<sup>th</sup> 2022.<sup>34</sup>

#### **b. Support for small and medium-sized enterprises**

The [Coronavirus Preparedness and Response Supplemental Appropriations Act](#) signed March 6<sup>th</sup> 2020 provided the U.S. Small Business Administration (SBA) with \$7 billion in disaster assistance loans to offer to small businesses (500 employees or less). The low-interest loans (3.75% for small businesses and 2.75% for non-profits) are to be used to pay fixed debts, payrolls, and additional bills unable to be paid due to the impact of COVID-19. The loans are repayable up to a maximum of 30 years, as determined on a case-by-case basis.<sup>35</sup>

The [Families First Coronavirus Response Act](#) signed March 18<sup>th</sup> 2020, requires all private businesses with less than 500 employees to provide emergency paid sick or family leave for employees affected by COVID-19. The Act offers those employers refundable payroll tax credits to cover the cost of this requirement.<sup>36</sup>

The [Coronavirus Aid, Relief, and Economic Security Act](#) (CARES Act), signed March 27<sup>th</sup> 2020 includes the \$349 billion Paycheck Protection Program (PPP) which allows businesses to borrow money from the SBA to cover monthly payroll costs for up to two and a half months. These loans may be forgiven. Eligible businesses include those with 500 or fewer employees or larger businesses in select industries operating as of February 15<sup>th</sup> 2020.<sup>37</sup> Employers can also defer payment of their share of Social Security taxes incurred through the end of 2020. The CARES Act also expands eligibility for the SBA's disaster loan program, allowing companies with 500 employees or less to apply.<sup>38</sup>

The [Coronavirus Response and Relief Supplemental Appropriations Act of 2021](#) (CRRSAA) was signed on December 27<sup>th</sup> 2020 as part of a larger government appropriations bill. Among its various

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<sup>34</sup> Jerrod Bregman, *Just in Time: New Bankruptcy Relief for Small Businesses* NEW YORK LAW JOURNAL, Sept. 23, 2020 <https://www.law.com/newyorklawjournal/2020/09/23/just-in-time-new-bankruptcy-relief-for-small-businesses/?slreturn=20210125124146> ; *Small Business Bankruptcy During the Covid-19 Outbreak* JUSTIA May 2020 <https://www.justia.com/covid-19/debts-and-bankruptcy-during-the-covid-19-outbreak/small-business-bankruptcy-during-the-covid-19-outbreak/>. The debt limit increase was extended for an additional year, from March 26, 2021, to March 27, 2022, by the "COVID-19 Bankruptcy Relief Extension Act." "COVID-19 Bankruptcy Relief Extension Act Extends Higher Debt Limit for Small Business Bankruptcies," *Hirschler Alert* (Apr. 8, 2021), available at <https://www.hirschlerlaw.com/newsroom-publications-1684#:~:text=While%20the%20SBRA%20has%20many,initially%20through%20March%2027%2C%202021.>

<sup>35</sup> Sean Ludwig, *Everything You Need to Know About Coronavirus Federal Small Business Stimulus Aid Programs*, U.S. CHAMBER OF CONGRESS, Feb. 22 2021 <https://www.uschamber.com/co/start/strategy/federal-small-business-stimulus-aid-programs-guide>.

<sup>36</sup> *Id.*

<sup>37</sup> See, *FAQs on Paycheck Protection Program Loans*, SMALL BUSINESS ASSOCIATION <https://www.sba.gov/sites/default/files/2021-01/Paycheck-Protection-Program-Frequently-Asked-Questions.pdf>.

<sup>38</sup> *Id.*; *Business Assistance During the Coronavirus Pandemic*, JUSTIA April 2020 <https://www.justia.com/covid-19/business-assistance-during-the-coronavirus-pandemic/>.

provisions, the CRRSA allocated \$380 billion to small business aid, and reopened the PPP through March 31<sup>st</sup> 2021 for more businesses to apply and for beneficiary businesses to reapply for another PPP loan. The Act also expands on the types of expenses PPP loans can be used for. Loan forgiveness is also rendered easier for businesses which took out loans under \$150,000. The CRRSA also renders PPP loans as well as the majority of expenses paid for with PPP loans non-taxable.<sup>39</sup> The CRRSA also reopened and allocated more funds to the SBA's disaster loan program.

On February 22<sup>nd</sup> 2021, the Biden Administration announced that businesses and nonprofits with fewer than 20 employees will have exclusive access to apply to PPP loans with the SBA for a two week period starting February 24<sup>th</sup>. After this window, all other companies which have not already applied for PPP loans may apply until March 31<sup>st</sup>.<sup>40</sup>

### **c. Public procurement**

The Defense Production Act (DPA) enables the U.S. President to mandate that certain U.S. businesses sign contracts or fill purchase orders if considered necessary for national defense. Starting at the end of March 2020, President Trump used the DPA to compel companies such as General Motors and 3M to produce essential health products such as ventilators and protective gear.<sup>41</sup> On February 24<sup>th</sup> 2021, President Biden signed an Executive Order directing review of the government's critical global supply chains, the findings of which will likely lead to policy reform recommendations regarding medical equipment procurement and production.<sup>42</sup>

### **d. Electronic commerce (including in the areas of electronic signatures, electronic authentication, and paperless trade)**

Since 2000, the validity of electronic signatures between agreeing contracting parties has been recognized and governed by the 2000 federal Electronic Signatures in Global and National Commerce Act (E-Sign).<sup>43</sup> Since the beginning of COVID-19, most states have signed executive orders or enacted other forms of law to enable remote online notarization. For example, New York's executive order requires remote notarizations to be performed by video conference and accepts electronic signatures (if the document can be electronically signed) as long as the notary witnesses the application of the signature via video conference.<sup>44</sup> Other states have enacted emergency short-term measures to support remote notarization. Federal legislation that would authorize every notary to perform online notarizations was proposed in February 2020 but has not yet been passed.<sup>45</sup> On August

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<sup>39</sup> *Id.*

<sup>40</sup> Ludwig, *supra* note 2.

<sup>41</sup> John M. Beahn and Robert S. Larussa, *The Defense Production Act – What Businesses Need to Know*, SHEARMAN & STERLING, March 31 2020 <https://www.shearman.com/perspectives/2020/03/the-defense-production-act-what-us-businesses-need-to-know-covid-19>.

<sup>42</sup> Jamie Gorelick et al., *Biden Orders Reviews of Critical Supply Chains*, WILMER HALE Feb. 25, 2021 <https://www.wilmerhale.com/en/insights/client-alerts/20210225-biden-orders-reviews-of-critical-supply-chains>.

<sup>43</sup> David Amidon and Amanda Adam, *Using E-Signatures on Legal Documents During Covid-19*, BURNS LEVINSON, April 8, 2020 <https://www.burnslev.com/news/using-e-signatures-on-legal-documents-during-covid-19>.

<sup>44</sup> Steven O. Weise, *Electronic Signatures Becoming the Norm During Covid-19 Outbreak*, 11 THE NATIONAL L. REV. April 24, 2020 <https://www.natlawreview.com/article/electronic-signatures-becoming-norm-during-covid-19-outbreak>.

<sup>45</sup> Margo H.K. Tank et al., *Coronavirus: Federal and State Governments Work Quickly to Enable Remote Online Notarization to Meet Global Crisis*, DLA PIPER, Feb. 11 2021 <https://www.dlapiper.com/en/us/insights/publications/2020/03/coronavirus-federal-and-state-governments-work-quickly-to-enable-remote-online-notarization/>.

28<sup>th</sup> 2020, the US Internal Revenue Service (IRS) allowed for the use of digital signatures (including scanned/photographed images of signatures) for certain IRS forms that must be filed manually.<sup>46</sup>

**e. Business-to-business contractual relations (including drafting, interpretation and application of force majeure clause)**

State courts have split in their interpretation of whether COVID-19 developments may constitute force majeure, depending on the terms and language of the contract.

Since contractual relations are generally litigated in state courts, not all traditional defenses against a breach of contract may be available or applicable to COVID-19 related circumstances under state common law if a contract does not include a force majeure clause.<sup>47</sup> Bankruptcy courts have also addressed the question of force majeure and the contractual doctrines of excuse (commercial impracticability and frustration), when considering a debtor's obligation for rent in connection with the decision to assume or reject commercial leases.<sup>48</sup>

**f. Transportation and logistics**

The CARES Act directs over \$110 billion in direct funds, loans, and other forms of relief to transportation sectors affected by COVID-19, namely, the aviation, passenger rail, and public transportation industries. Trucking, freight rail, ocean shipping, or auto industries are not included under this form of relief. However, many such businesses could be eligible to seek loans from the \$450 billion earmarked as general funds to assist businesses and state and local governments. The CARES Act provides \$32 billion in direct federal grants to the aviation industry. Such grants must be used to pay employee wages, salaries, and benefits. Eligible recipients must not conduct involuntary furloughs or reduce pay or benefits until September 30<sup>th</sup> 2021. In order to be a recipient of such funds, businesses must have incurred or be expected to incur COVID-related losses which jeopardize their operation. Furthermore, other forms of credit must not be reasonably available to the business. Eligible recipients must also not reduce employment levels more than 10% below March 20<sup>th</sup> 2020 levels. The CARES Act further provides \$10 billion in grants-in-aid to airports. Regarding public transit, the Act allocates \$25 billion for transit infrastructure grants. Amtrak (the National Railroad Passenger Corporation) is allocated \$1 billion in federal grants to prevent, prepare, and respond to COVID-19.<sup>49</sup>

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<sup>46</sup> Sarah-Jane Morin, Nicola Y. Liu & Eric Albers-Fielder, *IRS Approves Temporary Use of Digital Signatures for Certain Forms*, MORGAN LEWIS, Sept. 10 2020 <https://www.morganlewis.com/pubs/2020/09/irs-approves-temporary-use-of-digital-signatures-for-certain-forms-cv19-lf>

<sup>47</sup> *Force Majeure Under the Coronavirus (COVID-19) Pandemic*, PAUL WEISS, March 16, 2020 <https://www.paulweiss.com/practices/litigation/litigation/publications/update-force-majeure-under-the-coronavirus-covid-19-pandemic?id=30881>; Eddy Salcedo, Owen R. Wolfe, and Claire Bjerke, *Latest Decisions on Force Majeure in the Covid-19 Context*, Seyfarth, Sept. 25, 2020 <https://www.seyfarth.com/news-insights/latest-decisions-on-force-majeure-in-the-covid-19-context.html>; *Contract Claims During COVID-19*, JUSTIA, April 2020 <https://www.justia.com/covid-19/business-assistance-during-the-coronavirus-pandemic/contract-claims-during-covid-19/>.

<sup>48</sup> *In re Hitz Restaurant Group*, 2020 WL 2924523 (Bankr. N.D. Ill. June 3, 2020). See also, *See, e.g., In re J.C. Penney Co. Inc.*, No. 20-20182 (DRJ) (Bankr. S.D. Tex. June 11, 2020); *In re Craftworks Parent LLC*, No. 20-10475 (BLS) (Bankr. D. Del. May 21, 2020); *In re Bread & Butter Concepts, LLC*, No. 19-22400 (DLS) (Bankr. D. Kan. May 15, 2020); *In re Pier 1 Imports, Inc.*, 2020 WL 2374539 (Bankr. E.D. Va. May 10, 2020); *In re Modell's Sporting Goods, Inc.*, No. 20-14179 (VFP) (Bankr. D. N.J. Mar. 27, 2020).

<sup>49</sup> Paul Hemmersbaugh, *Transportation Provisions of the CARES Act, the Federal COVID-19 Relief and Economic Stimulus Law*, DLA PIPER, April 3, 2020 <https://www.dlapiper.com/en/czech/insights/publications/2020/04/transportation-provisions-of-the-cares-act-the-federal-covid-19-relief-and-economic-stimulus-law/>.

**g. Corporate governance**

As a condition for accepting government relief funds, Sections 4004 and 4116 CARES Act restricts its use for executive compensation and severance pay for officers and employees who receive compensation in excess of specified amounts.<sup>50</sup>

- 2. Please specify the response measures adopted to support businesses (including in the form of financial assistance), and the criteria for businesses to receive support. Please also indicate the legislative basis for these measures and whether new legislation was needed.**

See details above outlined in question 1.

- 3. Please specify the type of monitoring or compliance regime that has been applied to businesses receiving the support mentioned in question 2.**

The CARES Act creates new enforcement mechanisms to ensure that government loans are used consistent with the stated requirements. The Special Investigator General for Pandemic Recovery (SIGPR) established within the Treasury Department conducts audits and investigations (including the authority to issue subpoenas) for any loans distributed by the Treasury under the CARES Act. The Pandemic Response Accountability Committee (PRAC) supports the oversight of funds in order to detect fraud, abuse, waste, or mismanagement. The PRAC has authority to conduct investigations including public hearings, issue subpoenas, and can refer matters to the Department of Justice for civil or criminal investigation. The Congressional Oversight Commission supervises the implementation of funds issued by the Treasury and the Federal Reserve. It can also hold hearings, take testimony, and receive evidence. In addition to these new enforcement regimes, the Department of Justice, State Attorney Generals, Securities and Exchange Commission, and IRS are all empowered to investigate and monitor fraud and misuse of COVID-19 relief funds.<sup>51</sup>

- 4. Please specify the kinds of obstacles reported by business (if any) to cross-border trade and commerce due to measures implemented by States to overcome the pandemic.**

None.

- 5. Aside from the measures specified in response to question 1, please specify: (a) any legislation that the Government has passed to overcome obstacles to cross-border trade, and (b) any other legislative measures to respond to the pandemic which may affect cross-border trade.**

None.

- 6. Please specify the measures that have been put in place to mitigate the effects of the pandemic on commercial dispute settlement (for example, facilitating remote hearings, expanding fast-track proceedings, extension of limitation periods).**

Section 15002 of the CARES Act allows for the use of videoconferencing in certain judicial criminal matters.<sup>52</sup> Many courts, including the Supreme Court and almost all federal circuit courts, have moved

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<sup>50</sup> Jim Tankersley et al., *The Coronavirus Economy: When Washington Takes Over Business*, THE NEW YORK TIMES, March 26 2020 <https://www.nytimes.com/2020/03/26/business/economy/coronavirus-relief-bill.html>; Joseph E. Bachtelder III, *COVID-19 and Executive Pay*, NEW YORK LAW JOURNAL, June 18, 2020 <https://www.law.com/newyorklawjournal/2020/06/18/covid-19-and-executive-pay/>; For more specific information on the relevant provisions, see John D. Martini and Corey A. Thomas, *Executive Compensation and the CARES Act*, HOLLAND & KNIGHT, March 30, 2020 <https://www.hklaw.com/en/insights/publications/2020/03/executive-compensation-and-the-cares-act>

<sup>51</sup> Bob Allen et al., *CARES Act Enforcement Risks and Compliance Best Practices*, KIRKLAND & ELLIS, April 8, 2020 <https://www.kirkland.com/publications/kirkland-alert/2020/04/cares-act-enforcement-risks-and-compliance>

<sup>52</sup> *COVID-19 and the Global Approach to Further Court Proceedings, Hearings*, NORTON ROSE FULBRIGHT, April 2020 <https://www.nortonrosefulbright.com/en-us/knowledge/publications/bbfeb594/covid-19-and-the-global-approach-to-further-court-proceedings-hearings#United%20States%20of%20America>.

to videoconferencing. The American Arbitration Association has also permitted parties to use alternative arrangements including video, teleconference, or postponements.<sup>53</sup>

**7. Please indicate any issues related to COVID-19 response and recovery that would most benefit from harmonized legal solutions in the area of international commercial law**

Ongoing efforts at UNCITRAL related to insolvency and MSMEs are particularly relevant for COVID recovery. More widespread adoption of existing UNCITRAL measures related to the digitization of commercial activity could help to promote continuity of such activity in spite of COVID.

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<sup>53</sup> Alexander W. Koff et al., *Dispute Settlement in the Era of COVID-19: Our “New Normal”?* VENABLE May 26, 2020 <https://www.venable.com/insights/publications/2020/05/dispute-settlement-in-the-era>.