



# General Assembly

Distr.: Limited  
4 December 2013

Original: English

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**United Nations Commission  
on International Trade Law**  
Working Group I (MSMEs)  
Twenty-second session  
New York, 10-14 February 2014

## **Selected activities of international and intergovernmental organizations to promote micro, small and medium-sized enterprises**

**Note by the Secretariat**

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## I. Background

1. At its forty-sixth session, in 2013, the Commission agreed that work on international trade law aimed at reducing the legal obstacles faced by micro, small and medium-sized enterprises (MSMEs) throughout their life cycle and, in particular, those in developing economies should be added to the work programme of the Commission.
2. The Commission also agreed that such work should start with a focus on the legal questions surrounding simplified incorporation and that the Secretariat should prepare documentation in order to assist the Working Group. This preparatory documentation should include, *inter alia*, information on how the work of the Commission in the area of MSMEs is complementary to the work of other international and intergovernmental organizations — both within and outside the United Nations — having a mandate in these fields.
3. This note has been prepared to provide that information on international initiatives in response to the request of the Commission. It integrates the findings of the UNCITRAL colloquia organized in 2011 and 2013<sup>1</sup> as well as those of Secretariat notes submitted to the Commission at its forty-third (2010),<sup>2</sup> and forty-fifth (2012)<sup>3</sup> sessions.

## II. The broader United Nations context

4. The upcoming work on MSMEs can be placed in the context of sustainable development and inclusive finance. The mandate of Working Group I appears to be consistent with the emphasis of the outcome document of the United Nations Conference on Sustainable Development, entitled “The future we want”, on poverty eradication, gender equality, sustainable economic development, and the advancement of social stability and just distribution. The vision and the political commitment expressed in that document, which was endorsed by the United Nations General Assembly,<sup>4</sup> contribute to the preparation of the Post-2015 Development Agenda. Under the current United Nations-wide efforts<sup>5</sup> to set the Agenda, global

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<sup>1</sup> See A/CN.9/727 and A/CN.9/780 respectively. Presentations delivered at those colloquia are available on the UNCITRAL website at [www.uncitral.org/uncitral/en/commission/colloquia/microfinance-2011.html](http://www.uncitral.org/uncitral/en/commission/colloquia/microfinance-2011.html) and [www.uncitral.org/uncitral/en/commission/colloquia/microfinance-2013.html](http://www.uncitral.org/uncitral/en/commission/colloquia/microfinance-2013.html).

<sup>2</sup> See A/CN.9/698.

<sup>3</sup> See A.CN.9/756.

<sup>4</sup> See Resolution A/RES/66/288, The future we want, adopted in July 2012. The United Nations Conference on Sustainable Development, also known as Rio+20 Conference, took place in Brazil on 20-22 June 2012 to mark the 20th anniversary of the 1992 United Nations Conference on Environment and Development (UNCED), in Rio de Janeiro, and the 10th anniversary of the 2002 World Summit on Sustainable Development (WSSD) in Johannesburg. For more information see: [www.unccd2012.org/about](http://www.unccd2012.org/about).

<sup>5</sup> The United Nations Secretary General, among other initiatives, has established the United Nations System Task Team on the Post-2015 United Nations Development Agenda to support system-wide preparations for the Agenda. The Team brings together more than 60 United Nations agencies and international organizations. In its first report to the Secretary General, the Team suggested four key dimensions on which to articulate the Agenda: (1) inclusive social development; (2) inclusive economic development; (3) environmental sustainability; and

policymakers are examining, inter alia, the role that the promotion of microfinance and inclusive financing, financial cooperatives, business cooperatives, and other means such as the more effective use of diaspora remittances, and various public-private partnership structures can play in supporting inclusive development.

5. As a contribution to this discussion, the recent Report of the High-Level Panel of Eminent Persons on the Post-2015 Development Agenda<sup>6</sup> has clearly indicated that business wants a simple regulatory framework which makes it easy to start, operate and close a business. This is particularly true for small and medium-sized enterprises (SMEs) which are “especially hamstrung by unnecessarily complicated regulations that can also breed corruption”.<sup>7</sup> Reform that introduces smart regulation that is stable and implemented in a transparent way is thus required. It may be noted that in the context of universal legal identity, the Report emphasizes the key importance of legal registration, currently denied to billions of natural persons, in order to prevent deprivation of economic and civil rights. This suggests a similar consideration with regard to the mandate of Working Group I, which addresses the lack of formal legal personality among numerous MSMEs that constrains their ability to fully benefit from social and economic developments and also detracts from the ability of the States to implement appropriate transparency and other measures.

6. The rule of law is integrated in the global efforts to promote sustainable development, and that connection is formally recognized in the Rule of Law Declaration of the United Nations General Assembly.<sup>8</sup> This Declaration and the Special High-Level Event<sup>9</sup> of the General Assembly on the follow-up to the Millennium Development Goals have confirmed the rule of law’s importance in the preparation of the Post-2015 Development Agenda. Discussions at the 2013 UNCITRAL colloquium and at the forty-sixth session of the Commission, in 2013, highlighted how UNCITRAL work, on developing a simplified legal model for MSMEs and creating an enabling legal environment for those businesses, can

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(4) peace and security. For more information see [www.un.org/en/development/desa/policy/untaskteam\\_undf/index.shtml](http://www.un.org/en/development/desa/policy/untaskteam_undf/index.shtml).

<sup>6</sup> The Report of the High-Level Panel of Eminent Persons on the Post-2015 Development Agenda, A New Global Partnership: Eradicating Poverty and Transform Economies Through Sustainable Development, 2013, available at [www.un.org/sg/management/pdf/HLP\\_P2015\\_Report.pdf](http://www.un.org/sg/management/pdf/HLP_P2015_Report.pdf). The Panel was established in 2012 by the United Nations Secretary-General to make recommendations to the Secretary-General on the development agenda beyond 2015.

<sup>7</sup> *Ibid.*, page 9.

<sup>8</sup> See Paragraphs 7 and 8 General Assembly resolution A/RES/67/1.

<sup>9</sup> The Millennium Development Goals follow-up Special High-Level Event of the General Assembly took place on 25 September 2013. The outcome of this event is documented and confirmed as General Assembly resolution A/RES/68/6. See paras. 13 and 19 of the resolution for the interconnection of the rule of law and sustainable development in the Post-2015 Agenda. Especially para. 19 final three sentences, which state: “Recognizing the intrinsic interlinkage between poverty eradication and the promotion of sustainable development, we underline the need for a coherent approach that integrates in a balanced manner the three dimensions of sustainable development. This coherent approach involves working towards a single framework and set of goals, universal in nature and applicable to all countries, while taking account of differing national circumstances and respecting national policies and priorities. It should also promote peace and security, democratic governance, the rule of law, gender equality and human rights for all.”

contribute to reinforcing the rule of law at the country level.<sup>10</sup> In light of the preparatory discussions for the Post-2015 Development Agenda, it may now be expected that the results of such work, along with UNCITRAL's contribution generally, might also become a core component of future United Nations-wide projects to implement the Agenda.

### III. Micro, small and medium-sized enterprises: some facts and figures

7. The Global Partnership for Financial Inclusion (GPFI),<sup>11</sup> citing a study done by the International Finance Corporation (IFC), reports that there is an estimated "total MSME population worldwide of 420 to 510 million, of which 360 to 440 million are in emerging markets. Of these, there are 36 to 44 million formal SMEs globally (about 9 per cent of the total MSME population), of which 25 to 30 million are in emerging markets".<sup>12</sup> In addition, SMEs (formal and informal) account for 72 per cent of total employment and 64 per cent of Gross Domestic Product (GDP) in developed economies, and 47 per cent of employment and 63 per cent of GDP in low-income countries. Informal SMEs provide 48 per cent of all jobs in emerging market countries, and 25 per cent of all jobs in developed countries, but account for only 37 per cent and 16 per cent of GDP in these markets, respectively.<sup>13</sup>

8. In the European Union (EU), 99 per cent of all businesses are SMEs, which provide two out of three private sector jobs and contribute to more than half of total value-added created by business in the EU. The EU further states that "nine out of ten SMEs are actually microenterprises with less than 10 employees. Hence, the mainstays of Europe's economy are micro firms, each providing work for two persons in average".<sup>14</sup> Similar to the EU, SMEs represent 99 per cent of all enterprises in the region of the Association of Southeast Asian Nations (ASEAN), contributing from 30 to 60 per cent of the GDP.<sup>15</sup> In the Asia-Pacific Economic Cooperation (APEC) region, SMEs account for around 90 per cent of all businesses

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<sup>10</sup> See A/CN.9/780 para.13 and *Official Records of the General Assembly, Sixty-eighth Session, Supplement No. 17 (A/68/17)*, para. 319.

<sup>11</sup> GPFI is the main implementing mechanism of the Financial Inclusion Action Plan endorsed by the Group of 20 (G-20) leaders at the Seoul summit (10 December 2010, Seoul). The Action Plan identifies six areas to advance financial inclusion for individuals, households and MSMEs and to promote the application of the G-20 Principles for Innovative Financial Inclusion. See [www.gpfi.org/](http://www.gpfi.org/).

<sup>12</sup> GPFI, IFC, *Small and medium enterprise finance: new findings, trends and G-20 global partnership for financial inclusion progress, 2013*, page 12, available at [www.ifc.org/wps/wcm/connect/16bca60040fa5161b6e3ff25d54dfab3/SME+Finance+report+8\\_29.pdf?MOD=AJPERES](http://www.ifc.org/wps/wcm/connect/16bca60040fa5161b6e3ff25d54dfab3/SME+Finance+report+8_29.pdf?MOD=AJPERES).

<sup>13</sup> IFC Jobs Study: *Assessing Private Sector Contributions to Job Creation and Poverty Reduction, 2013*, pp. 10-11.

<sup>14</sup> See European Commission, *Enterprise and Industry at*: <http://ec.europa.eu/enterprise/policies/facts-figures-analysis>.

<sup>15</sup> P. Manawanitkul, *Enabling Environment for Microbusiness — ASEAN Experience*, Presentation delivered at the International Joint Conference on "Enabling Environment for Microbusiness and Creative Economy, organized by UNCITRAL, the Ministry of Justice Republic of Korea and the Korean Legislation Research Institute, Seoul, 14-15 October 2013.

and employ as much as 60 per cent of the work force.<sup>16</sup> In the Caribbean Community and Common Market (CARICOM), MSMEs provide more than 50 per cent of GDP and account for 70 per cent of the jobs<sup>17</sup> and in Latin America, over 18.5 million MSMEs provide employment to about 70 per cent of the regional workforce and contribute almost 50 per cent of the region's GDP.<sup>18</sup> In Africa, according to the African Development Bank (AfDB), SMEs contribute more than 45 per cent to employment and 33 per cent to GDP.<sup>19</sup>

9. Despite this major role played by MSMEs in economic development across regions, several factors, in particular in developing and emerging markets, still interfere with their performance and capacity to grow. Constraints for MSMEs are faced throughout the legal, regulatory, financial and cultural environments. These areas are thus the target of most of the initiatives of international organizations aiming at the creation of an enabling environment for MSMEs.

10. According to the World Bank Enterprise Surveys, SMEs worldwide consider lack of access to finance one of their greatest obstacles to growth (roughly 18 per cent of MSMEs in low income countries have access to formal financial services).<sup>20</sup> Over 36 per cent of SMEs have indicated that excessive regulation is another major burden, especially in developing countries: SMEs often lack the capacity of larger firms to navigate through the complexities of regulatory and bureaucratic procedures.<sup>21</sup> Similarly, the International Labour Organization (ILO) stresses burdensome registration procedures (time and cost) and ability to comply with laws and regulations in several areas among the challenges affecting the performance of MSMEs.<sup>22</sup> The IFC notes that "countries with lower entry costs and lower costs of registering property have a larger SMEs sector in manufacturing".<sup>23</sup> Tax rates and corruption are also perceived by SMEs in developing countries and low income countries as major obstacles to growth. In addition to these elements, recent research suggests that minimum capital and comparable minimum size requirements are also relevant obstacles. Although such requirements may serve public policy purposes, they effectively exclude small or occasional suppliers from the markets concerned.<sup>24</sup> All of these factors represent some of the most often cited reasons for which MSMEs fail to move into the formal economy.

<sup>16</sup> See [www.apec.org/Groups/SOM-Steering-Committee-on-Economic-and-Technical-Cooperation/Working-Groups/Small-and-Medium-Enterprises.aspx](http://www.apec.org/Groups/SOM-Steering-Committee-on-Economic-and-Technical-Cooperation/Working-Groups/Small-and-Medium-Enterprises.aspx).

<sup>17</sup> See [www.oas.org/en/media\\_center/press\\_release.asp?sCodigo=E-061/12](http://www.oas.org/en/media_center/press_release.asp?sCodigo=E-061/12).

<sup>18</sup> Available at [www.informeavina2008.org/english/develop\\_case2\\_SP.shtml](http://www.informeavina2008.org/english/develop_case2_SP.shtml).

<sup>19</sup> See the African Development Group News and Events page, The AfDB SME Program Approval: Boosting Inclusive Growth in Africa, 2013, available at [www.afdb.org/en/news-and-events/article/the-afdb-sme-program-approval-boosting-inclusive-growth-in-africa-12135/](http://www.afdb.org/en/news-and-events/article/the-afdb-sme-program-approval-boosting-inclusive-growth-in-africa-12135/).

<sup>20</sup> K. Kushnir, M. L. Mirmulstein and R. Ramalho, Micro, small and medium enterprises around the world: How many are there, and what affects their count?, 2010, World Bank/IFC, page 5 ff.

<sup>21</sup> IFC, Scaling-up SME access to financial services in the developing world, 2010, page 15. This report was prepared under the leadership of IFC as lead technical advisor of the G-20 Financial Inclusion Experts Group's (FIEG) SME Finance Sub-Group. The Global Partnership for Financial Inclusion (GPMI) has institutionalized and continued the work began by FIEG.

<sup>22</sup> See ILO, The promotion of sustainable enterprises, 2007, page 90.

<sup>23</sup> *Supra*, note 21, page 15.

<sup>24</sup> See R. Adlung, M. Soprana, World Trade Organization, Staff Working Paper, SMEs in Services Trade — A GATS Perspective, 2012, page 14.

11. Women entrepreneurs warrant additional consideration as they are over-represented in the informal economy.<sup>25</sup> Women control less than 40 per cent of formal microenterprises, less than 36 per cent of small firms, and less than 21 per cent of medium-sized firms.<sup>26</sup> In many regions, women entrepreneurs experience “disproportionately higher barriers relative to their male counterparts”.<sup>27</sup> These barriers are both financial and non-financial, and considerably limit the growth of women-owned MSMEs. They may range from low access to finance (e.g. women are less likely to take out a loan, or the terms of borrowing can be less favourable for them) and the legal and regulatory environment (e.g. weak property rights or legal capacity); to education gap (e.g. low access to higher education, low financial literacy) and barriers related to social norms (e.g. restrictions on mobility or on engagement with people outside the home or on activities women can engage in). Recent studies show that average growth rates of women-run firms are significantly higher than for male-owned firms and suggests that formalization can considerably improve the performance of women-owned MSMEs.<sup>28</sup> Experience in developed economies seems to confirm this consideration. For example, in the United States women-owned businesses grow at more than double the rate of all other businesses and, according to data projections, they will be primarily responsible for future job growth in the country. It is expected that by 2018, women entrepreneurs in the United States of America will create between 5 million and 5.5 million new jobs.<sup>29</sup>

#### **IV. Initiatives of international and intergovernmental organizations**

##### **A. Regional organizations and regional economic organizations**

12. Regional organizations and regional economic organizations support MSMEs in various ways. However, policy development and the provision of technical assistance seem to prevail over the drafting of comprehensive legislation addressing the needs and requirements of MSMEs.

13. Among the various organizations reviewed by the Secretariat, only the Organisation pour l’Harmonisation en Afrique du Droit des Affaires (OHADA) appears to be working towards such a legislative framework. In 2010, OHADA adopted the reform of the Uniform Act relating to General Commercial Law (Acte uniforme sur le droit commercial general) and established a partly simplified regime for small business managed by an individual entrepreneur (the “entreprenant”). Formalization of the “entreprenant” business only requires the submission of a declaration to the Trade and Personal Property Credit Register (Registre du

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<sup>25</sup> Donor Committee for Enterprise Development (DCED), Supporting Business Environment Reforms: Practical Guidance for Development Agencies, Annex: How Business Environment Reform Can Promote Formalisation, 2011, page 2.

<sup>26</sup> GPFI, IFC, Strengthening Access to Finance for Women-Owned SMEs in Developing Countries, 2011, page 6.

<sup>27</sup> Supra, note 12, page 12.

<sup>28</sup> The studies were carried out in Indonesia, Malaysia, Thailand, and Viet Nam. Supra, note 12, page 14 citing MasterCard Worldwide 2010.

<sup>29</sup> Supra, note 26, page 12.

commerce et du crédit mobilier) and the business accounting obligations are simplified. Simplified rules relating to microenterprises are also included in Article 13 of the Uniform Act Organizing and Harmonizing Undertakings' Accounting Systems in the Signatory States to the Treaty on the Harmonization of Business Law in Africa (Acte uniforme portant organisation et harmonisation des comptabilités des entreprises). Further, in 2010, OHADA adopted uniform legislation governing the establishment and operation of cooperatives (Acte uniforme relative au droit des sociétés cooperatives), which has specific provisions for simplified forms of cooperatives ("sociétés cooperatives simplifiées"). Finally, OHADA is currently revising the Uniform Act Relating to Commercial Companies and Economic Interest Groups (Acte uniforme relatif au droit des Sociétés Commerciales et du Groupement d'Intérêt Economique), which sets out different rules establishing and governing multiple corporate entities. The travaux préparatoires of the revised Act suggest reducing the minimal capital requirement and limiting the role of the notary in establishing a company as well as developing new company forms.<sup>30</sup> Although the legislative framework is a work in progress, it has been noted that the laws developed, and being developed, in OHADA make it easier to set up a company that is recognized in all of the OHADA States, than is the case in other regional organizations.<sup>31</sup>

14. The EU has worked extensively to find an appropriate definition for European MSMEs,<sup>32</sup> and identify the proper size requirements for a firm to be labelled as such. In 2008, it adopted the "Small Business Act" which establishes a comprehensive SME policy framework for its Member States. The Act is a set of ten principles to guide the conception and implementation of policies, both at EU and Member State level, in order to create a level playing field for SMEs throughout the EU and to improve the administrative and legal environment so as to allow these enterprises to unleash their full potential to create jobs and growth.<sup>33</sup> To monitor and assess Member States' performance in implementing the Act, the SME Performance Review has been developed. In 2011, in response to the economic crisis, the EU Commission announced that it would seek wherever possible to exempt microenterprises from EU legislation or introduce special regimes so as to minimize the regulatory burden on them. The Commission also announced its intention to ensure that input from MSMEs is included in the formulation of new EU initiatives.<sup>34</sup> In mid-2013, the Commission launched an EU-wide consultation on single member liability companies to obtain information on whether the harmonization of national laws in this regard would provide companies, and in particular SMEs, with simple and harmonized rules across the EU which could

<sup>30</sup> See World Bank, *Doing Business dans les États membres de l'OHADA 2012*, page 3. According to the OHADA website, the Act should be submitted to the Council of Ministers at its next session in December 2013 for adoption: [www.ohada.com/actualite/1946/reunion-speciale-du-comite-des-experts-des-etats-membres-de-l-ohada-dakar-19-24-aout-2013.html](http://www.ohada.com/actualite/1946/reunion-speciale-du-comite-des-experts-des-etats-membres-de-l-ohada-dakar-19-24-aout-2013.html).

<sup>31</sup> L. Boy, *Les limites du formalisme du droit de l'OHADA à la sécurisation des entreprises*, *Revue de l'ERSUMA* 1, 1 (2012), page 2.

<sup>32</sup> See Article 2 Annex to Recommendation 2003/361/CE according to which MSMEs are those enterprises with less than 250 people and with an annual turnover under 50 million euros or with an annual balance sheet which does not exceed 43 million euros.

<sup>33</sup> See European Commission, Enterprise and Industry, *Small Business Act for Europe* at <http://ec.europa.eu/enterprise/policies/sme/small-business-act/>.

<sup>34</sup> See [http://europa.eu/rapid/press-release\\_IP-11-1386\\_en.htm?locale=en](http://europa.eu/rapid/press-release_IP-11-1386_en.htm?locale=en).

reduce the administrative burden and costs they are currently facing. The responses to the consultation will be instrumental in assessing the need for, and impact of, a possible new instrument.<sup>35</sup>

15. Like the EU, ASEAN strives to promote MSME-friendly policies. ASEAN has adopted a Policy Blueprint for SME Development (2004-2014), which provides the framework to accelerate SMEs development in the region. The Blueprint, inter alia, supports simplification of MSME registration procedures and the fine-tuning of policy and regulatory frameworks. A Strategic Action Plan (2010-2015), building on the Blueprint, further strengthens the establishment of MSMEs and their operation in ASEAN. Regional programmes, mechanisms promoting access to information, databases and the dissemination of best practices (for instance, by hyperlinking all the SME portals within the region) have been devised for this purpose. The Strategic Action Plan also covers the work of the ASEAN SME Working Group (ASEAN SMEWG), which seeks to ensure the advancement of SMEs in the region.

16. The APEC Ease of Doing Business initiative, launched in 2009, aims to achieve an improvement of 25 per cent by 2015 in respect of targets established in five key areas of doing business, one of which is starting a business. The focus of this category is on the number of procedures required to start a business, the time and the cost it takes as well as the paid-in minimum capital requirement. In the period 2009-2012, APEC has made the biggest improvements in the category of starting a business. The Ease of Doing Business initiative includes capacity-building programmes in order to assist APEC member economies in their efforts. Such programmes are articulated in seminars and workshops as well as customized technical advice.<sup>36</sup>

17. The Common Market for Eastern and Southern Africa (COMESA) has recently adopted a draft Regional Policy Strategy for MSME development (August 2013)<sup>37</sup> to increase the prevalence of SMEs in the region. Some of the areas addressed are: promoting an enabling environment for SME operations and SME related infrastructure development, and promoting SME technological and production capacity. The solutions discussed have included the creation of an SME fund at the regional and country levels and the allocation of a minimum percentage of all public procurements in Member States to SMEs. COMESA has also developed a Simplified Trade Regime<sup>38</sup> of which SMEs are encouraged to take advantage when trading across borders in the region. As to technical assistance, information

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<sup>35</sup> See [http://ec.europa.eu/internal\\_market/consultations/2013/single-member-private-companies/](http://ec.europa.eu/internal_market/consultations/2013/single-member-private-companies/). The Consultation, directed at national authorities, companies, notaries, lawyers, universities and business organizations, closed in September 2013. In addition, the recent EU Commission communication on Regulatory Fitness and Performance (REFIT): Results and Next Steps includes the suggestion of withdrawing the current proposal of a European private company (SPE), since the Commission is considering presenting a new one. See COM(2013) 685 final at [http://ec.europa.eu/commission\\_2010-2014/president/news/archives/2013/10/pdf/20131002-refit\\_en.pdf](http://ec.europa.eu/commission_2010-2014/president/news/archives/2013/10/pdf/20131002-refit_en.pdf).

<sup>36</sup> APEC's Ease of Doing Business — Interim Assessment 2009-2012, 2013/SOM3/EC/006.

<sup>37</sup> See e-COMESA Newsletter, Issue 387, 31 August 2013, available at [www.comesa.int/attachments/article/865/ecomesa%20newsletter\\_387.pdf](http://www.comesa.int/attachments/article/865/ecomesa%20newsletter_387.pdf).

<sup>38</sup> The Simplified Trade Regime aims at simplifying the whole process of clearing goods, which have been grown or wholly produced in the COMESA Region, for small and medium size traders by way of introducing a simplified certificate of origin, a simplified Customs document and a common list of qualifying goods. For more information see [www.cbtcomesa.com/str.php](http://www.cbtcomesa.com/str.php).

available to the Secretariat suggests that COMESA supports the SME toolkit project (in conjunction with the World Bank Group and other partners) that aims to promote small business growth and to provide a number of “how to” guides for such enterprises in Zambia.

18. In the Southern Africa Development Community (SADC), the Protocol on Finance and Investment addresses the role of MSMEs in economic cooperation. In 2012, SADC adopted the Industrial Development Policy Framework. Information available to the Secretariat indicates that the Framework recognizes SMEs as the backbone of most SADC economies and suggests that enhancing support to small and medium-sized enterprises is one of the key areas of intervention. The Framework goes on to stress the importance of a regional approach to SME development in order to facilitate, inter alia, their access to market and industrial information and their participation in export promotion initiatives. Some of the specific actions indicated to reach these goals include: developing a portal for SMEs and organizing a series of buyer-sellers meetings to promote linkages between SMEs and large enterprises.

19. In the African Union’s New Partnership for Africa’s Development (NEPAD)<sup>39</sup> Framework document, African leaders pledge to eradicate poverty in their countries: some of the goals voiced in the pledge are aimed at increasing the availability of resources available to SMEs.<sup>40</sup> This is consistent with the African Union’s Treaty Establishing the Economic Community (1991)<sup>41</sup> which states that industrial development will be achieved partially by “ensuring the promotion of small-scale industries with a view to enhancing the generation of employment opportunities in Member States”.

20. The Organization of American States (OAS) seems to be more focused on the provision of technical assistance to MSMEs, in particular in selected areas such as promoting entrepreneurship and competitiveness.<sup>42</sup> For instance, in 2012, in partnership with the Government of the United States and other institutional partners, the OAS launched a project to establish small business development centres in five CARICOM Member States.<sup>43</sup> The project aims to contribute to the development of MSME support institutions which provide long-term business counselling and training to new businesses. OAS also supports the High-Level Dialogue of Authorities Responsible for Trade and for MSMEs, a forum for policy dialogue among high-level authorities of Member States for the exchange of best practices and lessons learned to further the adoption of public policies that promote the competitive capacity of MSMEs and their participation in international trade opportunities. Other initiatives focus on promoting the internationalization of

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<sup>39</sup> NEPAD is the African Union’s socioeconomic framework for development; it was established in 2001.

<sup>40</sup> See The New Partnership for Africa’s Development (NEPAD), 2001, available at [www.nepad.org/system/files/NEPADFramework\\_\(English\).pdf](http://www.nepad.org/system/files/NEPADFramework_(English).pdf).

<sup>41</sup> The Treaty seeks to create the African Economic Community through six stages culminating in an African Common Market using the Regional Economic Communities (RECs) as building blocks. The Treaty has been in operation since 1994. See [www.au.int/en/about/nutshell](http://www.au.int/en/about/nutshell).

<sup>42</sup> See however *infra*, note 101.

<sup>43</sup> The five States targeted by the project are: Barbados, Belize, Dominica, Jamaica and St. Lucia. See, for instance, [www.carib-export.com/2013/03/small-business-development-centres-to-open-across-the-region/](http://www.carib-export.com/2013/03/small-business-development-centres-to-open-across-the-region/) and [www.state.gov/r/pa/prs/ps/2012/02/184639.htm](http://www.state.gov/r/pa/prs/ps/2012/02/184639.htm).

MSMEs with an emphasis on those owned by women and vulnerable groups. The Central American Women Business Network Project is one of such initiatives. It facilitates the transfer of experience and knowledge from successful entrepreneurs to MSMEs with potential to participate in value chains and helps to connect women-led SMEs with large scale purchasers of products. In addition, the OAS supports training programmes for small businesses, including online courses, as well workshops on SME addressing small business entrepreneurs and government officials.

21. The Arab League is committed to providing financial support to MSMEs through a Special Account created after the first Arab Economic and Social Development Summit (Kuwait, January 2009), and managed by the Arab Fund for Economic and Social Development. The Account provides financing to intermediate institutions, which will then disburse funds to SMEs in their respective countries. As of April 2013, 16 Arab States were participating in the Account (in addition to the Arab Fund).<sup>44</sup>

22. Financial support to small businesses is also the purpose of the SME Facility, established under the Eastern Partnership between the EU and selected Eastern European countries. The Facility combines allocations from financial institutions such as the European Investment Bank (EIB), the European Bank for Reconstruction and Development (EBRD) and the Reconstruction Credit Institute to financial intermediaries for on-lending to MSMEs. The Facility also provides technical assistance to the enterprises (thanks to an EU grant) and, building on the “acquis communautaire” on SME development (such as the Small Business Act), aims to support the partner countries in their legislative and policy reforms in the area of MSMEs.<sup>45</sup>

## **B. International organizations and intergovernmental organizations**

### **1. Introduction**

23. In recent years, due to the structural adjustments required by the changing economic environment and the consequences of the world economic crisis, international organizations have joined national governments in recognizing the importance of MSMEs. This recognition has focused on the key role of such enterprises in poverty reduction, the creation of employment and in enhancing the welfare of several segments of the population, including those most vulnerable, such as women and youth, as well as those living in developing countries.

24. In 2012, for instance, two United Nations General Assembly resolutions called upon Governments and international organizations to support the development of

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<sup>44</sup> The following participate in the Account: Algeria, Bahrain, Egypt, Djibouti, Libya, Kuwait, Jordan, Mauritania, Morocco, Oman, Palestine, Saudi Arabia, Sudan, Syrian Arab Republic, Tunisia and Yemen.

<sup>45</sup> The Eastern Partnership, launched in 2009, includes the following countries: Armenia, Azerbaijan, Belarus, Georgia, Republic of Moldova, Ukraine. Information on establishment of the Partnership can be found at [http://ec.europa.eu/world/enp/docs/2012\\_enp\\_pack/e\\_pship\\_roadmap\\_en.pdf](http://ec.europa.eu/world/enp/docs/2012_enp_pack/e_pship_roadmap_en.pdf). Information on the SME Facility can be found at [www.easternpartnership.org/content/eastern-partnership-funds](http://www.easternpartnership.org/content/eastern-partnership-funds) and at [www.enpi-info.eu/maineast.php?id=547&id\\_type=10](http://www.enpi-info.eu/maineast.php?id=547&id_type=10).

MSMEs: resolution 66/288, endorsing the outcome document of the United Nations Conference on Sustainable Development (see paragraph 4 above)<sup>46</sup> and resolution 67/202, focusing on the contribution of entrepreneurship to sustainable development. This latter resolution calls for the creation of an enabling environment for entrepreneurs, including MSMEs, by addressing the legal, social and regulatory barriers that prevent “equal and effective economic participation”.

25. Furthermore, the 2012 International Year of Cooperatives, celebrated under the coordination of the United Nations Department of Economic and Social Development, stressed the contribution of cooperatives to economic development and poverty eradication. Not only do cooperatives improve market competitiveness, stabilize the economy (especially in sectors like agriculture, where prices are more volatile), and contribute to a fairer distribution of income,<sup>47</sup> but they also represent an enterprise model in those areas where the public sector is not able to meet the needs of the population.<sup>48</sup> In India, for instance, where 94 per cent of those working in the informal sector are women, the Self-Employed Women’s Association offers capacity-building, marketing and business development services, consulting, research and publication services.<sup>49</sup> Moreover, as legally-constituted organizations which enjoy legal recognition and protection, cooperatives can represent an option for the formalization of informal MSMEs.<sup>50</sup> In his report to the United Nations General Assembly on the observance of the International Year of Cooperatives, the United Nations Secretary-General suggested, among others, that the General Assembly may wish to invite Governments and international organizations, in partnership with cooperatives, to “identify strategies for the creation of a supportive environment by establishing or improving national legislative frameworks in support of cooperative growth”.<sup>51</sup>

## 2. Formalization of MSMEs

26. Informality of MSMEs is thought by many of the international organizations promoting entrepreneurship to be a crucial issue for a country’s economic growth. As the Organization for Economic Cooperation and Development (OECD) has noted, “bringing more enterprises into the formal economy over the long term” should, *inter alia*, provide more sustainable jobs, increase investment, broaden the tax base (and permit lower tax rates), facilitate deal-making, improve access to business services and productive resources such as capital and land.<sup>52</sup> However,

<sup>46</sup> See *Supra*, note 4.

<sup>47</sup> See A/68/168, para. 16.

<sup>48</sup> For instance, the fact that 70 per cent of the hungry live in rural areas has empowered agricultural cooperatives with a crucial role in improving food security (see A/68/168 para. 17); or the critical gaps of the economic recession have been filled by social cooperatives providing welfare activities but also facilitating professional integration of the poor and the disadvantaged (see A/68/168 paras. 5 and 17).

<sup>49</sup> See A/68/168, para. 25.

<sup>50</sup> S. Mshiu, *The Cooperative Enterprise as a Practical Option for the Formalization of Informal Economy*, 2010, available at [www.businessenvironment.org/dyn/be/docs/200/2.2.2\\_Cooperative\\_Practical\\_Option\\_Informal\\_Econ.pdf](http://www.businessenvironment.org/dyn/be/docs/200/2.2.2_Cooperative_Practical_Option_Informal_Econ.pdf).

<sup>51</sup> A/68/168 para. 80 (a).

<sup>52</sup> OECD, *Removing Barriers to Formalisation*, in *OECD Promoting Pro-Poor Growth: Policy Guidance for Donors*, 2007, page 76, available at <http://dx.doi.org/10.1787/9789264024786-en>.

initiatives and projects of international organizations do not seem to focus on assisting the development of new legislative models that would facilitate the establishment and operation of MSMEs in the formal economy.<sup>53</sup> Attention seems to concentrate mainly on reducing the existing barriers that represent a constraint on MSMEs on the assumption that this would promote their formalization in the medium and long term.<sup>54</sup> These barriers include regulatory, economic and administrative burdens; fees and financial requirements; corruption, sociocultural factors and poor business services.<sup>55</sup>

27. For instance, in 2008-2012 the ILO carried out an action research programme, with India<sup>56</sup> and Burkina Faso,<sup>57</sup> to assess the extent to which increased access to finance through the provision of financial and non-financial services, could be a catalyst for formalization. The findings, although limited to the activities of the two microfinance institutions that collaborated with the ILO, confirmed that although reaping the fruits of formalization takes time,<sup>58</sup> access to benefits such as government social security schemes and/or bank services is a major motivation for small businesses to join the formal economy. The study also found that formalization is instrumental to improved business practices and that training and raising awareness activities can be conducive to changing the attitude of small business towards it.

28. Better understanding of the factors that drive and prevent informal businesses from formalizing also shapes some of the World Bank initiatives. Registration and tax incentives are one subcategory treated by the Bank, as is the availability of banking and financing at multiple levels. Incorporation is often described as a “decision”; it thus frames the issue of informal economies as a choice rather than a sign of inadequate development, weighing other factors such as tax incentives as variables in the push to formalize. Other macroeconomic factors, such as corruption or the general business environment are thought to be weighed heavily by SMEs in making these decisions. For instance, a field experiment conducted in Sri Lanka in 2012 suggested that most of firms were “rationally refraining from formalizing”<sup>59</sup> as they did not see enough benefits. However, the results also suggested that “a

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<sup>53</sup> The experience of the American Bar Association (ABA), a national organization in the United States, can be mentioned as an exception. ABA “participates” in LLC reform projects by publishing a Prototype LLC Act. The Prototype Act provides guidance for the analysis and resolution of issues surrounding the drafting of LLC legislation. Even though there are high costs associated with such participation, Bar Association members tend to place a high value on this service, partly because of the reputational benefits associated with the creation of new laws.

<sup>54</sup> *Supra*, note 52, page 77.

<sup>55</sup> *Ibid.*, pages 75 ff.

<sup>56</sup> ILO and Mannheim University, *Microfinance for Decent Work — Microfinance and Formalisation of Enterprises in the Informal Sector: Awareness raising campaign and BDS for the formalisation and strengthening of growth-oriented enterprises*, 2012.

<sup>57</sup> ILO, Université de Mannheim, *La Microfinance et le travail décent, La formalisation des entreprises de l’informel: Une étude d’impact sur la Formation et Sensibilisation à la formalisation des entreprises du secteur informel — RCPB au Burkina Faso*, 2012.

<sup>58</sup> ILO and Mannheim University, *Supra* note 56, pp. 45-46.

<sup>59</sup> S. de Mel, D. McKenzie, C. Woodruff, *Do informal firms want to formalise and does it help them if they do so?*, *Finance & PSD Impact*, March 2012, Issue 17, page 2.

relatively modest increase in the net benefits to firms could dramatically increase the rate of formalization”.<sup>60</sup>

29. The Donor Committee for Enterprise Development (DCDE)<sup>61</sup> is the forum of donors and United Nations agencies that supports the growth of the private sector in developing countries. Building on the practical experience of its members<sup>62</sup> as well as research, DCDE shares knowledge and develops guidance on good practices in various areas of private sector development. In its recommendations to donor and development agencies on how they can influence reforms on formalization, the DCDE also highlights the importance of introducing measures that enhance the benefits of formalization.<sup>63</sup>

### 3. Economic barriers: facilitating access to finance

30. Several projects and initiatives of international and intergovernmental organizations aim at improving access to finance for MSMEs. GPMI has launched several collaborative platforms, geared to both formal and informal SMEs, to “provide new ways to combine resources to promote SME finance and development”. In collaboration with the G-20, it has also promoted policy support initiatives such as the G-20 Peer Learning Program, through which countries support each other in promoting greater SME access to finance.<sup>64</sup> The SME Finance Forum, opened in April 2012 and led by IFC, operates a web platform containing links to key documentation from GPMI and other institutions, and sponsors knowledge-sharing. In April 2013, GPMI also launched the Women’s Finance Hub. The SME Finance Initiative started as a collaborative financing and capacity-building platform for institution-level support,<sup>65</sup> with IFC, the UK Department for International Development (DFID) and EIB, and will support risk sharing and other blended finance instruments to encourage the growth of scalable, sustainable financial services to the sector.<sup>66</sup> Formalization of MSMEs, though, is not an immediate goal in any of these initiatives.

31. In addition to providing leadership to some of the GPMI initiatives, IFC supports<sup>67</sup> legislative reform to boost MSMEs’ access to finance in several regions; its main focus is on leasing, secured transactions and credit bureaux. In the area of secured lending, for instance, IFC advises on improvements to the relevant laws, often inspired by the UNCITRAL texts on Security Interests,<sup>68</sup> and the

<sup>60</sup> Ibid.

<sup>61</sup> See [www.enterprise-development.org/](http://www.enterprise-development.org/).

<sup>62</sup> To date, DCED has 24 members: information is available at [www.enterprise-development.org/page/agencies-contacts](http://www.enterprise-development.org/page/agencies-contacts).

<sup>63</sup> Supra, note 25, page 4.

<sup>64</sup> Supra, note 12, page 16.

<sup>65</sup> Ibid., page 17.

<sup>66</sup> Ibid.

<sup>67</sup> See, IFC and small and medium enterprises, factsheet, at [www.ifc.org/wps/wcm/connect/967d26804b7eee0986a5c6bbd578891b/IFC-SME-Factsheet2012.pdf?MOD=AJPERES](http://www.ifc.org/wps/wcm/connect/967d26804b7eee0986a5c6bbd578891b/IFC-SME-Factsheet2012.pdf?MOD=AJPERES).

<sup>68</sup> For instance, UNCITRAL Legislative Guide on Secured Transactions: Supplement on Security Rights in Intellectual Property (2010), UNCITRAL Legislative Guide on Secured Transactions (2007).

establishment of modern systems of collateral registries.<sup>69</sup> In China, reform carried out in 2007 and 2008 has resulted in over 70,000 SMEs receiving loans; in Viet Nam, where the reform was launched in 2012, it is estimated that around 54,000 SMEs have received loans.<sup>70</sup>

32. The IFC also manages several programmes aiming to increase and improve availability of capital to MSMEs; they include support to microfinance, development of innovative retail payment solutions, and funding to innovative banking models geared towards MSMEs. Furthermore, the IFC is among those organizations particularly active in promoting access to finance of MSMEs owned by women. IFC assists banks in various countries to better address the needs of this group of entrepreneurs: according to data provided in 2011, over 2,200 women entrepreneurs had been reached through these interventions.<sup>71</sup>

33. Another international organization, AfDB, launched the “Growth Oriented Women Entrepreneurs (GOWE) programme in Kenya (2006) and Cameroon (2007), providing a partial guarantee facility for women entrepreneurs and offering them capacity-building schemes. Over 600 hundred women entrepreneurs were trained and GOWE was extended to Tanzania and Zambia.<sup>72</sup> In the context of a partnership between the United States Agency for International Development (USAID) and Kenya financial institutions, one of the banks has introduced the Grace Loan, tailor-made for individual women entrepreneurs and women business groups to meet their working capital or business expansion.<sup>73</sup>

34. At the global level, work to remove economic barriers is also being carried out by the OECD, which has developed a “scoreboard” in order to collect data on the financing of SMEs so as to improve the understanding of their financing needs. The aim is to provide financiers, Governments and small businesses with relevant information to help grow businesses and help Governments monitor the implications of financial reforms on the access to finance of SMEs and entrepreneurs.

35. The United Nations Capital Development Fund (UNCDF) has developed several programmes to assist MSMEs in accessing low cost finance. Some of these programmes have been designed for specific groups of micro-entrepreneurs (for example, YouthStart intends to increase access to 200,000 youth in financial and non-financial services in sub-Saharan Africa) or to serve specific purposes (such as Cleanstart, which works to help poor households and micro-entrepreneurs to access financing for low-cost clean energy).

36. The Multilateral Investment Guarantee Agency (MIGA) has developed the Small Investment Program (SIP), specifically designed for small and medium investors investing in SMEs. MIGA also provides political risk insurance to financial institutions that will then lend to small and medium businesses through

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<sup>69</sup> See <http://smefinanceforum.org/post/ifc-and-partners-support-secured-lending-reforms-to-boost-financing-for-small-businesses-in-lat>.

<sup>70</sup> See A. A. de la Campa, Secured Transactions and Collateral Registries Program Access to Finance, IFC, power point presentation, 2013, available at [www.iamericas.org/en/programs-sp-998874089/secured-transaction-reform](http://www.iamericas.org/en/programs-sp-998874089/secured-transaction-reform).

<sup>71</sup> *Supra*, note 26, page 56.

<sup>72</sup> *Ibid.*

<sup>73</sup> *Ibid.*

local affiliates.<sup>74</sup> Through the SIP, MIGA supports SMEs in various countries including conflict and post-conflict countries.<sup>75</sup>

#### 4. Regulatory and administrative barriers

37. As noted by the OECD, “[r]egulatory (and administrative) burdens have a strong cumulative effect on the business environment”.<sup>76</sup> These burdens include poor quality law-making, excessive paperwork, inefficiency/delayed decisions, inaccessibility of services, bureaucratic obstruction and abuse of authority. They are the result of a number of problems, including lack of capacity, over-centralization of authority, distrust of the private sector and corruption.<sup>77</sup>

38. Several donors and international organizations assist developing countries in improving their regulatory regimes, focusing on both strengthening government policy-making capacity and developing the capacity of those affected by regulation to advocate for change.<sup>78</sup> For instance, until 2007, DFID funded a programme to strengthen the Government’s regulatory capacity in Uganda, with the aim of improving the regulatory environment for business growth. Although not specifically targeting MSMEs, the project included the reform of regulations that had been identified as burdensome for MSMEs.<sup>79</sup> The Business Environment Strengthening for Tanzania Programme (BEST), launched in 2003 with the support of four bilateral donors (including DFID) and one multilateral donor,<sup>80</sup> and now in its second phase, has aimed, inter alia, at introducing reforms to simplify procedural and administrative barriers.<sup>81</sup> One of the key principles of the reform has been to separate the objectives of business registration, business regulation and revenue generation (i.e. taxation, fee collection etc.). More recently DFID, together with IFC and the EU has initiated a project to simplify and standardize municipal business regulation of small enterprises in Bangladesh with the aim of creating more transparent procedures through which enterprises approach the Government.<sup>82</sup> The IFC and USAID are partnering in Belarus to develop an enabling environment for MSMEs, including several activities to contribute to reducing the regulatory burdens associated with permits, licences, and other administrative procedures.<sup>83</sup>

39. Since the last decade, the World Bank, the IFC and USAID assist countries in various regions to develop one-stop shops in order to streamline start-up procedures for new businesses and reduce the burden of the business registration process.

<sup>74</sup> MIGA, Small Investment Program, available at [www.miga.org/documents/SIP.pdf](http://www.miga.org/documents/SIP.pdf).

<sup>75</sup> See MIGA, Annual Report 2013. Countries targeted by the programme include Afghanistan, Angola, Côte d’Ivoire, Georgia, Republic of Moldova and Libya.

<sup>76</sup> *Supra*, note 52, page 77.

<sup>77</sup> *Ibid.*

<sup>78</sup> USAID, Removing barriers to formalization: the case for reform and emerging best practice, 2005, page 26.

<sup>79</sup> *Ibid.*, page 27.

<sup>80</sup> The other bilateral donors are: the Denmark’s development cooperation (DANIDA), the Swedish International development Cooperation Agency (SIDA), and the Royal Netherlands Embassy. The World Bank is the multilateral donor.

<sup>81</sup> See for instance the Tanzania Five Year Development Plan 2011/2012-2015/16 available at [www.tanzania.go.tz/pdf/FYDP-2012-07-26.pdf](http://www.tanzania.go.tz/pdf/FYDP-2012-07-26.pdf).

<sup>82</sup> See <http://archive.thedailystar.net/newDesign/news-details.php?nid=224296>.

<sup>83</sup> See [www.usaid.gov/where-we-work/europe-and-eurasia/belarus/private-sector-development-and-entrepreneurship](http://www.usaid.gov/where-we-work/europe-and-eurasia/belarus/private-sector-development-and-entrepreneurship).

Lesotho is one of the countries that have been supported: reform has resulted in establishment of a one-stop shop for company incorporation and in the elimination of requirements for paid-in minimum capital and for notarization of articles of association.<sup>84</sup> Other countries that have received such assistance include Ukraine, Indonesia, Albania and Burkina Faso. In each of them, the introduction of one-stop shops has been complemented by simplification of administrative procedures such as: eliminating the minimal capital requirement for company incorporation and the requirement to have incorporation documents notarized (Ukraine); introducing a simplified application process allowing an applicant to simultaneously obtain both a general trading licence and a business registration certificate (Indonesia);<sup>85</sup> making notarization of incorporation optional (Albania); and allowing publication of start-ups to be done directly on the website of the one-stop shop, thus reducing the registration cost and streamlining the tax registration process (Burkina Faso).<sup>86</sup>

40. The United Nations Conference on Trade and Development (UNCTAD) has developed a programme aiming to facilitate the formalization of MSMEs through the automation of administrative procedures. The programme not only allows Governments to improve the organization of internal processing within and among the administrations involved (with the use of eGovernment tools), but also includes a methodology for the simplification of such procedures. Countries using this eRegulations system expect that the overall process will promote the registration of MSMEs.<sup>87</sup> In El Salvador, for example, MiEmpresa, allows entrepreneurs to simultaneously register with several authorities, details the obligations of entrepreneurs when they join the formal economy, and provides access to information about benefits offered by public and private providers, such as credits, training and health insurance.<sup>88</sup>

## **5. Fees and financial requirement barriers**

41. In several developing countries, complex tax regulations, poor tax administration, as well as high business registration and licensing fees disproportionately penalize MSMEs. A World Bank study, for instance, suggests that SME taxation regimes in Africa have been instrumental in the decision of firms to operate informally, and that redesigning SME tax regimes and adjusting related policies would “reduce the disincentive to enter the culture of compliance”.<sup>89</sup> Many African countries have thus carried out or initiated simplification of their tax systems in order to create an improved environment for MSMEs.<sup>90</sup> The Facility for

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<sup>84</sup> World Bank, *Doing Business 2013*, page 139.

<sup>85</sup> World Bank, *Doing Business 2012*, page 70.

<sup>86</sup> World Bank, *Doing Business 2010*, page 20.

<sup>87</sup> See press release “eRegulations system to formalize small businesses in four major Colombian cities” available at <http://unctad.org/fr/pages/newsdetails.aspx?OriginalVersionID=248>. According to the (UNCTAD) e-Regulations website, countries which are benefitting from the system include Argentina, Benin, Burkina Faso, Cape Verde, Cameroon, Colombia, Morocco, and Viet Nam, just to name a few. For additional information: [www.eregulations.org/](http://www.eregulations.org/).

<sup>88</sup> See press release UNCTAD’s eRegistrations system puts entrepreneurs at centre of electronic governance in El Salvador <http://unctad.org/en/pages/newsdetails.aspx?OriginalVersionID=217>.

<sup>89</sup> R. Stern, J. Loeprick, FIAS Tax Team, World Bank Group, *Small Business Taxation: Is this the Key to Formalization? Evidence from Africa and Possible Solutions*, 4 September 2007, page 2.

<sup>90</sup> L. Corthay, *Simplified taxation driving growth of SMEs*, 2012, available at [www.frontiermarketnetwork.com/article/432-simplified-taxation-driving-growth-of-smes](http://www.frontiermarketnetwork.com/article/432-simplified-taxation-driving-growth-of-smes).

Investment Climate Advisory Services (FIAS)<sup>91</sup> supports several of these efforts, like in Rwanda, where the Government has recently introduced “a flat tax regime for SMEs and has invested heavily in online tax facilities to help SMEs become tax compliant.”<sup>92</sup> In Mali, a single form for joint filing and payment of several taxes was also recently introduced and in the East African Community a programme was launched to promote harmonization of incentive regimes within the region to prevent a “race to the bottom” in tax competition.<sup>93</sup> In previous years, African countries that introduced tax simplification reforms included Burundi, Lesotho, Senegal and Sierra Leone. In 2011, for instance, a FIAS supported tax simplification project in Sierra Leone resulted in a 44 per cent increase in tax collection.<sup>94</sup> More broadly, in 2012, ICF implemented a new SME “tax system which minimizes the compliance burden of accounting for micro and small businesses and eases the administrative burden for the tax authority”.<sup>95</sup>

42. Projects addressing simplified tax reform for small business have been carried out in other regions, too. In the Lao People’s Democratic Republic, FIAS, in collaboration with the International Monetary Fund and the World Bank, provided advice in the drafting of a new tax code, which was adopted and is being implemented. In Armenia, amendments to the Law on Patent Fee reduced the tax compliance burden for MSMEs. Support to legislative reform in Georgia resulted in a new tax code in 2010 which was more responsive to the needs of MSMEs. More recently, training events for MSMEs were conducted in different regions to help them comply with the tax code.<sup>96</sup> A programme to simplify taxes for businesses in Bihar, India, was initiated by the World Bank Group in 2009 with the aim of reducing the time spent and costs incurred for MSMEs in paying their taxes. The programme resulted in new legislation that introduced a flat tax system in 2010, which was supplemented in 2012 by expanded online payment options.<sup>97</sup> According to the Bank, the reform has encouraged many businesses to register.<sup>98</sup> In Uruguay, implementation of an online filing and payment system for capital, value added and corporate income taxes and improvement of the online facilities for social security contributions made paying taxes easier for SMEs.<sup>99</sup>

## V. Conclusion

43. Although not exhaustive, the survey presented above of the work that has been carried out by international organizations aiming at fostering the growth, development and formalization of MSMEs reveals certain themes. Much of the focus of the international community in this area to date has been on reducing

<sup>91</sup> The FIAS programme is managed by the Investment Climate Department under the joint oversight of IFC, MIGA and the World Bank. For more information: [www.wbginvestmentclimate.org](http://www.wbginvestmentclimate.org).

<sup>92</sup> See <http://allafrica.com/stories/201310220069.html>.

<sup>93</sup> FIAS, 2012 Annual Review, page 35.

<sup>94</sup> FIAS, 2011 Annual Review, page 6.

<sup>95</sup> *Supra*, note 93.

<sup>96</sup> *Supra*, note 93, page 82.

<sup>97</sup> See [www.ifc.org/wps/wcm/connect/1c0bfe80407f5e5c86af96cdd0ee9c33/Stories+of+Impact+India+Tax+Simplification+FINAL.pdf?MOD=AJPERES](http://www.ifc.org/wps/wcm/connect/1c0bfe80407f5e5c86af96cdd0ee9c33/Stories+of+Impact+India+Tax+Simplification+FINAL.pdf?MOD=AJPERES).

<sup>98</sup> *Ibid*.

<sup>99</sup> *Supra*, note 84, page 144.

economic barriers to MSMEs, on simplifying regulatory and administrative procedures to which they are subject, and on reducing costs for them, as well as raising their awareness of the availability of these programmes. While these efforts have enjoyed a certain degree of success, it has been suggested that more could be achieved to assist MSMEs by going beyond the promotion of these programmes and providing these enterprises with combined incentives, including access to market opportunities, to finance and to capacity-building.<sup>100</sup>

44. One component of a comprehensive approach to assisting the development of MSMEs that has not yet been fully explored is the development of an internationally recognized and harmonized approach to creating the legislative infrastructure to foster the development of MSMEs and to deal appropriately with them throughout their life cycle. Individual States have experienced notable success in developing such regimes domestically, but little has been done in terms of establishing a means of internationalizing that success.<sup>101</sup> The mandate entrusted by the Commission to Working Group I, starting with simplified business registration and incorporation and extending to additional issues, appears to be a natural complement to existing work being carried out globally and regionally to assist the development and growth of MSMEs.

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<sup>100</sup> IFC, *Closing the Credit Gap for Formal and Informal MSMEs*, 2013, page 25.

<sup>101</sup> For example, the Inter-American Juridical Committee (IJC), an advisory body to the OAS on juridical matters, considered at its meeting in March 2012 a model law on simplified stock corporations. The model law was based upon Colombian legislation adopted in 2008 on simplified stock corporations (Colombia Ley sobre sociedades por acciones simplificadas, Ley Número 1258 de 2008). The IJC reviewed favourably the text of the model law and passed a resolution (CJI/RES. 188 (LXXX-O/12) transmitting it to the Permanent Council of the OAS, for its due consideration (Annual Report of the Inter-American Juridical Committee to the Forty-Third Regular Session of the General Assembly, OEA/Ser. G, CP/doc. 4826/13, 20 February 2013, p. 68). The Permanent Council of the OAS has not yet taken up this matter.