

Promoting MSMEs and Regulatory Development

Interests and Participation



Promoting MSMEs and Regulatory Development: Interests and Participation

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Published by:



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This paper was prepared by Abhishek Bhattacharya, under the supervision of Leslie Sajous. The study was peer reviewed by Yasmin Ismail and Rashid S Kaukab. It is published under CUTS International Geneva's project "Geneva-MSME Connection: South and Southeast Asia 2021", undertaken with funding support from AustralianAid.

Citation: Bhattacharya, A. (2021). *Promoting MSMEs and Regulatory Development: Interests and Participation*. Geneva: CUTS International, Geneva.

Disclaimer: The views expressed in this publication represent the opinions of the author, and do not necessarily reflect the views of CUTS or its funders.

Cover Photo: WTO

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Abbreviation

CBI	Centre for the Promotion of Imports from Developing Countries (Netherlands)
CG	Consultative Group
CPCCAF	Conférence Permanente des chambres consulaires africaines et francophones
DCFTA	Deep & Comprehensive Free Trade Area
EU	European Union
GDP	Gross Domestic Product
GVC/GVC's	Global Value Chain/Global Value Chains
ICT	Information, Communication & Technology
IFC	International Finance Corporation
JSI	Joint Statement Initiative
KCCI	Korea Chamber of Commerce and Industry
KFSE	Korea Federation of Small and Medium-Sized Enterprises
LDCs	Least Developed Countries
M&E	Monitoring and Evaluating
MEDTA	Ministry of Economic Development, Trade, and Agriculture
MSMEs	Micro, Small and Medium-sized Enterprises
NAFTA	North American Free Trade Agreement
NBFI	Non-banking Financial Institution
NTM	Non-Tariff Measures
PPD	Public-Private Dialogue
PPJRAI	Public-Private Joint Regulation Advancement Initiative (Korea)
PPP	Public-Private Partnership
RAI	Regulatory Impact Analysis

SBA	European Small Business Act
SIA	Sustainable Impact Assessment
SPS	Sanitary and Phyto-Sanitary
TBT	Technical Barriers to Trade
TFA	Trade Facilitation Agreement
UK	United Kingdom
UNCTAD	United Nations Conference for Trade & Development
US/USA	United States of America
VAT	Value Added Tax
VBF	Vietnam Business Forum

Abstract

Regulatory frameworks are a key to sustainable development of any nation's business and trade sector. Governments need to ensure that the regulatory framework in place in the country is effective and inclusive for all, including for Micro, small and medium enterprises (MSMEs) including those run by women entrepreneurs. This research aims to understand how the regulatory framework in a country can impact the most vulnerable actors of the private sector, i.e., the MSMEs, and the extent to which MSMEs are involved in the development and implementation process of the said regulations.

MSMEs are key actors in almost every trading system in the present world of globalisation. They represent the most significant number of firms in all continents and contribute significantly to both employment generation and Gross Domestic Product (GDP) formation. MSMEs constitute an essential segment of the global economy regarding their contribution to the country's industrial production, exports, employment, and the creation of an entrepreneurial base. Women entrepreneurs play a crucial role in the MSMEs sector and the economies of both developed and developing countries. According to the International Finance Corporation, women own 50% of microenterprises and 59% of small and medium-sized enterprises (SMEs) in East Asia and the Pacific, and women in South Asia own 10% of microenterprises and 8% of SMEs (IFC, 2017). With time, women-led business organisations are becoming a more critical part of the economy.

At present, it can be witnessed that some governments are providing stronger emphasis on MSMEs while developing the trade regulatory framework and are attempting to ensure that implemented regulations and policies are beneficial for the MSME sector and women entrepreneurs. For example, better access to markets, information, and finance are some areas where the regulations have been / should be designed in a manner that supports MSME growth. However, this objective seems to still be beyond reach for most developing and least developed countries (LDCs).

It is worth noting that the MSMEs are seldom fully involved in the regulatory development and implementation processes in both developed and developing countries. The participation of women entrepreneurs has been even less. Not involving MSMEs and women entrepreneurs in the regulatory framework development and implementation processes can create some critical challenges for the government and the economy as whole in the short and medium-term and create a lack of trust or coordination between the government and the MSME sector leading to non-compliance to laws and regulations, etc. International organisations, including the World Trade Organization (WTO), have emphasised the importance of involving MSMEs in the regulatory development and implementation processes to strengthen the business sector and ensure more robust and inclusive economic growth and development.

SECTION 1

Introduction

1.1 What is Regulation?

Regulation is the government's or an appointed public organization's surveillance and management of a sector or enterprise (World Bank, 2021). The regulated entity is subjected to direct and indirect regulations and constraints. In the OECD work, "regulation refers to the diverse set of instruments by which governments set requirements on enterprises and citizens. Regulations include laws, formal and informal orders and subordinate rules issued by all levels of government, and rules issued by non-governmental or self-regulatory bodies to whom governments have delegated regulatory powers" (OECD, 1997). In this research, regulation has been divided into two categories: trade regulations and non-trade regulations.

Trade Regulations can be classified into three types:

Trade needs to be regulated by the government to ensure that the economy functions in a smooth and efficient manner. Governments try to regulate trade through three main types of regulations, economic regulations, social regulations, and administrative regulations.

The economic regulation functions include setting of tariff levels and structures; registration of companies/ company reporting and auditing of accounts; monitoring costs of operation; setting entry and exit requirements into the sector; creating a level playing field to ensure operators compete. Economic efficiency is increased by removing barriers to

competition and innovation, frequently through deregulation and adopting efficiency-enhancing regulation, and enhancing regulatory frameworks for market functioning and prudential oversight (World Bank, 2021).

Social regulations safeguard the public interest, including public health, safety, the environment, and social cohesion. Economic consequences of social regulations may be secondary or even unanticipated, but they can be significant. Reforms aim to establish the necessity of regulations and to create more flexible, straightforward, and cost-effective regulatory and other tools, such as market incentives and goal-based approaches.

Administrative regulations are the paperwork and administrative formalities, colloquially referred to as "red tape," that governments use to collect data and intervene in private economic decisions. They can have a considerable impact on the private sector, particularly on the performance of Micro, Small, and Medium-sized Enterprises (MSMEs). Reform attempts to eliminate those that are no longer necessary, streamline and simplify those that are, and improve application transparency. Change might take the shape of a single rule being revised, eliminating and reconstructing an entire regulatory framework and its institutions, or enhancing systems for developing regulations and managing reform.

Deregulation is a subset of regulatory reform that refers to the entire or partial abolition of regulation in a sector in order to boost economic performance.

1.2 Links between MSMEs (sustainable) Development and Regulatory Framework

While no universally accepted definition exists, MSMEs are widely recognized for their significant contributions to sustainable development, particularly in terms of economic growth, job creation, provision of public goods and services, as well as poverty alleviation and reduced inequality, particularly in developing countries (Koirala 2018).

MSMEs account for a sizable portion of the entire private sector in both developed and developing countries. For instance, they account for 98 per cent of private firms in developing nations such as Peru, accounting for 42 per cent of GDP and 60 per cent of employment (Liu, 2018). Also, MSMEs account for approximately 50% to 80% of employment in Cambodia and Kenya (Liu, 2018). Job creation through MSMEs frequently benefits the poor and vulnerable, notably women and youth, directly lowering poverty, increasing income, and positively benefiting household education and health investments over time (OECD, 2015).

Due to the crucial role that MSMEs play in accomplishing broader social-economic objectives, including job creation, they are a critical area of focus for achieving the Sustainable Development Goals (SDGs); including SDG 1 (ending poverty), SDG 2 (creating zero hunger), SDG 3 (good health and well-being for all), SDG 5 (equality amongst genders), SDG 8 (promoting inclusive and sustainable economic growth, employment, and decent work), and SDG 9 (improving sustainable industrialization and

fostering innovation for all nations) (Liu, Policy Brief, 2018).

As a result, most countries develop their legislation, policies and regulations to promote MSMEs' development and proliferation. Governments strive to guarantee that the MSME sector operates at a high level of productivity and efficiency in order to promote economic growth and development. One of the significant methods to accomplish this is to ensure that MSMEs operate in a healthy and competitive business climate in the country, which can only be achieved by effective and inclusive government regulation.

MSMEs frequently criticize government regulations as unreasonable obstacles to profitability, economic efficiency, and job development. It requires governments to design and implement an integrated policy and regulatory approach through more horizontal processes, which takes into considerations, the needs of all the stakeholders involved. The chosen options will be determined by several factors, including the population's prevailing attitudes toward entrepreneurship, the labour force structure, the size and role of the Government, the prevalence of existing levels of entrepreneurial activity, and the number of existing MSMEs.

1.3 Why Regulate?

To protect consumers

Governments must protect consumers from unfair trade practices. Unlawful practices and rogue traders need to be identified. Unfair trade practices can be of many types like false advertising or false representation of a product or services, deceptive pricing and non-compliance with manufacturing or health standards (World Bank, 2021). Most unfair

practices can occur when an organisation has a monopoly in the market.

Historically, the majority of utility and infrastructure suppliers have been natural or legal monopolies. It is much more effective for one supplier to offer services, such as a water utility, a natural monopoly develops. A legal monopoly is defined as a supplier awarded the exclusive legal right to provide services.

In any monopoly supply arrangement, whether private or public, there is a risk that the dominant supplier will harm consumers, whether through excessive charges or poor service, service interruptions, or other factors. Effective regulation can guard against monopoly abuse and generate incentives for services improvements. The regulations will also help to safeguard the MSMEs from the anti-competitive trade practices from larger organisations.

To protect investors

Whether they are private investors or community-based organizations, investors want to know the following: (i) the price they can charge for their service/good; (ii) the standards they must meet; (iii) the duration of their licence to operate, and whether it is exclusive or not; and (iv) the level of commitment/ political stability of governments (if they will not be subject to political manoeuvring); between others.

Many risks and challenges can be addressed through regulations (i.e., the insurance of a strong insolvency act, in case of failure). Also, the investees here need to have regulatory powers which will protect them from being exploited by investors; for example, in many cases, the investees lose rights entirely over their companies to investors and become mere employees within their own company; it is essential to protect the investees who are the entrepreneurs/innovators. These

contribute towards favourable supportive investment environment and organise the relationship between investors and MSMEs (Investees).

To monitor the performance of service providers and reduce asymmetry of information

The Government must monitor services outsourced under a Public-Private Partnership (PPP) framework. As a result, the Government's capacity for monitoring and enforcing the operator's duties must be maintained. Strong regulatory policies can create this capability and provide a mechanism for the Government to oversee and implement.

When regulated entities outsource services to the MSME sector, a natural asymmetry exists between the regulated and government entities. Regulators can assist in re-establishing the balance of power and capacities.

Other interests, with a particular focus on MSMEs

MSMEs are often involved in many small-scale infrastructure projects like roads, irrigation, or sanitary facilities in developing countries (World Bank, 2021). Trade regulation should not be considered in isolation from other regulatory functions that may be relevant to such projects:

- Setting of quality standards and monitoring performance.
- Setting environmental and planning rules and enforcement.
- Setting procurement rules for contracting out by "public utilities" and enforcement.

- Health and safety regulations and monitoring/ enforcement.
- Use of natural resources.

While the positive impact of some of these regulations on the work of MSMEs can be detected, others can be burdening for MSMEs.

1.4 General Principles for Designing Regulations

Regulation is a tool used to accomplish a goal. What matters are the outcomes, not the statutory requirements. Therefore, when building a regulatory framework, special care should be taken to avoid developing a succession of extensive and sophisticated rules that appear impressive on paper but are complex and impractical to apply and are not necessarily appropriate to the circumstances at hand. The most effective laws, particularly in developing nations, are likely to be straightforward to apply, imposing a light burden on both the regulators and the MSME sector's sides.

The benefits of regulation should exceed the costs of regulation

When developing the regulatory framework, it is critical to consider the potential costs of implementing the rules, monitoring operations, and collecting data for all parties involved. Where several agencies are responsible for regulating the industry, care should be made to avoid duplication of data collection, audits, and other requirements. For instance, while it may be economically viable in developed countries to maintain separate audited accounts for company registration and regulatory purposes, this may not be feasible in the short and mid-term in developing countries. Another example applies when an

economic regulator requests information on particular activities; consideration should be given to whether an environmental regulator will need the same information, in that case the firm has to ensure that or else it might increase the cost of compliance for the firm.

What are the regulators' powers?

When determining the powers that the regulator should have, consideration should be given to the basic principles of design, i.e., regulation is a means to an end, and its cost should not exceed its benefits. The Regulator will need to be empowered to do the following:

- Gather information and data
- Establish rules and change rules
- Monitor implementation of rules
- Enforce the rules—What will be the regulator's enforcement powers? Can it impose fines and sanctions for breach of rules, or does it need to apply to a different agency to enforce its decisions?

However, the regulatory designers may strive to limit these capabilities or impose general duties of justice and proportionality on the regulator and establish the frequency with which functions such as tariff setting, and review for MSMEs can occur. Investors/operators, in particular, would want to guarantee that the Regulator's authority to change the rules, such as amending the operator's licence, is limited. Consumers will also want to know how they will be involved in regulatory decision-making. Consider if the regulator should be obligated to consult consumers and whether consumer organizations should be recognized formally in the regulatory framework.

In this context, this research further aims to understand the implications of regulatory changes on the MSME sector and how an effective and inclusive regulatory environment can be created for a better and more sustainable MSME development and growth. The first chapter will focus mainly on potential effects of regulatory changes on the MSME sector and try to understand how regulations affect the functions and efficiency of the MSMEs. The chapter also explore the barriers created by regulations and compliance and also the critical areas policy makers must consider while designing the regulatory framework. The second chapter will explore the involvement of the MSMEs in the regulatory framework development process and the challenges faced by the government and the organisations as well as focusing on the role of women entrepreneurs in the regulatory framework development process. The third chapter analyses the involvement of MSMEs in the regulatory framework implementation process and how capacities could be built to ensure inclusion of MSMEs in the regulatory texts themselves as well as the process of monitoring and evaluation after a new regulation has been introduced.

SECTION 2

A snapshot of potential effects of regulatory changes on MSMEs

Micro, small, and medium-sized enterprises (MSMEs) are the backbone of developing economies. They are regarded as catalysts for industrial change and innovation and critical engines of economic growth and employment generation; however, numerous organizations have reported that excessive regulations are becoming a barrier to small businesses' survival and growth (British Chambers of Commerce, 2002; SBRT, 2001). Small businesses are more severely impacted by red tape than large organizations because small enterprises are less adept at navigating the complexity of regulations, mainly when engaged in international trade and cannot spread compliance costs across large-scale operations. As a result, regulations and compliance requirements might impose trade barriers on these businesses.

The regulatory environment is one of the most critical variables influencing MSMEs and entrepreneurship. MSMEs typically face more significant hurdles than large organizations when screening the regulatory environment and coping with norms. In recent years, considerable progress has been achieved to minimize administrative burdens on start-ups, remove legal barriers to entry, and reduce regulatory compliance costs in various domains. However, the complexity of regulatory procedures, which encompass a wide variety of fields such as license and permission systems, insolvency, and taxation, among others, continues to be an obstacle for businesses.

Some critical measures for MSMEs include simplifying regulations and administrative procedures, assessing regulatory impact, reforming tax administration and bankruptcy procedures, promoting a second chance for honest entrepreneurs, improving information availability and provision, and using digital technologies to reduce administrative burdens and facilitate collaborative relationships, etc (OECD, 2018).

A regulatory environment that is effective and transparent is critical for entrepreneurship and small business development at all stages of the firm life cycle, including entry, investment, expansion, transfer, and departure. Reduced regulatory burdens on MSMEs can help them participate more fully in the formal sector, boost their productivity and competitiveness, and increase their involvement in and benefits from a globally connected economy.

Some studies conducted globally have created more nuanced portrayals than simple survey responses or appraisals of regulation or red tape as a barrier. For example, according to De Jong and van Witteloostuijn (2014), perceived high regulatory costs and inconsistencies have a significant detrimental influence on revenue growth and market competitiveness of MSMEs. They demonstrate the problems inherent in owner-manager perceptions of hurdles and legal changes, which can impose costs on firms and restrict growth due to the costs associated with maintaining current knowledge and understanding. A crucial first step for

regulators is developing a more nuanced understanding of how regulation affects firm-level growth.

2.1 A look at trade barriers created by regulations and compliances for MSMEs

Significant barriers in international trade include Government, foreign, and market rules and regulations and regional trade agreements amongst few countries like trade blocs. Tariffs and non-tariff measures, such as restrictions, have a different effect on trade depending on the size of the exporters. Increased taxes in destination markets make it difficult for businesses to generate profits by exporting (WTO, 2012). The same WTO report also found out that MSMEs see high tariffs as a more serious barrier to trade than large corporations. This study found two reasons why this is the case. Firstly, the trade flows of MSMEs are more sensitive (elastic) to tariff adjustments. Secondly, MSMEs appear to be more concentrated in industries with higher tariff barriers than large firms (WTO, 2012). Larger enterprises can adjust to new costly regulations more quickly. Only the most productive companies will export in such an environment, while the smaller and less competitive enterprises may not find exporting economically feasible. Not only do high tariffs diminish SME involvement in trade, but they also reduce their export volume more than large enterprises (WTO, 2012).

Limited access to information and distribution channels are also significant trade barriers for MSMEs. Collecting knowledge about destination market rules and export potential is expensive, especially for smaller

organizations. Access to distribution networks is critical for growth, particularly for diversifying their customer base within a region or globally. Delivery and logistical issues are significant, and they are exacerbated for MSMEs, given their relatively small 'weight' in overall transactions, whether as producers or middlemen.

Challenging access to inexpensive trade credit is one of the most frequently mentioned restrictions for MSMEs, particularly in developing nations. According to a recent Asian Development Bank survey conducted in 2017, more than half of all trade credit requests submitted by MSMEs globally are denied, compared to only 7% for multinational corporations. The same survey also found that, in underdeveloped countries, access to trade credit is frequently the most challenging. A portion of the problem stems from the fact that local banks may lack the capacity, know-how, regulatory environment, international network, and foreign currency necessary to provide import and export financing. In addition, banking and country risks might also be a source of concern.

Although, several trade constraints are regulatory, some are more likely to hinder MSMEs than others. A helpful difference in this context is between variables affecting enterprises' ability to enter or establish themselves in a foreign market and those concerning their 'operations'¹. The former typically refers to fixed costs, while the latter on variable expenses; it is reasonable to predict that establishment measures will be substantially more burdensome for MSMEs (Deardorff and Stern, 2008). Nonetheless, for exporting enterprises, home regulatory costs must incur in each foreign market. As a result, MSMEs are less likely to ship to many destinations than larger enterprises,

¹ (See WTO, 2012 for a fuller discussion).

potentially lowering the vast margin of trade, which appears to be backed up by empirical studies. Lejárraga and Oberhofer (2013) and Lejárraga et al. (2014) discovered that MSMEs' export decisions are incredibly persistent, indicating that enterprises that enter a foreign market are likely to continue exporting services to that market over time.

Additionally, their research indicates that services oriented MSMEs export a more significant share of their entire output when they sell internationally than large organizations. As a result, they are disproportionately impacted by trade restrictions. Lack of acknowledgement for foreign work experience, education, or qualifications is also likely to pose a significant barrier for MSMEs seeking to export regulated services. Without recognition arrangements that expedite the authorization to supply a regulated service in international markets, suppliers of regulated services engage in costly and time-consuming steps to demonstrate their qualification to provide the regulated service. MSMEs can circumvent this barrier by recruiting locally certified specialists, but this will almost certainly prove prohibitively expensive for MSMEs (WTO, 2012).

2.2 Complicated and divergent regulatory frameworks: Limits to

MSMEs' operations and prospects

MSMEs are often less equipped with resources like finance & manpower to screen the regulatory environment and complying with standards than larger enterprises. They often devote a more significant share of resources to administrative operations (OECD, 2017). A regulatory divergence between countries can add another degree of complexity for MSMEs involved in global and value chains (GVCs) marketplaces. Regulatory constraints to businesses have decreased over time in most OECD countries. Reforms over the previous decade have emphasized alleviating administrative burdens on start-ups, lowering legal barriers to entry, and cutting the cost of regulatory compliance in various areas (e.g., environment, labour legislation, product standards, and certification). For example, between 2008 and 2013, the number of days necessary to establish a business in the OECD area decreased from 14 to 6. The cost was reduced from 5% to 2% of income per capita (median values). Since 2013, a virtual one-stop-shop in Chile has enabled establishing a business in a single day, with minimum red tape and at no expense². Also, approximately 12% of surveyed European MSMEs describe regulation as their most critical issue, down from 16% in 2016 (EU SAFE survey 2017).

Indeed, international regulatory fragmentation may significantly increase trade costs. The regulatory standards vary globally due to cultural differences and societal decisions and regulatory measures being established in isolation. This regulatory fragmentation can result in considerable additional expenses for

² Chile is the first Latin American Country to become Member of the OECD in 2010. Despite being a High-Income Country, Chile remains a developing country.

companies required to modify their products and/or submit them to redundant conformity assessments for no increased safety or public benefit (WTO, 2020). In certain instances, country-specific regulations are nothing more than hidden protectionism (WTO, 2020). Many small businesses lack the capacity and resources necessary to modify their products or services to meet the regulatory requirements of multiple markets. As a result, these rules may create practical trade barriers for MSMEs that are unable to comply.

While much progress has been made in communicating and simplifying laws and procedures, complications associated with tangled license and permit systems persist. Countries are taking measures to streamline their licensing processes. For instance, in 2012, Israel implemented a business license reform to harmonize license requirements across the country and make it more difficult for municipalities to impose additional local requirements on top of national standards (OECD, 2016). In December 2017, a new government resolution classified firms according to their environmental risk and significantly reduced license requirements for low-risk enterprises. Recent initiatives have focused on reducing red tape for enterprises and increasing the openness and cost-effectiveness of administrative regulations to address the remaining issues (WTO, 2020).

Regulatory Impact Analysis (RIAs), which are used to examine the effects of new rules, have also become widespread in most OECD members, including in most cases, MSME impact evaluations. However, some countries use them exclusively for extensive regulations or specific regulatory instances. In Mexico, for example, the RIA process provides critical opportunities for public engagement to

guarantee that stakeholder opinions are adequately considered, including lengthy periods of consultation on the draft RIA (OECD, 2015a).

2.3 Inefficient financial and debt regimes: A specific challenge faced by MSMEs

Most MSMEs find it difficult to secure loans from banks directly and tend to secure credit through Non-Banking Financial Institutions (NBFIs). Governments must regulate these lending organizations and create more opportunities for financial support to the MSME sector. For example, they can give tax benefits or other incentives to large organizations investing in the MSME sector. They can also help facilitate micro-finance institutions or other lending bodies and even create micro-credit schemes in the public banks where MSMEs can secure credit at lower interest rates to establish or expand their business (CGAP, 2004). Also, the fintech industry³ needs to be better regulated to make the lending process faster and inclusive. Following are two financial support options for MSMEs through NBFIs:

Venture debt or Angel investors

A fund can be set up by the Government or privately to inject finance into young start-ups that have little in the way of revenue and lack a track record of performance. These start-ups need funding to hire staff, purchase equipment and supplies, start production, or scale up their operations. Alternatively, lending can also be provided from investment

³ Financial technology is the technology and innovation that aims to compete with traditional financial methods in

the delivery of financial services. It is an emerging industry that uses technology to improve activities in finance.

funds (instead of banks) usually directed at new or young ventures. The rationale is like venture capital, but the modality takes the form of lending (i.e., debt) rather than equity. Venture debt is very recent but proliferating in some places. For example, India has eight venture debt funds, and the growth of this form of financing has taken off since 2015. In addition, online venture debt is conducted on a peer-to-peer basis. MSME's can also turn to angel investors (individuals with extensive financial resources) looking to invest in start-ups.

Peer-to-peer platforms (lending)

These platforms are created and maintained by fintech companies. Loan requests are made online, and Individuals interested in lending money can browse the loan requests, pick one, and donate funds. The lender receives interest on the loan, and the borrower obtains funds at a cheaper cost than would not be possible with a traditional lender. For example, Lending Club is an extensive peer to peer lending platform operating worldwide⁴.

Crowdfunding (equity)

Crowdfunding enables people to invest in a business via an online platform. An MSME is listed on the platform, and the public can choose to invest in the industry by providing cash and receiving stock. A non-equity form of crowd fundraising is pre-selling, in which individuals advance money in advance to pay for future goods or services. Indiegogo Inc is an American crowdfunding platform with a multi-billion dollars lending portfolio and a global clientele⁵.

Insolvency regimes can be another major regulatory issue for MSMEs. Inefficient insolvency regimes stifle company dynamism, possible firm restructuring, and MSMEs' access to external credit. Individual defaulters are treated harshly in several nations, particularly in unincorporated micro and tiny businesses, where liabilities are unlimited. Protracted and complex processes can substantially impact small entrepreneurs' capital and reputation, significantly reducing their chances of establishing a firm again. Fear of social stigma, legal ramifications, and incapacity to repay debts is worse in some regions, such as Europe, in part because debt discharge periods are significantly longer (i.e., the time between liquidation and formal cancellation of debt). Reforms have been notably gradual, with efforts concentrated on prevention and simplification (e.g., through pre-insolvency regimes), particularly in Europe, where early warning systems and special insolvency procedures for MSMEs are only available in approximately a third of OECD nations (Adalet et al., 2017). Between 2010 and 2016, impediments to business restructuring remained steady or decreased slightly in most countries.

2.4 Transparency and predictability: Pre-requisites of MSMEs' expansion and sustainability

Any MSME that wishes to export goods or services must be familiar with the legislation (for example, technical regulations about the

⁴ Lendingclub.com. 2021. LendingClub | Online Personal Loans at Great Rates. [online] Available at: <https://www.lendingclub.com/>

⁵ Indiegogo. 2021. Crowdfund Innovations & Support Entrepreneurs. [online] Available at: <https://www.indiegogo.com/>

characteristics that a product needs to meet, rules, and regulations relating to trade). Additionally, they require information regarding export potential in the target market. Lack of understanding of rules may result in the product failing to comply with the importing country's regulations, costing the firm the product's rejection at the target country's border. Inadequate awareness of the export market's demand may also result in profit losses. Information gathering is expensive. According to a study, small exporting firms profit relatively more when trade facilitation improvements relate to information availability, advance rulings and appeal procedures. For example, if all East Asian and Pacific countries adopted the region's best practices in measures that improve information availability, small exporting firms would export 48 per cent more than they currently do and medium-sized firms would export 25 per cent more (there would be no significant effect for big firms) (Fontagné, Orefice and Piermar 2017).

According to a recent survey conducted by the Conférence Permanente des chambres consulaires africaines et francophones (CPCCAF), the most significant information barrier facing small businesses in Africa is about: (i) trade contacts and business opportunities, followed by (ii) information on relevant regulations and export support measures.

The CBI (Centre for the Promotion of Imports from Developing Countries, a division of the Netherlands Enterprise Agency and funded by the Dutch Ministry of Foreign Affairs) provides trade-related technical assistance to approximately 700 MSME exporters in developing countries. A critical lesson learned from MSME participation in CBI programs is the importance of predictability and openness of standards and rules for MSMEs (WTO, 2017). CBI, for example, has aided in the

diversification of Kenyan tea into a value-added product with unique flavours processed into tea bags. Market access hurdles in the EU are frequently substantial and costly to overcome for tea exporting MSMEs, exports to regional and emerging countries have proven more problematic due to a lack of information about current conditions. Furthermore, CBI's experience providing technical assistance to businesses at the enterprise level shows that exporting MSMEs from developing countries invests in employee skills and expertise related to market access.

Exporting MSMEs are increasingly establishing defined internal procedures to ensure compliance with domestic and globally agreed regulations. Market research is critical for MSMEs to expand into new areas by examining global and local demand, competition, and market access conditions (including tariff and non-tariff barriers). Paid services (often sector-specific) and global public goods such as those offered by ITC Market Access tools (including Trademap, Mac map, and Standards' map) and Market Intelligence platform for European markets contain content-based content on a combination of quantitative and qualitative research. However, MSME exports remain impeded by evolving restrictions, a lack of transparency, and unpredictability (Schaap and Hekking, 2016).

The WTO Technical Barriers to Trade (TBT) and Sanitary and Phyto-Sanitary (SPS) Agreements contain provisions limiting the trade cost-raising consequences of measures taken by governments to achieve public policy objectives, such as health protection, when these measures have spillover effects on business. The priority accorded by the two agreements to international standards is particularly relevant for MSMEs, as complying with many standards is likely to be more challenging for them. Additionally,

complications may develop during the implementation of these procedures. For instance, the legislation may be vague, creating uncertainty for suppliers or producers, or compliance may be challenging to analyse and verify. Working with the WTO's TBT and SPS Committees contributes to resolving these challenges by boosting transparency and lowering associated trade-related fixed costs. Furthermore, when fully implemented, the Trade Facilitation Agreement (TFA) will eliminate some of the fixed costs associated with inefficient trade procedures, expanding MSME involvement in commerce (WTO, 2016).

While trade facilitation promotes commerce for both large and small businesses, it encourages small businesses more as generally, they prefer to sell in the domestic market more rather than exporting (WTO, 2016). In addition, the TFA has reduced a significant barrier to trade for MSMEs, namely a lack of information about foreign market regulations. The TFA makes it mandatory for each member to promptly publish data with regards to its export-import procedures & documentation, fees & charges imposed by the Government, the international trade agreements the country is part of, as well as the penalty provisions for breaches in contracts and also the procedures for appeal and review (WTO, 2016). Having all this information readily available significantly increases the ease of doing international business and encourages MSMEs to start exporting.

The WTO's international effort on regulatory openness and coherence should continue. Technical restrictions that are new or changing in different nations can create superfluous and unjustifiable trade obstacles. Inconsistencies in product regulations may result in additional trade restrictions and costs for exporters. All WTO members should work

to avoid such barriers to facilitate the entry of MSMEs into global markets. Also, the WTO's notification mechanism for TBT provides for the evaluation of any national technical rules before its adoption. As a result, trade obstacles that violate WTO regulations can be identified and discussed prior to having a detrimental impact on businesses. Additionally, this method assists in identifying areas for harmonization and promoting internationally consistent and comprehensive rules (WTO, 2016).

E-commerce and Global Value Chains (GVCs) involvement are two approaches for MSMEs to overcome these constraints of expansion and sustainability as well as to boost their global trade involvement. E-commerce enables MSMEs to connect with their customers at significantly cheaper costs and GVCs will allow MSMEs to access foreign distribution networks and capitalize on economies of scale that they would not have otherwise achieved. However, MSMEs confront unique challenges in capitalizing on these prospects. Problems with logistics, such as shipping a product or delivering a service, ICT security, data protection, and payment-related concerns, are significant concerns that MSMEs face during the online business. Logistics and infrastructure expenses, regulatory uncertainty, and access to trained labour are just a few of the primary obstacles for MSMEs looking to join production networks.

2.5 The specific case of women owned MSMEs: Does gender affect regulatory challenges?

MSMEs operated by women contribute significantly to the economy in which they

operate. Yet, women entrepreneurs encounter various regulatory barriers to reaching their growth potential, like difficulty accessing capital and significant restraints on their business operations compared to male entrepreneurs.

Due to some economic, regulatory, and sociocultural issues, women led MSMEs are disproportionately underserved by financial institutions. Financial institutions have not yet recognized the commercial prospects associated with servicing the unique financing needs of women entrepreneurs as a distinct client segment.

A significant obstacle to access to finance for women-owned businesses is a lack of credible gender-disaggregated data, making it even more challenging to make the business case to governmental institutions to assist women-owned businesses. Commercial banks also need a better understanding of the existing market potential for women owned MSMEs and the constraints they face to develop strategies and solutions that better address the unmet financing needs of women entrepreneurs and thereby capitalize on the commercial prospects presented by this demography.

Apart from financial constraints, women led MSMEs also face several non-financial barriers that limit their ability to succeed as entrepreneurs. In many developing countries, women still require spousal permission to register a company and open a bank account or even to access other critical business-related documentations. Various authors have concluded that many women prefer to create businesses that are small in terms of both revenue and employment; this is mainly because women tend to take up more societal responsibilities compared to men (Carter and Rosa 1998; Cowling and Taylor 2001; Akehurst et al. 2012). This creates a barrier

for women to implement their entrepreneurial ideas and start a business.

Even after starting a business, access to finance for women led MSMEs in the long term proves to be a significant challenge; for example, women entrepreneurs find it much more challenging to raise money through crowdfunding or venture capital as investors are not ready to give long term commitments to women entrepreneurs. Also, in some countries, women entrepreneurs might not possess the kind of skills or networks to run the business successfully.

Women-led businesses generally experience a more significant regulatory burden compared to male-owned companies. When it comes to procedural hurdles, frequently necessitate direct engagement between corporate managers or owners and government officials. When exporting is regulated, a female candidate may suffer discrimination in nations with gender-biased cultural barriers, for example. This can manifest itself in the form of a bribe demand or a delay in processing the application (International Trade Centre, 2016).

According to ITC Business Surveys in 2016 on Non-tariff measures (NTMs), female-owned exporting enterprises report more procedural barriers to trade than male-owned enterprises. Notably, the proportion of instances involving 'information and transparency issues' is higher among female-owned businesses than male-owned businesses. Female-owned microbusinesses report more procedural barriers than male-owned microbusinesses due to 'information and transparency concerns,' 'informal or excessive payments,' and 'discrimination behaviour'. (International Trade Centre, 2016).

To solve rising market development difficulties and to capitalize on the immense potential of

the women's market for banks and enterprises, the barriers for women owned MSMEs must be addressed. Following regulatory policies can be emphasized:

- Developing a comprehensive framework for assessing country gaps in promoting gender equality, including women's entrepreneurship, at the government level.
- Utilizing an ecosystem-based approach to promote collaboration and women entrepreneurship.
- Establishing a comprehensive definition for women-owned MSMEs and a robust knowledge base of gender-disaggregated data on MSMEs.
- Recognizing that women owned MSMEs are a subset of the larger MSME finance market, design a unique value offering to serve them financially and sustainably.
- Involving financial institutions in promoting female entrepreneurship.

than a particular number of employees might have the opposite effect by preventing these enterprises from growing (OECD, 2015). As economies become more complicated and new societal requirements develop, rules must develop to minimize burdens and maximize efficiency. However, there is no 'one-size-fits-all' paradigm for regulatory reforms. Policy responses must be context-specific while adhering to recognized regulatory reform best practices, as detailed in the OECD Council's 2012 Recommendation on Regulatory Policy and Governance. Several critical policy issues to consider include:

2.6 MSMEs and trade regulation: What are critical areas for policymakers to consider?

Cross-country evidence revealed that certain regulatory burdens might be more significant for MSMEs than large organizations, depending on the macroeconomic framework and the institutional legacy and structure. For example, size-contingent policies that reduce the regulatory burden on MSMEs with less

Ameliorating the bankruptcy procedures and encouraging honest businesses to seek a second chance

It may include a shorter period for discharge, which alleviates the administrative load placed on entrepreneurs during bankruptcy proceedings. In addition, the release is automatic in several nations and does not require an additional court ruling.

Streamlining tax compliance

Process simplification through technology can be an extremely effective strategy for increasing compliance and lowering costs. In addition, certain tax benefits may assist in the formation and expansion of MSMEs. Such policies, however, should be carefully targeted to ensure that they achieve their policy objectives while being cost-effective and avoiding the creation of further contortions.

Business red tape reduction

Consultations with the private sector and ongoing interaction with citizens can assist civil servants in drafting smart regulation that is less bureaucratic. For example, the one-in-one-out rule is a growingly popular mechanism for reducing administrative burdens on businesses. It requires regulators to repeal an ordinance whenever they adopt a new one that puts an administrative burden on companies. Simultaneously, policymakers must weigh potential trade-offs and establish a balance between regulatory exemptions or simplifications and compliance with standards in various sectors, such as labour protection.

Strengthening the public sector's integrity and transparency and conducting RIAs to maximize the effectiveness of regulation and examine its impact on MSMEs

Regulatory frameworks can assist regulators in assessing the specific impact of legislation on small firms and exploring cost-cutting regulatory measures for small enterprises. At the EU level, the MSME Test contributes to the implementation of the 'Think Small' principle by analysing the potential impact of EU legislative proposals on MSMEs, including through i) engagement with MSME stakeholders; ii) identification of impacted enterprises; iii) impact measurement (cost-benefit analysis); and iv) examination of alternative mechanisms and mitigating measures. When it comes to substantial regulation, focus groups and panels can be employed to conduct comprehensive assessments of the regulatory impact on MSMEs. A regulatory policy body can ensure that rules serve overall government policy, albeit the specific institutional solution should be tailored to each system of governance.

Changes in regulations and compliances have a significant impact on the MSME sector, as witnessed above. Therefore, governments need to formulate and implement inclusive regulatory policies for MSMEs, focusing on women-owned enterprises. It is also critical that governments follow an entrepreneurial capitalism approach and involve MSMEs in the decision-making process for developing regulations. For example, it can be done through various methods, bringing MSME clusters together. A group of MSMEs could elect a representative or a panel that will closely work with the Government throughout the regulatory processes. This specific issue will be further discussed in the following parts.

SECTION 3

Inclusion of MSMEs in regulatory framework development

In conjunction with significant advancements in information and communication technology, globalization and liberalization generate new production dynamics, new trade and development patterns, and international rivalry. These changes necessitate a holistic and integrated approach to MSME development that considers the diversity and interaction of elements contributing to a business' sustainable growth and competitiveness. They also suggest the necessity for countries to design policies and regulations that consider the needs and realities of Governments, large private organizations, MSMEs and their interactions.

Without a transparent and inclusive policy and regulatory environment, experience has demonstrated that globalization of production and the opening of domestic markets have had a detrimental effect on the private companies' structure and MSME sectors of many developing nations, particularly LDCs (UNCTAD Secretariat 2005).

Given the importance of MSMEs, these non-transparent or non-inclusive policies and regulatory developments might significantly impact the countries' economy and society, affecting income and earnings distribution, tax and consumption bases, and the overall country's ability to modernize and integrate into the global economy. Additionally, the regulatory framework development process may become self-reinforcing. Infact, reduced demand (exacerbated by the impact of higher interest rates associated with structural

adjustment policies) and declining tax revenue may impair the State's ability to assist deserving MSMEs when assistance is most needed to enable them to survive and adjust successfully. External transitional assistance from private or public donor organizations may consequently be required to cover the costs of such MSME support programs.

Establishing MSME support organizations and programs contributes to strengthen the policy, legal, and regulatory environment in which MSMEs operate. It could entail reducing subsidies and other policy measures that benefit large enterprises in sectors where MSMEs have higher potential and redirect those subsidies to MSMEs, simplifying regulations and administrative procedures for business start-ups, and enacting new legislation to address gaps or inconsistencies in business laws. In the end, evidence indicates that enhancing such an environment may be more advantageous to MSME development than implementing support programs (UNCTAD Secretariat 2005).

3.1 Public-private sector dialogue: Opportunities for

more robust engagement of MSMEs in the regulation process

Importance of information shared by Governments for MSMEs and what it could be and how it can be delivered timely and efficiently

The most effective and practical option for holistically reforming the regulatory environment from the perspective of businesses begins with a conversation between the public and private sectors. Effective engagement and dialogue between the Government and the MSMEs are critical for developing a cohesive policy framework and supportive policies and mechanisms for enterprise development.

Entrepreneurial participation in public policy and regulation formulation is crucial because it enables governments to increase their framework's transparency, quality, and efficacy; and increase their legitimacy. Small private firms and the business community, which are widely recognized as essential to the growth of national wealth, have a vested interest in economic and trade policymaking and regulation. Finally, developing countries have emphasized the necessity of cultivating an honest policy dialogue between governments and smaller enterprises in developing countries to improve public policies (OECD 2007). For example, the Cameroon Business Forum is a public-private dialogue and has several special sessions for MSMEs. The dialogue aims to foster government and MSME sector relationships and helps the Government decide on new

regulations in consultations with the businesses.

Occasionally, the benefits of public-private discourse have been exaggerated and its drawbacks minimized. Moreover, identifying all relevant stakeholders for a particular regulation/policy and organising meaningful dialogue with all of them is quite a challenging task requiring substantial human and financial resources. But the failure to do so can lead to adverse outcomes for MSMEs. Attempts to employ and promote it in situations where the primary goal was governance and MSMEs development have occasionally resulted in an incorrect assessment of the conditions necessary for developing sound and fruitful government-business communications that result in a genuine improvement in the business climate. For example, in 1998 in Tanzania, the Government implemented the VAT system. It failed to consult all the MSMEs (the taxation system in the country at that time was already very complicated), especially the micro-businesses. They are the ones who suffered huge losses due to this new tax regulation, with many of them closing down (OECD 2007). These transactions are complicated in nature and are characterized by high transaction costs and information asymmetry. Additionally, in countries where the rule of law and the division and supervision of powers are still developing, contact between the Government and the MSME sector sometimes devolves into cooperation and mutual predation. This contact, which may take the form of a dialogue, has the potential to devolve into a mechanism for rent-seeking, the opposite of what one would expect from a constructive public-private conversation, namely the development of public goods such as economic regulations that increase national wealth.

The expertise of firms: a critical resource for designing relevant and sustainable trade regulations

The best method to ensure the legitimacy and effectiveness of government policy and regulatory framework is to ensure that it fits the requirements of individuals affected; information and expertise sharing between the State and the MSME sector is highly beneficial in this regard.

Trade regulations directed towards decision-makers in the MSMEs sector will be more suitable, relevant, and ultimately effective if the MSME sector provides data that enables policymakers and bureaucracy to analyse and accurately forecast predicted responses to economic policy changes. For example, during Mexico's negotiations for the North American Free Trade Agreement (NAFTA) with the United States and Canada, data provided by small local exporters proved immensely beneficial to Mexican negotiators with limited expertise in international trade negotiations (Schneider, 1997). In exchange, government data can be similarly helpful to the MSME sector (for forecasting, investment planning, and strategy formulation), increasing the sector's predictability and visibility. As a result, dialogue can be an engaged learning process. It is not merely a means of exchanging perspectives; it is also a means of convincing people to change their attitudes and identify complementary state and MSME sector initiatives.

Recognizing the benefits of interaction with the MSME sector and the possibility for mutual learning, a growing number of developing country governments are actively seeking dialogue/collaboration from the MSME sector. For example, India has hundreds of MSME clusters organized by

sector of business operations or geographical location. Each has elected representatives who are generally highly skilled experts conducting business in that sector or geographical area. These experts recommend how business processes can be simplified, and the Government organizes regular events to facilitate these recommendations. The Government also maintains a specialized MSME Ministry, led by a Minister who works closely with MSMEs on policy creation and execution (Deepak Bhagla n.d.).

Dialogue also enables the MSME sector to exert pressure on a government to enhance its performance and reform record, foster a more open and transparent business climate, and intervene in instances of acute market failure. Additionally, businesses have compelling interests to influence legislative and regulatory procedures. Despite convergence theories, the pace of globalization has not eliminated this need much over the last three decades. Except in monopoly or oligopoly situations, the MSME sector generally expects the Government to foster a business environment, regulations, and public policies that are conducive to business development (transparency, security, predictability, expanding infrastructure, and so on), and it expects the Government to have the capacity to do so. Without this type of communication with the Government, the MSME sector can very seldom thrive.

Governments must involve MSMEs in the regulatory development process and ensure that all new and revised regulations are developed in consultation with the MSME sector and that MSMEs themselves are more actively involved in the development process. It could ultimately ensure efficient and effective implementation, resulting in a more prosperous economic and trade sector.

3.2 Public-Private Dialogue (PPD)

The goals of PPD are to build confidence, narrow gaps, and lay the framework for collaborative problem analysis and the design of policies and institutional reforms that contribute to a more favourable atmosphere for development in the country, particularly in the MSME sector (OECD, 2005). The expansion of serious attempts to achieve these objectives indicates the rising interest of multilateral and bilateral development assistance donors in increasing engagement between governments and MSMEs in developing countries.

Small business participation in the development of public policies and regulations reflects the State's and Government's desire to strengthen their legitimacy through enhanced transparency, quality, and effectiveness of their policies (OECD, 2001). Small private businesses and the business community, whose central role in building national wealth is unquestionable, are frequently involved in formulating specific economic policies. Public-private Dialogue (PPD), particularly between the MSME sector and the Government, is increasingly being recommended to developing country governments to improve their regulations.

Almost every country has some form of communication between the public and private sectors at various levels of government, including regional and local authorities. However, in many developing countries, relations between the public and private sectors are typically informal, unplanned, or fragmented. Additionally, they frequently lack transparency and clarity in describing the objectives to be attained, the challenges to be overcome, and the needs of organizations, particularly smaller ones

(OECD, 2001). Additionally, contacts between the public and private sectors are frequently highly personalized or opaque, resulting in unsuccessful public-private dialogue. MSMEs often lack trust in governments, considering them a source of problems due to onerous regulations and inspections and unjust taxation rather than as a source of assistance. According to a survey conducted in Australia, over 50% of MSMEs thought that the Government is just focused on the large corporates and do not address their issues, 20% of MSMEs also stated that the government is working against them (KOEHN 2018). The lack of trust between the government and MSMEs explain the importance of having constructive dialogues between the Government and the MSME sector and involving them in the regulatory development process.

Inadequate interactions between these entities deprive the Government of critical inputs for policy formulation and the firms of crucial information for strategic planning. As a result of these constraints, it is not always evident if the process of regulations and institutional development in support of MSMEs in various countries sufficiently meets their needs and concerns or considers the hurdles and constraints they face. Rarely are all stakeholders in the private sector represented in this discussion. Often, owners of MSMEs, women entrepreneurs and young entrepreneurs feel overlooked or unable to participate due to various constraints, including a lack of information, a scarcity of resources, work pressure, and a range of other obstructions. Additionally, the institutions or organizations at the centre of this discussion usually operate in highly politicized environments where political bodies or leaders are the primary decision makers or influencer (OECD, 2001).

Involvement of women led MSMEs in regulatory framework development

Women as entrepreneurs as well as policy makers are too often excluded from regulatory policy formulation and consultation processes, and their voices are not always audible or present at the decision-making table. For example, during the COVID-19 pandemic, it is being witnessed in many countries that male government officials & policy makers primarily made vital decisions about lockdowns, containment, support, and recovery (The Guardian, 2020).

In the same way that the pandemic has gendered impacts, trade outcomes are also not gender-neutral due to a combination of sociocultural, political, and economic factors. Policies aimed at supporting MSMEs and entrepreneurship have not always considered women's positions in value chains, their multiple roles in society or their access to assets, skills, and networks.

The lack of gender-disaggregated data to support a gender mainstreaming process and the design of gender-responsive policies does not help. Countries have not invested enough – or at all – in such data, including in trade-related fields, which would enable regulatory policymakers to understand better institutional and regulatory gaps that affect women in business. This shortcoming is compounded by the fact that gender is often addressed in silos rather than as a cross-cutting issue.

It is extremely critical to include women entrepreneurs in the regulatory policymaking

process. With time, the number of women led MSMEs is increasing rapidly, and women play a significant role in the business sector today all over the world. Therefore, the Government needs to ensure that women have voices in the regulatory policymaking process from its development to its implementation. The issues women face, especially regarding access to finance, lack of investment opportunities, lack of business skills or networks, and even sociocultural barriers, would hence be appropriately reflected. Also, there is a lack of information on whether and how women are involved in the regulatory development process in any country around the world. This makes it critical to include women entrepreneurs in the regulatory development process to ensure that the issues are resolved.

3.3 Engaging MSMEs in the regulation's development: Some concrete keys

To successfully introduce an effective MSME participation in the regulation development of a country, governments need to synchronize with the MSME sector's stakeholders through systematic mechanisms. It is critical to follow a well-designed approach as a sudden or unorganized process can cause much administrative and financial stress on the MSMEs. The below diagram shows how a collaboration between the Government and the MSMEs could be carried out in the regulation development process (taking the example of the reform process here):

FIGURE 1: PUBLIC-PRIVATE DIALOGUE PROCESS IN REGULATORY FRAMEWORK DEVELOPMENT

Public-private dialogue must be leveraged at each step of the reform process



Source: International Trade Centre, 2017

Diagnosics

At this stage, the Government should identify the current challenges with the existing regulatory policies and try to understand the problems faced by the MSMEs, engaging with them first-hand. This will also help to understand the 'MSMEs' perspectives and more inclusive regulations can be created. The MSMEs would also feel more empowered as they are being asked about their grievances in the policy making process; this helps build a strong trust between the Government and the MSME sector.

Solution design

The Government should ask for potential solutions to the challenges faced by the MSME community, and their elected representatives can offer suggestions after thorough due diligence has been conducted at

the ground level. The industry experts' recommendations can be filtered through this process rather than by government representatives who might not be aware of the ground realities. Once consensus has been reached between the Government and the MSMEs, the policies could be implemented. This also creates much potential for deriving innovative solutions as MSMEs might provide creative and modern solutions to build strong and inclusive policies.

Implementation

It is imperative for the Government to make sure the regulations are implemented smoothly and efficiently to impact the MSME sector positively. The Government needs to ensure that the MSME sector organizations are entirely on board with the procedures which are being implemented. If they need any training or advice, programs or workshops should be organized so that all the MSMEs

⁶ Aggarwal, R., 2017. Public Private Dialogue: The role of the private sector in monitoring & evaluation. [PDF] International Trade Center, p.2. Available at: https://unctad.org/system/files/non-official-document/RajeshAggarwal_ITC_NTFCForum_Jan2017.pdf

have a clear understanding of what policies are being implemented.

Monitoring and Evaluation

The Government's responsibilities do not end with just introducing new regulations. It is also essential to make sure that they are being followed and smaller businesses do not have bottlenecks due to the new guidelines. Governments should also ensure timely feedback to amend the policies if required or even change them over the period.

Following the regulatory development process above, governments may foster public-private sector engagement by possibly engaging in the following activities:

Demonstrate a favourable attitude toward public-private sector collaboration

Perhaps most essential, the Government need to adopt an open and positive attitude toward engagement with the business sector and demonstrate a genuine willingness to include private sector perspectives into policymaking. It will necessitate a cultural shift for many governments away from an "administrative approach" to a more "managerial attitude" toward the private sector. In addition, it is critical to promote, across all government levels, the benefits of dialogue for officials to avoid viewing it as an unnecessary bureaucratic burden.

It is critical to acknowledge that legislators and their professional advisers (and leaders of large organizations) do not own a monopoly on perspective, comprehension, knowledge, and wisdom. In most circumstances, first-hand understanding of market circumstances will likely reside with MSMEs, which account

for most of the economy in any country. Additionally, they will have the first-hand experience of the effects of government regulations on their firm. Analogies abound for women entrepreneurs, rural entrepreneurs, and young entrepreneurs, among others. Additionally, it is critical to remember that effective communication requires the private sector to understand the benefits - i.e., their perspectives should influence government decisions. Otherwise, both parties will regard the exercise as pointless.

In most East Asian countries, a positive attitude toward public-private cooperation has been the norm rather than the exception (IFC, 2014). The private industrial sector was created in part by local governmental initiatives. Foreign investors and significant domestic enterprises have contributed to the decision-making process by proposing or influencing new policies and measures. For example, In Cambodia, after the successive communist governments were in power, the business sector was used to working under government influence, but after its democratic movement, the private sector is being brought to assist Government in regulatory framework development (Wright 2006). In Japan and Taiwan, this procedure has included MSMEs more recently.

Establish channels for structured dialogue between the public and commercial sectors, explicitly focusing on the MSME sector.

This can include forming consultative business councils, advisory panels, chambers of commerce, and business groups. The following elements define a successful public-private sector interaction mechanism (IFC, 2014):

- All key stakeholders are represented, and the selection processes are transparent.

- The objectives and schedule are unambiguous and pertinent to all parties.
- Sessions are held regularly or as needed based on transparent and widely agreed standards.
- Transparency of the plan (how and by whom it is decided, how representatives are chosen), and the frequency of meetings.
- Accountability/monitoring of dialogues' progress or effects.
- Two-way street – as a venue for the Government to seek input from the private sector on issues and as a channel for the private sector to voice concerns.
- At all levels: national, regional, and local, for the dialogues to take place.

Encourage training and capacity development

Without capacity development and training in "public-private dialogue", certain parts of the business community will not be capable of reflecting the segment's issues and demands appropriately. Such procedures exist in most East Asian countries and have developed a degree of regularity; for example, the Vietnam Business Forum, founded in December 1998, had become a component of the Consultative Group (CG) process, and they worked with the Government to ensure smooth bi-annual public-private dialogue for training and capacity building of the private sector (IFC, 2014). As a result of this integration, the Government's commitment is ensured, as the

(Deputy) Prime Minister and the Minister of Planning and Investment are both involved. Additionally, the Government recognized the Forum as an endeavour by stakeholders to improve the business climate. However, even in East Asia, MSMEs are frequently absent or under-represented in significant business and trade organizations that are often part of the dialogue; only a tiny number of MSME representatives are a part of the VBF group (IFC, 2014).

There is a need to promote discussion among MSMEs, rural entrepreneurs, women, and young entrepreneurs through business alliances. Business development service providers' training is a critical component of this process as well.

In general, a weak enterprise sector will have fragile representative bodies like chambers of commerce or business associations. As a result, it is necessary to enhance representative organizations through capacity building initiatives. Here, more established business groups or chambers of commerce may provide technical assistance. Additionally, best practices could be acquired through connections with international business organizations and chambers of commerce. Business support organizations such as chambers of commerce play an integral role in such activities as they can help MSMEs adjust to new regulatory frameworks and represent MSMEs at a government level to help create a more inclusive regulatory development process. For example, the US Chamber of Commerce assists companies and particularly MSMEs, adjust to new regulations and the legal process of complying with regulations. They also recommend more inclusive regulatory approaches to the Government (Commerce n.d.).

Establish relationships with foreign business associations

It is critical to keep in mind that even MSMEs operate in an increasingly global world in trade and investment. To create a significant impact, PPD platforms must work in this climate as well. It can be ensured through enhanced international cooperation among institutions that facilitate interaction between the public and private sectors. For example, consider establishing an inter-regional chamber of business comprised of chambers of commerce from nations with varying levels of development. This will:

- Increase firms' chances of realizing trade and investment possibilities through networking, collaboration, and exchanging information on best practices for private sector development.
- Increase the private sector's influence on overseas trade, investment, and other policy concerns.
- Strengthen and support national platforms for public-private sector dialogue by disseminating best practices and establishing effective structures.

3.4 Government initiatives to promote MSME engagement in regulatory reforms

Effective consultation mechanisms and the ability to engage in constructive interaction with the business sector are critical for creating a well-structured and broadly supported MSME regulatory policy. However, small businesses are typically less organized than larger businesses and may not be capable of developing policy suggestions. Thus, governments must take specific measures to guarantee that the voice of small

businesses is heard appropriately and that all types of companies are represented in the consultation process. Korea is an excellent example of an effective public-private consultation program, as the Government developed the Public-Private Joint Regulation Advancement Initiative (PPJRAI).

In 2013, the Korean Government announced the PPJRAI to strengthen and develop the country's regulatory system, emphasizing the conditions under which MSMEs operate. It is a task force of the Office of Government Policy Coordination (OGPC). It is composed of 26 members – half of whom are experts from the regulating government ministries and half of whom represent private sector organizations such as the Korea Chamber of Commerce and Industry (KCCI) and the Korea Federation of Small and Medium-Sized Enterprises (KFSE) (KBIZ). The PPJRAI has a team dedicated to overcoming regulatory barriers faced by MSMEs and new entrepreneurs. Its primary goal is to identify on-site laws that appear too burdensome for MSMEs, reform them, and monitor their execution directly with the regulatory government ministry.

The task force analyses each case on an individual basis, which might take up to two weeks. It finds pertinent regulations in need of revision by serving as a platform for stakeholders and the public to submit petitions for regulatory review at its monthly town hall meetings, online, or by phone. Relevant submissions are then assigned to the national or local levels for examination and development of improvement proposals. Finally, negotiations with appropriate ministries determine whether proposed revisions are accepted or rejected. Additionally, PPJRAI is responsible for conducting retrospective analyses to ascertain the impact of implemented reforms on Korea's economy (OECD, 2017).

Three reasons contribute to the PPJRAI's regulatory reform success (Pérez, 2015):

- Solid political backing from the President, who is personally involved with the PPJRAI.
- Collaboration with highly technical and institutional specialists who can propose reforms while acknowledging any attempt's inherent limitations and benefits.
- A public-private partnership that actively involves the community and demonstrates a desire for market-oriented regulatory reforms.

Georgia and Belarus have formed private sector or entrepreneurship advisory councils comprising representatives from the country's largest MSME and business organizations in terms of institutional development. These councils are directly involved in the policy and regulation formulation process. In Georgia, in addition to the Private Sector Development Advisory Council, several public-private entities – including the Investors Council, the Deep & Comprehensive Free Trade Agreement (DCFTA) Advisory Council, and the Sub-council for the Promotion of Women Entrepreneurship – include MSME associations.

In Ukraine, each ministry has established a Public Council, which serves as an advising and consultative body. The Public Council, affiliated with the Ministry of Economic Development, Trade, and Agriculture (MEDTA), comprises 56 members, with 70% representing private sector organizations.

It is very critical for governments to ensure that MSMEs are consulted during the regulatory policy development process. As stated previously, governments need to make sure that the MSMEs trust government

regulations and procedures to ensure a healthy business environment in the country. Apart from the regulatory framework development process, it is also critical that MSMEs are present during the implementation process to ensure that it is smoothly implemented and the MSMEs fully understand and apply those regulations. Involvement of MSMEs in the regulatory implementation process will be further discussed in the next chapter.

3.5 Ensuring the inclusion of MSMEs in the texts: towards an inclusive regulatory framework

It is essential to assess the inclusion of the MSMEs in the regulations' texts themselves; whether they are considered explicitly in the regulatory framework in developing countries and beyond. Through an analysis of various regulatory texts of developed and developing countries from diverse continents, the study has tried to identify if "MSMEs" were mentioned or not. After thorough desktop research, it can be surmised that very few regulatory texts specifically mentioned MSMEs, with none found from developing and least-developed countries.⁷

Although, in particular developed economies like Japan or the European Union, it can be witnessed that MSMEs have been mentioned in the regulatory framework texts, the regulations might not be about them directly. For example, the European Union Anti-dumping law imposes tariffs on products that are being dumped into the EU market to protect small businesses (Journal of the European Union, 2016). The inclusion of MSMEs' specific needs and realities in the regulatory frameworks themselves is an essential step towards the sustainable development of these business entities.

⁷ It is acknowledged that such instances may very well exist as the desktop research do not claim to be exhaustive considering not only the very large number of

such regulations in the world as well as the lack of their availability in English and in public domain.

SECTION 4

Inclusion of MSMEs in regulatory framework implementation

It is very critical that MSMEs are included in the regulatory framework implementation and revision processes. Governments need to understand that an inclusive regulatory implementation would not be feasible without an effective MSMEs involvement. Encouraging stronger entrepreneurial engagement in the knowledge-based economy transcends traditional delineation of political responsibility. Also, in many cases, broader, more constructive cooperation within governments will be necessary for achieving more relevant and effective regulatory outcomes. The involvement of relevant societal stakeholders in the regulatory framework implementation process is also essential for laying the basis for an effective regulation delivery since MSME concerns otherwise risk being neglected.

4.1 Using MSMEs to implement government regulations: an option worth exploring

In many developing countries, the MSME sector, despite its weaknesses, can serve as an intermediary and even provide solid backing for governments in implementing regulations. There are two aspects to this:

First, the MSMEs can serve as an intermediary for public policies by supporting or being actively involved in their implementation, thus enabling more government transparency and responsibility towards firms. When governments make policies consulting MSMEs, it encourages MSMEs' buy-in and even ownership of public policies. It helps to reduce companies' avoidance behaviour such as tax evasion, lawbreaking, bribing government officials and capital flight. In the meantime, it enables them instead to become involved in public policy implementation, which, in turn, is highly beneficial to economic activity, and hence political and social stability.

Such private-sector ownership is crucial to the success of most government regulations. However, although the private sector can be a lever for public policies, it can also be an obstacle to their implementation. For example, if governments implement new regulations which are not inclusive or are flawed, causing challenges for the firms, they might resort to avoidance behaviour and not follow the regulation.

Second, the financial and industrial involvement of the MSME sector is key to the successful implementation of government regulations, particularly in developing countries where the State often has very meagre resources. MSMEs often possess the key technical know-how to several crucial projects required for the country, and they might also be able to acquire funding to

contribute to more extensive projects if strong & inclusive regulations are in place. Procedures to build energy infrastructure, water management, and transport are the best examples of where government and MSME sectors can explore new avenues and require the substantial involvement of private-sector operators. In addition, when governments are announcing any infrastructure, defence, or digitization projects, they should involve the MSMEs by outsourcing some of this work. It is very critical to encourage innovation in the country. MSMEs have the potential to bring new technologies at low costs. The majority of big information technology (IT) companies in the world were started as MSMEs and are revolutionizing the technology industry today.

Such public-private partnership known as a PPP, has been partially successful, especially in developing countries. It indicates that public-private contracts of this kind require prior in-depth dialogue between government and small business operators that go beyond purely legal aspects. The underlying economic, social, and regulatory issues of such collaboration must be thoroughly discussed, particularly how they fit into overall national strategies for growth, infrastructure development and poverty reduction. It is critical to ensure that the regulatory framework is developed to encourage higher public-private partnership projects between the government and the private sector, mainly focusing on the MSMEs. MSMEs combined in clusters, are massive and contribute to a lot of employment in the region or sector they are based in. Hence, governments must ensure that regulations are developed in a manner that reduces the burdens for the MSME industry.

Trade-control laws and regulations, such as embargoes and sanctions, have gained prominence in recent years. However,

empirical research on the responses of MSMEs to such coercive economic measures is scarce. Using literature on organisational reactions to external demands and behavioural ethics, a study conducted by (Christian Hauser, 2021) tried to gain a better understanding of the relationship between external pressures and managerial decision-making and the breadth of trade-control compliance programmes. The findings of the study were based on a sample of 289 MSMEs and it indicated that organisational reactions to regulatory constraints represent appropriate changes, but only if decision-makers are properly informed and aware of the applicable laws and regulations. On the other hand, ill-informed decision-making results in an exaggerated response, resulting in an insufficiently decreased scope of the compliance programme. Additionally, the findings implied that MSMEs that are deeply linked into supply networks are prone to blaming others. This makes it extremely important to ensure that MSMEs are involved in the regulatory framework development process and make sure that they are not only informed about the regulations but then if they have any grievances with the regulations, those are also thoroughly addressed.

4.2 Building capacities to engage effectively

In order to engage with MSMEs effectively, they must be facilitated with the right knowledge and skills. Governments need to encourage the participation of non-state actors like NGOs/think tanks/chambers of commerce in the regulatory development process. These organisations are often directly engaged with the industries and market daily and possess the proper knowledge and technical know-how to participate in the regulatory policy development process alongside the government.

It has been witnessed on various occasions that governments have initiated some dialogue, and there has been substantial participation of the MSMEs and other non-state actors initially, but this has diminished over time. It might have been due to various reasons like lack of capacity to understand trade issues, lack of funding and support, lack of time to participate in the engagement process, and low coverage of such initiatives in the media. It is essential for the government to address these issues on a priority basis. It can cause a lack of cooperation and trust between the government and the private sector, leading to inconsistent regulatory policies and non-compliance.

Governments must undertake initiatives to effectively engage with MSMEs in the regulatory policy implementation process. It is necessary to develop internal structures that will allow the participation of these sectors, and for governments to understand the needs and interests of the MSMEs before engaging with them in a dialogue. They also must seek help from professionals with managerial and communication know-hows in the negotiation process. This can be achieved by various means such as:

- Consultation of performance standards for the government agency involved in the negotiation and regulatory policy implementation process should be set.
- Expertise in the subject matter of the engagement about the issues of the MSMEs should be enhanced. The government representative involved in the negotiating process must possess all the knowledge related to the issues.
- Internal organisation structures must be built within the government to undertake these activities with people who possess the right analytical skills, managerial

skills, and communication know-how to interact with the MSMEs.

- It is necessary for the government also to undertake an internal assessment to understand the skill gaps and determine priorities for corrective action for the regulatory policy development process.

It is also equally important that the business representatives and organisations participating in the regulatory policy processes also have the skillset on the rules and procedures as they are representatives for the whole MSME sector in the country. It can be done by organising training and capacity building programs that will increase awareness and reduce scepticism between the governments and the stakeholders involved in the regulatory policy processes.

4.3 Monitoring of regulatory framework implementation: Possible role for MSMEs

One of the key challenges for MSME to implement the regulations in place is the lack of coordination within the MSME sector and information asymmetries. It ends in reducing the MSME's ability to contribute to economic and industrial development, innovation, job creation, and social cohesion. Government support to MSMEs can take many forms, including advice, training, and increased access to finance. It can benefit both the individual MSME owner and the society through beneficial spillover effects on employment, wealth creation, and economic growth. As a result, significant direct public expenditure on MSME programs exists, and numerous other regulatory policy initiatives

targeting MSMEs have important indirect public finance implications (OECD, 2004).

As discussed in the previous chapter, monitoring, and evaluating (M&E) is crucial for governments after introducing new regulatory policies. It is the role of regulatory policymakers to ensure accountability through M&E and to ensure that expenditure is consistent with program objectives and achieves the desired results. M&Es are also necessary for refining and redirecting regulatory actions, enhancing implementation performance and "value for money." Furthermore, when applied consistently across various forms of regulatory interventions, it can assist in ensuring that policy is coherent in aggregate and that the regulations are suitable.

What are current trends and challenges?

There have been several advancements in regulatory and policy evaluation approaches recently, and many of these are expected to be particularly useful in evaluating trade regulations applicable to MSMEs. Additionally, significant advances in data collection for MSME regulatory development have emerged. MSME program (schemes extended to MSMEs from the government) monitoring is already well-established globally, and mechanisms for monitoring MSME programs are substantially in place. For example, the European Commission monitors and reviews nations' progress in implementing the European Small Business Act (SBA) through the annual MSME performance review. The SBA's country fact sheets highlight key performance metrics and recent national policy developments pertaining to the SBA's ten policy pillars (European Commission, 2017). Estonia had built a monitoring and evaluation system for its MSME plan 2014-2020, which includes a

comprehensive quantitative evaluation every two years with the assistance of foreign specialists. The Ministry of Economic Affairs and Communication is responsible for the system. However, governments' use of these advancements to conduct the most rigorous evaluations of regulatory policy efficacy and to employ the results for continual regulatory improvement has not been widespread across countries. In short, widespread adoption of an evaluation culture has not occurred globally, and considerable hurdles remain.

MSME regulatory rules should be established with clearly defined objectives. The intervention's objectives are best described in terms of the market or institutional failure addressed, or the social benefit sought. Then, targets or key performance indicators can be defined against which the policy action's outcomes (intended and unexpected) can be measured. More attention is needed to better understand the mechanisms by which regulation produces advantages and to examine the policy's potential unintended repercussions (positive or negative). Appropriate data collection and analysis are required to reflect this awareness of possible effects.

Additionally, there is an opportunity to strengthen the data collection mechanisms and national statistical information accessible for monitoring and evaluating MSME regulatory policies. Data should be available at suitable time intervals and levels of disaggregation, as well as referring to a foreseeable future outcome indicator. While specialized data collecting procedures may be necessary for some instances, the evaluator can typically depend on existing data sources.

Numerous sources of rich and relevant data exist but are frequently underutilized to evaluate MSME regulatory policies, such as tax records or unemployment registration (OECD, 2017b). In addition, other data

sources outside of public administration may be beneficial, for instance, in the MSME market. Another fascinating field is examining bank client data, as (Coad et al., 2013). Legal impediments, a lack of incentives for data providers to make data available, or a lack of incentives for data users to use data for assessments can obstruct their usage. To address this issue, several OECD countries, including Denmark, Norway, and Sweden, have taken significant initiatives in recent years to expand access to sensitive data and to connect data from disparate sources. For example, France is making administrative data accessible to authorized academics via remote access (see also OECD, 2017). In the future, "big data" obtained via digital technologies have the potential to improve evaluation significantly. In addition, recently developed methodological techniques for analysing big data can be a valuable resource for MSME and entrepreneurship initiatives.

A third difficulty is to guarantee that the interconnections between the outputs of various MSME regulatory policies and programmes are considered. Only in this manner can informed decisions about future regulatory adjustments can be made. It is essential to identify programs that warrant expansion and those that demand contraction or abolition. MSME programs, on the other hand, are incredibly diverse. Some are expected to have an immediate effect, e.g., export facilitation, while others are unlikely to have a noticeable impact in less than a decade, e.g., innovation.

The influence on other regulations affecting MSMEs must also be assessed. Typically, ministries of economy and industry are charged with the formal task of directing and coordinating government wide MSME regulatory policy. However, expenditures by other ministries, such as those in charge of

finance, education, employment, and infrastructure, have a significant impact on MSME activity. These policies encompass taxation, social security, commercial regulation, immigration, and competitiveness, among others. The impact of their regulations on MSME activity should be assessed, for example, using monitoring and evaluation evidence to support RIAs and the SME Test, which involves a four-step consultation process to study the regulatory impact on MSMEs (European Commission, 2020). It can also be done through the establishment of cross-cutting groups like the Basque Business Development Agency (SPRI) in the Basque region of Spain to conduct evaluations and reflect on the findings on the impact of these regulations on MSMEs.

However, high-quality reviews of the MSME regulatory framework remain uncommon. For instance, the 2012 study by the US Government Accountability Office examined 53 entrepreneurship programs across four distinct departments with a combined budget of USD 2.6 billion. It stated that the four agencies had either never undertaken a performance evaluation for 39 of the 53 programs or had completed only one in the preceding decade (GAO, 2012). Additionally, the UK National Audit Office stated that none of the UK government's business support evaluations produced convincing evidence of policy impacts (NAO, 2006).

Effective monitoring and evaluation need a commitment of an assessment as a necessary component of implementing regulatory policies. Frequently, evaluations are conducted in isolation and are not integrated into the regulatory cycle. A monitoring and assessment culture should pervade all stages of the design, implementation, and reform of regulations. This could be accomplished in various ways, including focused training and collaboration with independent review bodies

and academic institutions. The application of M&E evidence also necessitates experimental regulatory space and the acceptance of failure.

The underestimated role of communications

Communication is a critical factor government need to consider during the private sector involvement in the regulatory process. In any dialogue or negotiations, communication plays a crucial role in determining its success or failure but is often underplayed.

The most important objective of communication is to inform all the stakeholders involved about the government's regulations and what will be its impact on their organisation, and how will the government assist them in the compliance and grievance process.

In order to raise awareness and interest of the MSMEs in the regulatory framework, the government must allow them to make informed contributions. Their involvement in the process should be built by providing them with regular and straightforward information about the regulation and its objectives and benefits. Certain critical things to consider here are (CUTS International, 2017):

- The structure and methods best suited during the communication process.
- The kind of media and technological access the stakeholder have.
- The appropriate kind of language and style to be used.
- The best media platform to be used.
- Involve other stakeholders like NGOs/ think tanks/ chambers of commerce, apart from the MSMEs, to reach out to a

maximum number of organisations in the industry.

- Regular and consistent feedback to be provided to the MSMEs on the progress of the ongoing regulatory implementation process, and impact of those implemented in the past.
- Be responsive to the queries, complaints and inputs provided by the MSMEs and inform the sector about how these are being addressed.
- Communication to also be clear and focused and clearly inform the MSMEs if some actions need to be taken from their side in the regulatory policy development process and what is expected from them.
- Information shared by the government to be accessible to all, trusted, relevant and “reality checked”.
- Ensure that there is not any information privilege or conflicts of interest.

4.4 Evaluating the regulatory framework: Ensure a sustainable and positive impact for MSMEs

Over the last decade, the tools and data available for evaluating MSME regulatory policy have advanced considerably. However, widespread, and thorough evaluation remains a problem. There are numerous examples of best practice assessment, but there is less evidence of a culture of comprehensive evaluation in this regulatory domain (OECD, 2020). The following factors are critical for regulators to consider (OECD, 2020):

- Clear regulatory aims: in practice, many regulations have imprecise ambitions, which complicates evaluation, particularly when numerous purposes are involved.
- A comprehensive assessment of the entire regulatory development process: it is critical to have a firm grasp on the regulatory levers applied and the potential interactions between the outcomes of various policies, as some instruments may be complementary on the one hand or mutually contradictory on the other.
- Good data: In some cases, insufficient data quality is the primary reason studies fail to detect any statistically significant influence of studied rules. Additional and better metrics broaden the area of the review, but they can also improve its precision.

- Expanding the focus beyond outcome: There are various more elements that regulatory policymakers should consider that could contribute significantly to explaining the efficacy of their policies. These include the criteria for eligibility, the sample size, the geographical unit of reference (e.g., regions or municipalities), and how implementation agents are educated about the policy.
- A commitment to evaluation as a necessary component of developing regulatory policies: A culture of monitoring and assessment should pervade all phases of policy development, implementation, and reform.

The Sustainable Impact Assessment (SIA) model as a best practice

An SIA model is used to assess the impact of the regulations on the organisations. It has two main aspects: (i) it is a methodological soft regulatory policy instrument for developing integrated regulations which take complete account of the sustainable development dimensions, and which include cross-cutting, intangible, and long-term considerations; and (ii) a process for assessing the likely economic, social, and environmental effects of MSME regulations, strategies, plans and programmes before they have been formulated by the government (ex-ante). It has some important principles:

- Sustainability in SIA refers to the assessment of all three dimensions of sustainable development (economic, social, and environmental). Other types of impact assessments do not follow this pattern (such as regulatory impact assessments or environmental impact

assessments). Integrating sustainable development into regulatory policies requires considering both short- and long-term consequences — what appears advantageous in the short run might be disastrous in the long run. There is a danger that short-term priorities will trump longer-term perspectives and consequences (for example, health risks or depletion of ecosystems). Another factor to address is the spatial impact and potential conflicts between global, regional, and local objectives in environmental and socioeconomic regulatory legislation.

- A concentration that extends beyond numbers. There is a danger that quantitative and complex forms of analysis, such as cost-benefit analysis and monetisation, will triumph over qualitative and soft forms of analysis, as well as participative techniques. This is particularly troublesome when environmental, social, and other non-market factors are involved. SIA use a number of methods and methodologies to quantify the components of sustainability that are less easily quantifiable.
- Stakeholder participation ensures feedback on potential impacts (direct or indirect) and trade-offs from a variety of perspectives and disciplines. This raises awareness of the broader consequences of policies and the breadth of issues impacted and compensates for the methodological constraints associated with quantifying impacts. At the strategic planning level, we frequently encounter uncertainty in impact forecasts and come upon value issues that cannot be resolved exclusively by specialist knowledge (OECD, 2008b). Additionally, MSME engagement increases openness

in the regulatory policymaking process, as well as its underlying assumptions and considerations, and results in more sustainable and consensual policy solutions. Participation should be encouraged at all stages of the SIA process. It is critical to foster a multidisciplinary, multi-perspective, and bottom-up approach when planning MSME participation. It is crucial to strike a balance between gender, different generations, spatial (global, national, and local) and sectoral viewpoints, as well as the inclusion of all relevant disciplines.

- The primary purpose of an SIA is to develop integrated rules that consider all aspects of sustainability, including intangible, geographical, and long-term factors, as well as unintended consequences. This entails accountability and openness at various levels, including who is involved, the procedures and methodologies employed, and the rationale for the mitigation choices and solutions adopted. Thus, SIAs should disseminate all of this knowledge and encourage reflection and learning among all participants.
- The decision to conduct an SIA must be based on the principle of "proportionate analysis," in which the depth and scope of the impact assessment are proportionate to the regulatory policy proposal's significance, political and legal nature, and sectoral context. This should include not only the depth and breadth of the analysis of an action's effects but also the focus placed on which parts of the SIA process to emphasise, the types of impacts and mitigation strategies to explore, and the mechanisms for monitoring and evaluation (The Evaluation Partnership, 2007).

- Even when using simple methods or a "fast scan" version of the SIA, transparent processes regarding timing, who will do what, for what purpose, and with what resources must be created. It must be clear who is accountable for which parts of the SIA and decision-making process, what methodologies, tools, and indicators will be used, which stakeholders and experts must be included and in what capacity, and how and to whom the results will be delivered. Additionally, incorporating an SIA into the regulatory policymaking process may necessitate many institutional modifications. For example, new stakeholder networks or multi-sector advisory organisations may be required, and data collection procedures and particular measurement instruments may need to be devised and clearly assigned to impartial institutions (e.g., research bodies, national planning bureaus, etc.). It may also necessitate the implementation of project management systems inside the institutional and administrative framework, involving "plan, do, check, act" cycles, as well as monitoring.

In carrying out an SIA, a number of questions will have to be answered in the preliminary stage in order to clearly establish the nature and goals of the initiative. For instance:

- What is the nature and scale of the issue(s), how is it evolving, and who is most affected by it?
- What are the views of the stakeholders concerned?
- What are the policy objectives, and what problems need to be addressed or solved?

- What are the likely impacts (social, economic, ecological, and institutional) of the policy options?
- What are the possible unintended (secondary) side-effects?
- What changes in the target group's behaviour are desired?

In its most mature and ambitious form, SIA consists of a closed-loop process cycle involving monitoring, adaptation, and evaluation (using progress indicators). These steps indicate a logical sequence, but as an SIA is not a linear process, feedback loops will also be involved. SIAs should follow a series of steps:

1. Screening the proposal: deciding whether an SIA is needed.
2. Scoping the assessment: deciding the extent of the evaluation to be conducted.
3. Selecting tools or methodologies: to match the scoping.
4. Ensuring stakeholder participation: deciding on the role of stakeholders.
5. Analysing impacts: the economic, environmental, and social.
6. Identifying synergies, conflicts, and trade-offs across these impacts.
7. Proposing mitigating measures to optimise positive outcomes.
8. Presenting the results and options to policymakers.

There is little agreement on the optimal course of action or on a one-size-fits-all framework for utilising SIAs (OECD, 2010). Ambition levels may vary considerably. Numerous

methodologies, strategies, models, and appraisals may be used. The SIA's extent and detail will also be dictated by available resources and institutional capabilities, as well as political and administrative concerns. SIA is much more than technological advancement. Regulations are evaluated in terms of their underlying governing methods, political and cultural perspectives, and motivations. Additionally, planning disciplines and practices differ significantly, as are the choice of specific methodologies and procedures for impact evaluations originating in diverse fields (economics or social/cognitive sciences). Quantitative methods, for example, place a premium on monetisation and modelling and rely significantly on specialist economic knowledge, meaning that they have considerable limitations. In contrast to qualitative approaches, which are based on the concept of SIA as a cyclical process, the use of quantitative methodologies emphasises the SIA's instrumental nature. This method may be more acceptable in a hierarchical, regulatory, and/or market liberal context. On the other hand, qualitative methods like consultation and multi-criteria analysis prioritise non-monetary resources and seek feedback from a varied group of stakeholders. Indeed, SIA is considered as a (learning) process for boosting the effectiveness of integrated policy decisions across a network spectrum, enabling MSMEs to join in informed discussion.

Conclusion

The MSME sector can create a large number of jobs, provide enormous growth to the economy, and build strong entrepreneurship and innovative culture within the nation. It largely depends on governments' regulatory policies and framework circumstances affecting MSMEs' formation, expansion, and exit. Certain types of laws, mainly those governing trade, finance and development can stall small business start-up and growth and overall economic performance. It is also critical that the regulations developed are inclusive and sustainable and involve all sections of the society, including women entrepreneurs and new entrepreneurs.

This research study found that governments across the world are trying to ensure that inclusive policies are formulated for MSMEs, also they are ensuring that the level of compliance is higher in the MSMEs sector. In certain developing countries, MSMEs compliance to regulations is very low due to several reasons like lack of trust between the government and the MSME sector, lack of clarity or awareness amongst the MSMEs regarding the regulations and also the lack of resources available with the MSMEs like finance and technical experts to ensure compliance with all the regulations applicable with regards to their business operations. It is imperative that not only MSME-friendly policies are formulated but also the awareness amongst the MSMEs is increased to ensure higher level of compliance.

Regulatory policy frameworks are crucial for the development, trade compliance and integration in global trade for MSMEs in both developed and developing countries. The frameworks, in general, should come with preferential assistance for MSMEs, such as tax

incentives, specific assistance, training courses, initial funds, and investment matching.

However, this research study also found that MSMEs are not being involved in the regulatory development process. While this is being done in some countries (for example, Korea) their involvement in the regulatory framework development process is not witnessed in many countries, particularly developing and least-developed countries. The lack of MSME involvement has been one of the primary reasons for lack of regulation compliance and a general lack of trust between the MSMEs and the government. The research study also suggests some potential methods through which MSMEs can be involved in the regulatory development process to create a more competitive and inclusive business in the country.

The WTO has been instrumental in supporting the development of MSMEs around the world, recognizing that integrating MSMEs into international commerce enables them to contribute more to economic development in developing and least-developed countries as sources of job creation, innovation, entrepreneurship, and economic progress. The Informal Working Group on MSMEs - established under the Joint Statement Initiative launched at the time of the 11th WTO Ministerial Conference in 2017 - adopted a package at the end of 2020. It included the

following six recommendations and declarations⁸:

- Recommendation on the collection and maintenance of MSME-related information.
- Declaration on access to information.
- Recommendation on trade facilitation and MSMEs.
- Recommendation on promoting MSMEs' inclusion in regulatory development in the area of trade.
- Recommendation on MSMEs and the WTO Integrated Database.
- Declaration on addressing the trade-related aspects of MSMEs' access to finance and cross-border payments.

It is worth noting that the Declaration by the Informal Group on MSMEs of 14 December 2020 recognises that regulatory changes can be particularly onerous for MSMEs, and that WTO Members can mitigate possible difficulties by examining the impact of new regulations on MSMEs and giving ample time for MSMEs to comment on and adjust to new regulatory requirements.⁹ MSME Informal Working Group's consideration of horizontal and non-discriminatory regulatory solutions that are likely to improve MSMEs' engagement in international commerce is also worth noting as mentioned in the recommendations above.

Noting that the principles promoting MSME inclusion in regulatory framework development have been adopted in many Member states and are incorporated into a

number of regional trade agreements and that WTO agreements contain regulations requiring interaction with stakeholders during the regulatory drafting process but do not specifically mention MSMEs, Annex 4 of the above-mentioned Declaration goes on to:

1. Encourage WTO Members to advocate for the consideration of the unique needs of MSMEs in the creation of domestic regulatory frameworks for WTO-related issues, consistent with their implementation capacities and to the degree practical.
2. Attract attention to the consideration of the following non-exhaustive list of domestic regulatory procedures that may benefit MSMEs in relation to WTO-covered issues:
 - a) MSMEs should be involved, as appropriate, throughout the process of developing domestic regulations.
 - b) Release of draft regulations before adoption, or consultation materials that contain sufficient information on a potential new regulatory measure, especially at an early stage of development.
 - c) Assessment of the impact of possible new regulatory actions on MSMEs and, as appropriate, consideration of potential steps to identify and mitigate potential economic effects on MSMEs – including alternative compliance approaches where appropriate –

⁸ wto.org. 2021. INFORMAL WORKING GROUP ON MSMES: DRAFT DECLARATION ON MICRO, SMALL AND MEDIUM-SIZED ENTERPRISES (MSMES). [online] Available at:

⁹ wto.org. 2020. INFORMAL WORKING GROUP ON MSMES: DECLARATION ON MICRO, SMALL AND

MEDIUM-SIZED ENTERPRISES (MSMES). [online] Available at: <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filena me=q:/INF/MSME/4.pdf&Open=True>

while allowing the Member to fulfil its regulatory objectives.

- d) A fair period of time for all interested parties, including MSMEs, to comment on drafts or consultation materials relating to potential new regulatory measures as referenced in subparagraph b).
- e) Timely disclosure of adopted regulations to allow economic operators to adjust to new regulatory constraints.
- f) Retroactive review of adopted regulations to determine if there are opportunities to achieve public policy objectives and reduce unnecessary regulatory burdens, including on MSMEs; electronic availability and free access to the public documents referred to in subparagraphs a) through f) more effectively.

- 3. Encourage WTO Members to share their experiences on practical measures to increase MSMEs' participation in domestic regulatory development involving WTO-related concerns, including possible training and capacity-building programs to assist MSMEs in understanding these issues.¹⁰

The policy implications are that governments would have to focus on evaluating the current frameworks for MSME promotion and considering simplifying the process for requesting support and other influential determinants in facilitating the growth of MSMEs. Governments also have to ensure

that their frameworks fulfil the needs of the MSME community. The international and regional cooperation on MSME regulations and policies could facilitate the growth and connectivity of MSMEs regionally and globally.

¹⁰ Ibid

References

1. Commission, E., 2020. SME Test. [ebook] Available at: https://ec.europa.eu/info/sites/default/files/file_import/better-regulation-toolbox-22_en_0.pdf [Accessed 2021].
2. ALVARENGA K. (2015). 'Exploring Regulations for Electric Energy Services through the GATS Lens: The Case of Kenya'. Toronto, Geneva and Brighton: ILEAP, CUTS International Geneva and CARIS. URL: <https://bit.ly/3dTc9CZ>
3. CUTS International, Geneva, 2009. Towards More Inclusive Trade Policy Making: Process and Role of Stakeholders in Select African Countries available at <https://bit.ly/3g4Yj30>
4. CUTS International, Geneva, 2017. Engaging Non-State Actors in Public-Private Dialogues on Trade. [ebook/PDF] Available at: <http://www.cuts-geneva.org/spokes/English/html/Start.html>
5. Eric Duflos (CGAP) and Kathryn Imboden (Women's World Banking), 2004. THE ROLE OF GOVERNMENTS IN MICROFINANCE. [PDF] CGAP. Available at: <https://www.cgap.org/sites/default/files/CGAP-Donor-Brief-The-Role-of-Governments-in-Microfinance-Jun-2004.pdf> [Accessed 2021].
6. Fontagné, L., Orefice, G. and Piermartini, R., 2017. Making (Small) Firms Happy. The Heterogeneous Effect of Trade Facilitation Measures. [PDF] Available at: <https://hal.archives-ouvertes.fr/hal-01476546/document> [Accessed 2021].
7. Hauser, C., 2021. Trade-Control Compliance in SMEs: Do Decision-Makers and Supply Chain Position Make a Difference?. [online] Available at: <https://link.springer.com/article/10.1007/s10551-021-04825-0> [Accessed 2021].
8. Herzber, B. and Wright, A., 2006. The PPD Handbook: A TOOLKIT FOR BUSINESS ENVIRONMENT REFORMERS. [PDF] DFID | World Bank | IFC | OECD Development Center DFID | World Bank | IFC | OECD Development Center. Available at: <http://ppd.cipe.org/wp-content/uploads/2014/08/PPD-Handbook-Full-PDF.pdf>
9. IFC SME Finance Forum, 2017. MSME Finance Gap. [online] Available at: <https://www.smefinanceforum.org/data-sites/msme-finance-gap> [Accessed 2021].
10. Ifc.org. 2014. Women-Owned SMEs: A Business Opportunity for Financial Institutions. [PDF] Available at: <https://www.ifc.org/wps/wcm/connect/44b004b2-ed46-48fc-8adeaa0f485069a1/WomenOwnedMSMEs+Report-Final.pdf?MOD=AJPERES&CVID=kiiZZDZ>
11. Indiegogo. 2021. Crowdfund Innovations & Support Entrepreneurs. [online] Available at: <https://www.indiegogo.com/> [Accessed 2021].
12. Investindia.gov.in. 2021. Government Schemes for MSMEs in India | Invest India. [online] Available at: <https://www.investindia.gov.in/schemes-msmes-india> [Accessed 2021].

13. Investmentpolicy.unctad.org. 2021. Indonesia - Investment Law | Investment Laws Navigator | UNCTAD Investment Policy Hub. [online] Available at: <https://investmentpolicy.unctad.org/investment-laws/laws/93/indonesia-investment-law>
14. Ke Liu, C., 2020. Policy Brief: The Role of Micro-Small and Medium Enterprises in Achieving SDGs. [ebook] United Nations. Available at: https://sdgs.un.org/sites/default/files/2020-07/Policy_Brief_MSMEs_and_SDGs.pdf
15. Koirala, S., 2018. SMEs: Key Drivers of Green and Inclusive Growth. [PDF] OECD. Available at: https://www.oecd.org/greengrowth/GGSD_2018_SME%20Issue%20Paper_WEB.pdf [Accessed 2021].
16. Lendingclub.com. 2021. LendingClub | Online Personal Loans at Great Rates. [online] Available at: <https://www.lendingclub.com/> [Accessed 2021].
17. Mallett, D., Wapshott, D. and Vorley, P., 2018. UNDERSTANDING THE FIRM-LEVEL EFFECTS OF REGULATION ON THE GROWTH OF SMALL AND MEDIUM-SIZED ENTERPRISES. 10th ed. [PDF] London: Department for Business, Energy and Industrial Strategy, United Kingdom. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/712010/sme-growth-regulation.pdf
18. Malmström, C., 2021. Standards and regulations – impact on SME competitiveness in international trade. [online] Intracen.org. Available at: <https://www.intracen.org/SMEOutlook/Standards-and-regulations---impact-on-SME-competitiveness-in-international-trade/>
19. Oecd-ilibrary.org. 2020. Pillar A – Responsive government | SME Policy Index: Eastern Partner Countries 2020: Assessing the Implementation of the Small Business Act for Europe | OECD iLibrary. [online] Available at: <https://www.oecd-ilibrary.org/sites/d57d396f-en/index.html?itemId=/content/component/d57d396f-en>
20. OECD, 2010. Guidance on Sustainability Impact Assessment. [ebook] pp. 4-8. Available at: https://read.oecd-ilibrary.org/environment/guidance-on-sustainability-impact-assessment_9789264086913-en#page3
21. OECD, 2018. Improving the Business Environment for SMEs through Effective Regulations- Policy Note for 2018 SME Ministerial Conference. [PDF] OECD. Available at: <http://2018-SME-Ministerial-Conference-Parallel-Session-1.pdf> (oecd.org)
22. OECD, 2018. Policy Note for SME Ministerial Conference: Monitoring and evaluation of SME and entrepreneurship programmes Parallel session 6. [PDF] Paris. Available at: <https://www.oecd.org/cfe/smes/ministerial/documents/2018-SME-Ministerial-Conference-Parallel-Session-6.pdf>
23. Parker, C., Kuuttiniemi, K., Klaasen, B., Hills, J. and H. Jacobs, S., 2021. REDUCING THE RISK OF POLICY FAILURE: CHALLENGES FOR REGULATORY COMPLIANCE. [PDF] OECD. Available at: <https://www.oecd.org/gov/regulatory-policy/46466287.pdf>
24. Pinaud, N., 2007. Development Centre Studies: Public-Private Dialogue in Developing Countries OPPORTUNITIES AND RISKS. [PDF] OECD, pp.11-12. Available at: <http://www.publicprivatedialogue.org/papers/PPD%20in%20developing%20countries.pdf>

25. Sisombat, L. and Herzberg, B., 2014. Internal Report on Impact Assessment of the Public-Private Dialogue Initiatives in Cambodia, Lao PDR, Vietnam. [PDF] International Finance Corporation. Available at: <http://ppd.cipe.org/wp-content/uploads/2014/08/FULL-REPORT-PPD-Impact-Assessment-Vietnam-Cambodia-Laos-.pdf>
26. Tur-Porca, A., Mas-Tur, A. and Antonio Belso, J., 2016. Barriers to women entrepreneurship. Different methods, different results?. [PDF] Springer Science+ Business Media Dordrech. Available at: <https://tarjomefa.com/wp-content/uploads/2020/01/F1646-TarjomeFa-English.pdf>
27. UNCTAD Secretariat, 2005. How to build an effective policy framework for SMEs: a developing countries' perspective. [ebook] Cairo, Egypt: UNCTAD. Available at: <http://www.business-environment.org/dyn/be/docs/86/Session4.3KrylovaDoc.pdf>
28. United Nations, Economic and Social Commission for Asia and the Pacific, A Framework for Country Studies on MSMEs Access to Finance in Asia and the Pacific, MSME Financing Series No. 1 (Bangkok, United Nations 2020), available at <https://www.unescap.org/resources/framework-country-studiesmsmes-access-finance-asia-and-pacific>
29. Wisuttisak, P., 2020. ADBI Working Paper Series- COMPARATIVE STUDY ON REGULATORY AND POLICY FRAMEWORKS FOR PROMOTION OF STARTUPS AND SMES IN JAPAN, THE REPUBLIC OF KOREA, MALAYSIA, AND THAILAND. [online] Adb.org. Available at: <https://www.adb.org/sites/default/files/publication/668331/adbi-wp1206.pdf>
30. WTO Secretariat, 2016. World Trade Report 2016: Levelling the trading field for SMEs. [ebook] Geneva: World Trade Organisation. Available at: https://www.wto.org/english/res_e/booksp_e/world_trade_report16_e.pdf
31. WTO, 2020. INFORMAL WORKING GROUP ON MSMES: DECLARATION ON MICRO, SMALL AND MEDIUM-SIZED ENTERPRISES (MSMES). [ebook] World Trade Organisation, pp.10-11. Available at: <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/INF/MSME/4.pdf&Open=True>
32. wto.org. 2021. INFORMAL WORKING GROUP ON MSMES: DRAFT DECLARATION ON MICRO, SMALL AND MEDIUM-SIZED ENTERPRISES (MSMES). [online] Available at: <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/INF/MSME/W33R1.pdf&Open=True> [Accessed 2021].

