

Lessons from the implementation of the *Entreprenant* status in OHADA countries

Research summary

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Country

Democratic Republic of Congo

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This is a summary of a research paper produced for the UK Department for International Development's (DFID's) private sector development programme in the Democratic Republic of Congo (DRC). A series of research papers, research summaries, and 'learning briefs' are being published by the programme's Decision Support Unit (DSU), with the aim of sharing information that will help others working on similar projects.

Definitions

Organisation for the Harmonisation of Business Law in Africa (OHADA)

– Established in 1993, OHADA is an initiative to provide uniform legal and regulatory frameworks for the private sector across francophone Africa. This includes regularising accounting standards, arbitration, commercial law, collateral, company law, and insolvency law.

Entreprenant – A revised General Commercial Law, immediately applicable to all OHADA members, introduced the Entreprenant status in 2011. The status provides a simplified legal regime specifically designed for small entrepreneurs, with the intended objective of facilitating the migration of businesses operating in the informal sector into the formal sector.

Informal entrepreneurs – Defined as those starting a business or who are the owners/managers of a business engaged in monetary transactions not declared to the state for tax, benefit, and/or labour law purposes when they should be declared, but which are otherwise legal transactions (Williams/Organisation for Economic Co-operation and Development, 2014).

Introduction

This is a summary of a research study undertaken to support the implementation of the UK Department for International Development's (DFID's) private sector development programme in the Democratic Republic of Congo (DRC). The full version of the study can be downloaded at bit.ly/entreprenant-briefing.

The DFID DRC programme is split into three component parts:

1. A £50 million, five-year, market systems development project, **ÉLAN**¹, planned to end in December 2018 (although now entering an extension period). The project works across a number of sectors, including agriculture, finance, renewable energy, and transport.
2. **Essor**, a five-year £35 million project aiming to improve the DRC's business environment, ending in January 2020. The portfolio of interventions has included implementation of OHADA (a system of harmonised business laws adopted by 17 francophone African countries), access to finance, access to electricity, and work to reduce corruption.
3. The **Decision Support Unit (DSU)**, a £3.5 million component ending in 2023 supports the ÉLAN and Essor projects with annual reviews, results verifications, evaluations, research, learning, and adaptation activities.

The research study was undertaken by the DSU for Essor, to identify operational lessons from the implementation of the *Entreprenant* (as a specific category of business) in different countries that are members of OHADA. It was based on a scan of the available literature and interviews with practitioners.

This summary provides an overview of that research and sets out some important implications for programmes that are working on implementing *Entreprenant* status in OHADA countries. This is important because whilst the benefits of formalisation are clear, and *Entreprenant* status provides a practical framework to formalise the types of micro-business that dominate so many economies in OHADA countries, the literature shows that there is little evidence of the status being introduced successfully to date. That is partly because OHADA did not make explicit how the *Entreprenant* status practically functioned, nor did it explain the specific combination of incentives it would include. Instead, it is down to agencies in each country to find an approach that works.

¹ www.elanrdc.com

Findings

What factors influence the successful introduction of *Entreprenant* status?

The roll-out of *Entreprenant* status has been slow across the OHADA region. It is thought that one of the main reasons for this is because the approach sits outside the core competence of OHADA, which is mainly concerned with the implementation of business law. It requires a different set of skills and competencies to design a package of incentives to encourage traders to register. For example, it needs active collaboration between tax authorities, social security funds, and even banks.

In addition, successful implementation requires the support and coordination of different ministries, which can add another layer of complexity to reforms. For example, in Senegal, two different ministries wanted to drive the pilot, and this issue slowed down implementation.

Only Benin has developed a package of incentives to support the implementation of the status, and they have achieved notable registration numbers, rising from 341 in 2016 to 4,000 in 2017 (see the Benin write-up in Annex A), although the cost of these incentives far exceeded the expected tax revenues from the increased formalisation.

The experience in Benin has demonstrated that a significant factor in successfully rolling out the status is the ability to introduce a package of incentives for informal entrepreneurs. These might include cheaper bank accounts, tax mediation, training, and access to insurance. Additionally, Benin demonstrated the need for an effective system for recruiting *Entreprenants*.

What methods have been successful at encouraging informal traders to formalise?

Looking at formalisation programmes more generally, the evidence shows that reducing the time and costs of business registration can be effective in encouraging firms to formalise. However, studies show that most interventions work better for those informal businesses that most closely resemble formal firms in their size and structure.

Moreover, success is more likely if programmes target the specific factors that keep firms from formalising. For example, smaller informal firms will not receive the same benefits from registration as larger firms. Such firms are therefore unlikely to respond to formalisation efforts focusing on business registration – they need the inducement of other benefits, like financial incentives, access to social security, or security from harassment.

There is also evidence that decoupling business formalisation from tax registration increases success. However, the studies that have looked at this relate to firms that are more significant than street traders or micro-enterprises. Smaller firms are more impacted by financial incentives and protection from tax harassment. Providing information and training can also improve outcomes across all groups but is not normally impactful by itself.

Implications and conclusions

The relative failure of the implementation of *Entreprenant* status in OHADA countries to date is unsurprising as it is aimed at the smallest micro-traders, who are less likely to benefit from formalisation.

The implementation of improved registration processes is not the solution as regards efforts to formalise micro-enterprises. Instead, thought must be given to specific benefits that will make registration worthwhile for this group. The DFID DRC *Entreprenant* pilot has already incorporated some of these considerations into the design of a range of low-cost interventions, including: an official and high-quality ID; access to discounted healthcare; a simple declaration process; grassroots outreach; and follow-up business training.

The literature shows that successful formalisation efforts require an understanding of the drivers of formalisation for the target group, as well as the ability to coordinate a number of government organisations which can address those barriers and deliver incentives.

The implications for programmers seeking to support the successful introduction of *Entreprenant* status are clear:

1. For programmes to be successful, they must overcome significant challenges including:
 - coordinating different ministries to deliver a package of incentives;
 - mitigating and removing harassment by tax officials and others;
 - sustaining implementation once a programme has ended; and
 - demonstrating the cost/benefit justification of the intervention.
2. Significant research should be undertaken to understand local markets and the barriers to formalisation for informal entrepreneurs.
3. The introduction of a simplified tax regime is critical, as is ensuring that *Entreprenant* status provides protection from tax harassment. Any additional formal taxation costs need to be outweighed by the entrepreneurs' savings from non-payment of unofficial taxes.
4. Sustainability will be difficult unless a champion within the host government can be found to continue to drive and fund the programme forward once the programme has closed.

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