

PSDI 101: An Introduction to the Pacific Private Sector Development Initiative

Now, more than ever, there is a widespread acknowledgement throughout the Pacific that sustainable economic growth requires a dynamic and entrepreneurial private sector. As a result, Pacific governments are focusing to a much greater extent than in the past on removing impediments to private investment and entrepreneurship. To respond to the substantial increase in requests for assistance in implementing private sector development (PSD) oriented reforms, and to increase its capacity to promote PSD in the Pacific, ADB established the Pacific Private Sector Development Initiative (PSDI), a regional technical assistance (TA) facility cofinanced by the Australian Agency for International Development (AusAID), with the main goal of promoting PSD to achieve sustained economic growth and reduce poverty in the region.

PSDI commenced in November 2006 with an initial funding of \$8.7 million, which was subsequently increased with additional cofinancing from AusAID in 2008,

2009, and 2010 to a total of \$9.8 million. The first phase of PSDI proved to be very successful, with requests for assistance and funding that outstripped its resources. As a result, ADB and AusAID approved an additional \$12 million in resources for a second phase of PSDI in late 2009 to support further PSD-oriented reform initiatives in the Pacific region through 2013.

PSDI addresses the binding constraints to private sector-led economic growth in the Pacific as identified by PSDI funded private sector assessments and other analytical work on specific topics or themes, both on a country and multi-country basis. The built-in flexibility of its program design, moreover, allows PSDI to quickly mobilize expertise as reform opportunities arise, and to demobilize if political commitment wanes. This allocates resources where the demand is greatest and effectively supports reform-oriented governments and champions. In addition, PSDI also maintains strong partnerships with key bilateral and multilateral partners to ensure that PSD-oriented reform interventions are coordinated and harmonized.

PSDI continues to focus primarily on supporting increased access to finance through expanding the availability of microfinance and mobile payments, and reforming the collateral framework for lending; business law reform; and state-owned enterprise reform and the implementation of public-private partnerships. While much of the work under PSDI to date can be regarded as increasing the participation of women in economic activity, gender issues are now becoming a particular focus as PSDI prepares its gender strategy. PSDI has also significantly expanded its monitoring and evaluation framework, extending the Managing for Development Results Tool, which was used over the past 3 years, and combining financial planning and control, project monitoring, and tracking within a comprehensive evaluation system.

In its continued effort to raise awareness of PSD-related reforms in the Pacific, PSDI has launched the Pacific PSD Quarterly newsletter. This inaugural edition of the newsletter offers a variety of interesting tidbits on PSDI reform initiatives and

features an analysis of how some key reforms in the area of commercial law can increase women's participation in business activity throughout the Pacific region.

The PSDI Team invites you all to join us in our journey toward an improved environment for business activity in the Pacific. ■

VP Greenwood (third from right) speaking at the Private Sector Dialogue Workshop during the 2010 Forum Leaders Meeting in Port Vila, Vanuatu





Encouraging Women's Commercial Activity through Business Law Reforms in the Pacific

Women in the Pacific who would like to engage in commercial activity face a number of obstacles arising from inadequate and outdated business laws that result in:

- high costs and delays in setting up businesses;
- business and company structures that are overly complicated, inflexible, and not suited to the needs of women; and
- difficulty in accessing financial services and obtaining credit.

While most of these barriers also apply to men, they particularly disadvantage women who, in many cases, are already discriminated against in engaging in economic activity. Because the processes are so complicated and almost invariably require costly legal advice and assistance, many women simply choose to remain in the informal sector, with the associated low productivity and difficulty in accessing finance. As a result, women rarely engage in formal business. However, informality is not conducive to sustainable business success. It is clear that radical reform is needed in the legal framework for business to facilitate more women to transition to the formal economy.

Through the Pacific Private Sector Development Initiative (PSDI), the Asian Development Bank (ADB) is working

closely with Pacific governments, businesses, and women's groups as well as other development partners in reforming existing business laws. The reform initiatives featured in the following sections will go a long way in assisting women to become increasingly involved in business activity.

Company Law Reform

The costly and arcane regulations in Pacific countries often deter women from setting up businesses. For example, business licensing and registration usually involve complicated requirements and processes that in many cases require the services of a lawyer. This added expense puts formalization beyond the reach of small businesses, a large number of which are owned by women. In addition, many important steps in the process can only be done in capital cities. Those living in remoter areas must undergo considerable costs in terms of time and transportation if they are to formally register businesses. In many cases, the monetary cost of the various requirements can exceed prospective annual revenues of new businesses. Women, who have the dual responsibility of managing their household while trying to earn an income, are therefore especially disadvantaged.

The ADB Company Law Reform Initiatives supported by PSDI not only make

it easier and more affordable to set up a business, but also provide more appropriate business structures and greater flexibility for women in business. They have a number of innovative features.

- The new company laws in the Solomon Islands, Tonga, and Vanuatu provide for simplified and automated incorporation processes, which significantly reduce the monetary and time costs of establishing a business in these countries. For example, while companies are still free to adopt their own tailored rules on matters such as the appointment, removal, and powers of directors; rules for meetings; and shareholder rights, doing so is no longer mandatory under the new Companies Acts. Companies can simply adopt the model rules already contained in the new Acts, eliminating the need for lawyers and reducing costs. The provisions for online application and payment also make company incorporation considerably more convenient. In addition, electronic incorporation processes eliminate discretion, which makes it very difficult for any discrimination on the grounds of gender to occur. Furthermore, the new processes directly identify reporting and disclosure failures, which keeps records up to date and reduces administrative costs.

- New corporate structures, in particular single shareholder/director com-

panies, give women greater control over their business operations and income by removing the need for a second, usually male, owner.

- Another new corporate form, the community company, provides a more transparent and accountable alternative to holding and utilizing community assets, particularly relative to the present trust laws, where the major trustees that hold and manage significant community assets are also invariably men.

- The new Companies Acts also provide a more flexible regime of company meetings and resolutions, allowing women to participate more easily.

Secured Transactions Reform

In most Pacific countries, access to finance is limited, especially for women's businesses. There is great difficulty in using land as collateral for loans as most of it is held under customary ownership. Moreover, since men largely dominate community affairs, women are much less likely than men to have access to land titles. At the same time, the legal framework for pledging movable property as security for loans is inadequate. ADB has supported the introduction of secured transactions laws and the installation of automated registries in a number of Pacific countries. New laws were passed in the Federated States of Micronesia (2006), Vanuatu (2007), Solomon Islands (2008), Republic of the Marshall Islands

(2009), and Tonga (2010). Currently, new laws are being drafted and corresponding registries planned for Palau, Papua New Guinea, and Samoa, with support from PSDI.

The new laws allow security interests to be created in various forms of moveable property, including equipment, inventory, accounts receivable, crops, livestock, and shares. Furthermore, the new framework introduces an effective system that determines the priority of these interests and makes this information publicly accessible (i.e., through simplified priority rules and with the aid of the registry). This, along with strengthened rules for enforcement, significantly improves the capacity of creditors to assess and reduce the risks they face in terms of the repayment of loans supported by moveable collateral, while lowering transactions costs. All together, these should significantly improve the environment for accessing credit, particularly for women.

Besides encouraging banks to increase the quantity and scope of their lending and perhaps reduce the cost of borrowing, an effective framework for secured transactions also facilitates the extension of trade credit, which assists women to gain access to equipment and raw materials.

Continued Dialogue

A central feature of the legal reforms under PSDI is that they involve a robust

implementation program, which includes: raising public awareness; training and support for a wide range of stakeholders, including small business owners in urban and rural areas, the judiciary, and government-sector workers, particularly the registry staff; and facilitating workshops for specific interest groups such as community and village associations, women in business associations, chambers of commerce, small and medium enterprise associations, and professional groups of lawyers and accountants.

In addition, continued dialogue with key stakeholders in government, business, and community groups throughout implementation and supported by the monitoring and evaluation process within PSDI enables necessary follow-up reforms to be identified quickly.

Beginning with the extensive consultation at the design stage, the ongoing dialogue within PSDI reform initiatives helps women in the Pacific to understand the changes in the law, equipping them to make the best use of the regulations; and allows them to effectively communicate their concerns and ideas at every phase of the reform.

Conclusion

ADB and other development partners have placed a strong emphasis on promoting the economic empowerment of women in the Pacific. The analysis underlying PSDI indicated that legal constraints

constitute a major barrier to more extensive involvement of women in the formal sector of Pacific economies. The innovative features embodied in the business law reforms that have taken place, so far, are already proving to assist women in establishing formal businesses and accessing finance. As implementation of the reforms proceeds, the benefits should spread more widely and make a major contribution to increasing the role of women in the economies of the region. ■

Company Law Reform and Women in the Pacific
Mermaid Company Ltd., owned by Justina Radclyffe (front row, left), is the first company to receive its certificate under the Solomon Islands Companies Act 2009.



Quarterly Highlights & Upcoming Events

August

- Kimberley Kepore started as ADB's new PSD Coordinator for Papua New Guinea.
- Vice-President C. Lawrence Greenwood and Regional Director Eugenie Zhukov participated in high-level PSD dialogues on the sidelines of the Pacific Islands Forum Leaders Meeting in Port Vila, Vanuatu.
- PSDI held its first Monitoring and Evaluation Quarterly Review Meetings in Sydney, Australia.

September

- The Vanuatu State-Owned Enterprise Rationalization Program was approved for \$500,000 by the ADB Board of Directors on 1 September 2010.
- PSDI's Laure Darcy and Chris Russell facilitated a Community Service Obligation workshop in Honiara, Solomon Islands, attended by senior management from all nine SOEs under the State-Owned Enterprises Act 2007.
- The Tongan Legislative Assembly passed the Personal Property Securities Act and Public Enterprise Amendment Act supported by PSDI.

October

- The \$24.06 million PNG Microfinance Expansion Project, cofinanced by the Government of Australia, was approved by the ADB Board of Directors on 28 October 2010.

November

- PSDI will be holding a Company Awareness Seminar in Gizo, Solomon Islands, in November 2010.

December

- The next Pacific Private Sector Development and Financial Inclusion Donor Working Group Meetings will be held in Canberra, Australia on 9–10 December 2010, hosted by the Australian Agency for International Development.

2011

- The Solomon Islands electronic company registry, supported by PSDI, will be launched in February 2011.
- PSDI will be holding a Company Registries Workshop in Auckland, New Zealand at the beginning of March 2011.
- The launch of *Finding Balance 2*, a comparative study of the performance, economic cost, and reform experience of state-owned enterprises in the Fiji Islands, Republic of the Marshall Islands, Samoa, Solomon Islands, and Tonga, is planned for the first quarter of 2011.

ADB Pacific PSD Quarterly

| | |
|--------------------------|--|
| Managing editor | Melissa Dayrit |
| Design and layout | Olga Santos |
| Contributors | The PSDI Core Team |
| Photos | Sally Shute-Trembath, Kanokpan Lao-Araya, and Aaron Levine |

This newsletter was published with support from the Pacific Private Sector Development Initiative (PSDI), an Asian Development Bank (ADB) regional technical assistance program cofinanced by the Australian Agency for International Development.

The views expressed in this newsletter are those of the authors and do not necessarily reflect the views and policies of ADB or its Board of Governors or the governments they represent.

ADB does not guarantee the accuracy of the data included in this publication and accepts no responsibility for any consequence of their use.

Use of the term "country" does not imply any judgment by the authors or ADB as to the legal or other status of any territorial entity.

ADB encourages printing or copying information exclusively for personal and noncommercial use with proper acknowledgement of ADB. Users are restricted from reselling, redistributing, or creating derivative works for commercial purposes without express, written consent of ADB.

For more information, please contact the PSDI Core Team:

| | |
|--|--|
| Regional Director | Eugenie Zhukov |
| Project Managers | Kanokpan Lao-Araya and Jeremy Cleaver |
| Focal Points | |
| Economic Analysis of Private Sector Development (PSD) Issues | Paul Holden |
| Access to Finance | Jeremy Cleaver and Erik Aelbers |
| Business Law Reform | Terry Reid and Aaron Levine |
| State-Owned Enterprise Reform and Public-Private Partnerships | Laure Darcy, Chris Russell, and Erik Aelbers |
| Monitoring and Evaluation | Paul Holden and Melissa Dayrit |
| Outreach and Dissemination | Melissa Dayrit |
| PSD Coordinator (Papua New Guinea) | Kimberley Kepore |
| Administration | Olga Santos |

Asian Development Bank
Pacific Liaison and Coordination Office
Level 18, 1 Margaret Street
Sydney, NSW, 2000, Australia
Tel +61 2 8270 9444
Fax +61 2 8270 9445
www.adb.org/plco