

4. Overview of legal regime for Non-Profits in each member country

NOTE: Comments and corrections invited from Coop members.

	South Africa	Namibia	Zimbabwe	Mozambique
Enabling legislation	NPO Act 71 of 97	No overall enabling legislation	PVO Act	Association Law recently revised and to be approved on next parliament session
Types of legal entities	Voluntary association (common law) Trust Property Control Act 57/88 – Master of High Court Close Corporations Act 69/73 – Sect 21 – Companies Act 61/7 – discontinued under new act New form: Companies Act 71/08 (in force July 2010)	Voluntary association Trust (Common Law & and Trust Monies Protection Act – Master of High Court Sect 21 Companies Act 2004	Private Voluntary Organisation Or Trust	-Associations (CBOs, NGOs, networks, forum, syndicates, etc... all are legal register and function as associations) -Cooperatives -Foundations (under specific ministries council publication)
Registration authority	NPO Directorate, DSD	None – being reviewed	Registrar of PVOs	Ministry of Justice and ministries Council
Ease of registration	Straightforward	Not applicable	Time consuming	Very easy, since July 2009 (a temporary registration - 1 year - is giving for full operation while the registration process is conducted)
Costs of registration	Free			Low
Tax regime	Section 30 – full exemption for PBO status Partial – trading restrictions Section 18A – donor deductible 10% of taxable income GCT exempt Transfer duty exempt Estate duty exempt Skills development levies Paye	Vat and PAYE registration	Tax exempt – application Transfer duty exempt Excise duty exempt for PVOs (not Trusts)	Tax exempt only for religious or faith base association

5. Options for Future of the Coop

	Option A	Option B	Option C
Purpose and Identity	Leadership development and learning forum	Representative of southern African grantmakers	Regional representative structure of national forums
Legal Status	Voluntary association (SA, Namibia)	Voluntary association (SA, Namibia)	Voluntary association

	Option A	Option B	Option C
	Register as NPO & PBO		
Membership	Community grantmakers; leadership; selection criteria	Maximise membership; any representative of member organisation	National forums of Southern Africa (SADEC) Maximise membership in each country
Governance	AGM – election of office bearers and other committees	AGM – selection of office-bearers and committees	Executive comprised of elected national forum reps
Finances	Office bearers carry fiduciary responsibility Appoint fiscal sponsor	Office bearers carry fiduciary responsibility Appoint fiscal sponsor	Office bearers carry fiduciary responsibility Appoint fiscal sponsor
Secretariat	Rotating or appointed	Appointed or rotating; administrator or co-ordinator	Rotating between member country forums
Programme	Learning agenda; information sharing; knowledge generation; regular meetings; some advocacy	advocacy and marketing of sector; information sharing; optional learning agenda	Advocacy and marketing of sector; information sharing; capacity building and learning agenda for member orgs
Resource mobilisation & Donor management	Committee & fiscal sponsor	Committee & fiscal sponsor	Committee & fiscal sponsor
Sustainability	Some member contributions; raise funds; renewal of learning programme and membership	Mainly member contributions; members pay their own way; some funding	Member contributions; members pay their own way; some funding
Advantages	Builds on existing model;	Improved ability to represent the sector; broader membership	Strong emphasis on regional aspects; possible to leverage funds for national and regional work
Disadvantages	Relatively expensive; Credibility of 'representation'	Opening membership – many different interests to be met	Needs time to build this network;
Caveat	Needs constant refreshing to maintain donor interest; Can become exclusive	Need good communication systems;	Needs strong strategic leadership to keep regional advocacy agenda and satisfy national interests