

Detail Project Overview

**Strengthening Constituencies for Effective Competition
Regimes in Select Western African Countries**
(7Up4 Project)



**CUTS Centre for Competition, Investment & Economic Regulation
(CUTS CCIER)
CUTS International
Jaipur, India**

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Project At A Glance

a. Title of the project

Strengthening constituencies for effective competition regimes in select Western African countries

b. Project Summary

Consumer Unity & Trust Society (CUTS International) is an international research, advocacy and networking organisation based in India, and actively engaged in the developing world through its resource centres based in India, Kenya, Vietnam, UK and Zambia on international trade, competition policy and law, economic regulation, consumer protection and sustainable development issues.

CUTS has been engaged with competition policy and law work in the developing world over the last decade. The need for extending its activities on competition policy and law (research based advocacy) to third world countries stemmed from the fact that the organisation had amassed a substantial amount of expertise on the mechanism for civil society to engage with regulatory reforms (especially competition policy) as a means to consumer welfare and economic development in the third world (being deeply engaged with the evolution of both the consumer protection and competition regime of India). Further, the increasing trend witnessed among developing and least developed countries of adopting competition legislations either due to internal factors or external pressures, meant that there was huge demand for awareness generation and capacity building support in African and Asian countries that had to be met by the international community.

Information with respect to the prevailing competition regime in West Africa countries is difficult to find. However, the biggest regional bloc – ECOWAS (Economic Community of West African States) is in the process of developing a regional competition legislation and has called on member states to develop and improve their national competition regimes. Without proper understanding (across stakeholder groups) and public support it would be difficult for these member states to evolve and operationalise functional competition regimes. Moreover, paucity of resources (financial and human) in the member states (as in most third world countries) makes it even more difficult for the countries to evolve competitive markets for economic growth and development.

CUTS has envisaged a project to this situation through a research based advocacy and capacity building initiative. Through this initiative CUTS also intends to attract the attention of the international community to support competition policy and consumer protection initiatives in the region. CUTS has chosen *Burkina Faso, The Gambia, Ghana, Nigeria, Senegal and Togo* for implementing this initiative, on account of demands from by some civil society organisations, government representatives and experts in these countries.

c. Implementing organisation

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d. Duration

Twenty-Six months (Twenty four months for the project and an additional two months for the project evaluation)

1. Title of the Project

Strengthening constituencies for effective competition regimes in select Western African countries (7Up4 Project)

2. About CUTS

2.1 Consumer Unity & Trust Society (CUTS International) is an international research, advocacy and networking organisation, with its headquarters in Jaipur, India, working at the international arena, especially in the developing world through its resource centres based in India, Kenya, Vietnam, UK and Zambia - on international trade, competition policy and law, economic regulation, consumer protection and sustainable development issues.

2.2 CUTS International (www.cuts-international.org) has been actively engaged as one of the premier international non-government organisations working on competition policy and law, and consumer protection issues in the developing world, analysing the impact of an effective competition regime on consumers and on economic development in developing and least developed countries. In pursuance of the *mantra* - 'Competition policy is not a luxury, but a necessity for developing countries', CUTS has been able to contribute to building constituencies and garnering support for competition reforms in various countries of the developing world through its initiatives, which combine the elements of research, advocacy, networking and capacity building.

3. Why is a functional competition regime necessary?

3.1 Although, in the present era of globalisation consumers have gradually started to understand the implications of a competitive market both for economic gains and consumer welfare, yet the subject is often considered too technical to attract the attention of the layperson. One way of motivating public attention to the subject and the need for a healthy competition culture to flourish in, especially the third world, is to demystify its attributes and break it down to simple facts on the welfare producing aspects of a functional competition regime. A competition regime also promotes inclusive growth, good governance and economic democracy, thus aiding the poverty alleviation effort.

3.2 Competition drives firms to become more efficient and to offer a greater choice of products at lower prices out of fear that only the fittest will survive in the market. This ensures best possible utilisation of available resources, makes firms operate efficiently and offers consumers a greater choice of products at lower prices. Healthy competition leads to higher benefits for the consumers and helps in economic growth and development.

3.3 Since competition is unstable and has a natural tendency to give way to monopoly, an effective competition legislation is necessary to ensure that the competitive markets are maintained. The aim of competition law is to ensure that relevant markets remain competitive and that enterprises operate under the pressure of competition. In other words, the regulatory role of the state demands action to maintain competitive conditions in the market. Efficiency is associated with competition and the markets can fulfil their functions efficiently only if they remain competitive.

3.4 Therefore, a competition legislation is required to prevent the degeneration of the markets to a monopolistic or a near-monopolistic situation. Competition laws in general seek to prohibit anti-competitive agreements, prevent abuse of dominant position and regulate mergers and acquisitions. Competition laws also provide the necessary checks and balances when trade policy liberalises market forces, to ensure that the benefits of such liberalisation can be realised by consumers at large and the entire economy rather than by a small group of market participants¹.

3.5 Competition law and policy have a strong potential to create efficiencies, raise productivity, benefit consumers and thereby contribute to long-term economic development of developing countries. Within a market economy, competition laws help to make the operation of the market more transparent and efficient. The regulation of anti-competitive practices facilitates a stronger application of consumer protection measures. On the other hand, competition policy is a tool to enhance people's access to their basic needs as well as safe and appropriate goods and services.

3.6 Empirical studies show that a competitive regime is positively associated with long run growth. Competition enhancing policies have long-lasting effects on economic performance by affecting economic actors' incentive structure, by encouraging their innovative activities and by selecting more efficient ones from less efficient ones over time. Competition enhances productivity at industry level, generates more employment and lower consumer price.

3.7 More than ever, countries at all levels of development seek to use competition law and policy as a tool for achieving domestic and international competitiveness and benefiting from the liberalization and globalisation of the world economy. The particular dilemma that competition presents, especially in the developing world, is that despite the existence of competition laws, they are not applied, implemented and enforced with due effectiveness. Hence, anti-competitive practices continue to exist and indeed multiply.

3.8 Recent analyses by prominent international organisations, such as World Bank, UNCTAD, OECD and donor agencies like DFID and IDRC, show that developing countries, without long-term competition advocacy and the implementation of competition policy, are severely handicapped. Findings from studying competition policy regimes in developing economies, including those done by CUTS, show clear evidence of the urgent need for more proactive competition regimes at the national, regional and international levels.

3.9 Despite the urgent need, outside select corridors of academia, law firms, and policy making circles, it may be difficult to find understanding of competition law, of its economic context, its substantive provisions, the role of economic analysis in determining competition cases, interface of competition law with intellectual property rights, the relationship of the competition authority with sector regulators and many other issues. Such environment is hardly conducive to the effective implementation of the competition legislation.

¹ The example of Ireland could be cited - as a country, which has become one of the most flourishing economies in Europe by, among other measures, adopting and implementing an effective competition law.

4. How can developing countries benefit from Competition?

4.1 Developing countries are often characterised by the following features:

- High levels of public ownership and government intervention in the economy;
- Importance of agricultural and, increasingly, services sectors in the economy, with a comparatively small industrial sector.
- Concentration of production in one or a small number of commodities.
- Small formal private sector and a large informal sector.
- Dependence on imports for manufactured goods with a less developed export sector mainly dependent on agricultural produces.

4.2 It is often argued that countries with the aforementioned characteristics do not need competition policy or law, and can regulate behaviour of firms through sector regulators. However, in many such countries the phenomenon of regulatory capture runs counter to such arguments and restricts the possibility of accruing benefits from the sector regulators. Competition legislation is a complementary policy instrument, which promotes and enhances national and international competitiveness of firms in developing countries. It is also interesting to note that when US, Canada and others introduced competition legislation, their economies were at an early stage of industrial development.

4.3 It has been observed that without an effective competition policy and law, anti-competitive practices can hinder economic activities in developing countries to the detriment of consumers, especially that of the poor. Available evidence suggests that international cartels and other restrictive business practices by private firms, designed to limit competition in the market place, do exist. These arrangements adversely affect the process of economic development.² Thus, in this age of globalisation, where many of the anti-competitive practices originate from outside the country, developing countries cannot ignore the importance of competition policy and law and their relevance to restrict anti-competitive practices, which are often cross-border in nature.

4.4 Furthermore, many reforms in developing countries such as privatisation, liberalisation of trade and capital controls and deregulation have been driven forward by economic necessity in the face of unsustainable levels of national debt, government budget deficits, high inflation, trade imbalances and low growth. Some of these policies have been badly designed or poorly implemented before salient conditions, other flanking policies and institutions were in place. This has meant that the poorer and more vulnerable people have suffered.

² Levenstein, Margaret and Valerie Suslow, *Private International Cartels and Their Effect on Developing Countries* (Background Paper for the World Bank's World Development Report 2001, 9 January 2001)

Box: Privatisation of Refineries in Nigeria

Nigeria's privatisation of key refineries has become a wake up call for urgent steps³ to be taken by the new administration to ensure the enactment of a suitable competition law and policy for Nigeria. Government, which has liberalized or deregulated vital sectors of the economy through privatisation, has also unwittingly created new dangers in the absence of a competition law. Private players introduced in place of government monopolies are not constrained by social interests and there is nothing to prevent them from engaging in cartel and abusive behaviour such as price fixing, market division, and excessive pricing. In the absence of a competition law, such practices are not illegal, no matter how much they hurt the economy and the consumers.⁴

5. Need and rationale behind the planned intervention

5.1 Evidence from developing countries indicate that many countries have adopted competition laws either under external pressure from donor agencies, financial institutions, etc., or as a result of introspection. Nevertheless, analyses of the prevailing regulatory framework show that there has been little progress with regard to implementation of these laws. Many countries in sub-Saharan Africa are faced with this reality, where a lack of understanding and knowledge on competition issues stands in the way of governments' mandate of implementing competition laws.

5.2 While there has been some progress in the recent past in some African countries in preparing the ground for implementing competition regimes, others especially in Western and Central Africa have generally lagged behind. Some progress has been witnessed currently both among the national governments and the regional authorities in West Africa for operationalising national and regional level competition laws, which would require substantial fast tracking for these countries to benefit from the privatisation and liberalisation processes that have been ushered in there. In order for these governments to be able to successfully implement competition regimes in the region, there is a need for both the state and the non-state actors to complement each other's efforts.

5.3 CUTS has developed and institutionalised a methodology that creates the opportunity for civil society to work together with state and other non-state actors in evolving and implementing competition regimes in many developing and least developed countries. Since the year 2000, CUTS has successfully implemented such projects (referred to as 7Up Projects) in various parts of Asia (South Asia and South East Asia) and Africa (Eastern and Southern Africa). In addition to strengthening conditions for competition to thrive in the markets, these initiatives of CUTS lay special emphasis on building the capacity of the civil society to emerge as a catalyst on competition policy and law at the national level.

5.4 These capacity building efforts have been sustained by the establishment of an active network of civil society organisations - advocacy groups and research institutions, the International Network of Civil Society Organisations on Competition (INCSOC,

³ The privatisation of the refineries, competition law, and economic competitiveness, Dr Nnamdi Dimgba, July 27, 2007 <http://www.vanguardngr.com/articles/2002/features/law/law827072007.html>

⁴ See *Annexure II*, for a precursory idea about Competition scenario in Nigeria

www.incsoc.net). This network was launched as an outcome of the 7Up project in 2002 at Geneva. Today its membership exceeds 110 groups in over 50 countries, and growing. INSCOC has by now completed four years and has held several meetings around the world.

5.5 Another feature of CUTS approach is that it establishes a channel of communication on regulatory policy reforms between the state and the non-state actors making the process of competition reforms participatory and transparent. Over the period between 2004-06, CUTS and INCSOC embarked on a major endeavour (referred to as “Competition Regimes in the World – A Civil Society Report” or in short *CiRComp*) of developing a global almanac on competition policy and law scenario from across the world. The report, which covers 120 countries in the world, was prepared with voluntary efforts of INCSOC members and other experts, including CUTS staff. The need for such a compilation was felt due to the scarcity of cogent information on competition and regulatory (including consumer protection) policy from the third world. In the process of compiling information to develop the *CiRComp* report, it was witnessed that countries in regions like West Africa and other parts needed support from the international community (countries/governments/institutions with experience on competition policy and law administration) to promote a healthy competition culture. The fact that not many development partners were working on competition policy (and consumer protection) issues in these regions, made it imperative to attract the attention of the international community to engage on competition policy and law issues here.

5.6 With this background, civil society organisations in West Africa, have spurred CUTS to launch a 7Up-type project on competition policy and law in select West African countries (both Anglophone and Francophone) to supplement the efforts that are already on (being undertaken either by the national government or the regional authorities), by building constituencies and garnering wider public support for an effective competition regime to evolve in these countries and the region, and ensure its effective implementation. *Civil society groups from The Gambia, Ghana and Nigeria among the Anglophone countries; and Burkina Faso, Senegal and Togo among the Francophone countries have agreed to participate in this project.* Many of them had participated in the *CiRComp* project by writing the country papers on a *pro bono* basis. An overview of the competition regimes of the select project countries provided in the following section (and in details in *Annexure II*) further supports the need and rationale for this project.

6. CUTS work on competition policy and law

6.1 One of the pioneer initiatives of CUTS International – the *7Up project*, as it has been popularly referred to, was a research based advocacy process involving a comparative analysis of competition regimes in seven developing countries of the Commonwealth. This project was successful in raising awareness and stimulating debate on the relevance of a competitive environment for the benefit of developing countries in Africa and Asia. It created a felt-need to take up similar activities in other parts of the developing world as well.

6.2 The *7Up Project* resulted in making national policymakers (in project countries), and other state and non-state actors aware of the benefits of a functional competition regime. The countries selected for the project were: India, Kenya, Pakistan, South Africa, Sri Lanka, Tanzania and Zambia. The project was launched on September 1, 2000 and formally concluded in January

2003. It was implemented with the financial and technical support of the Department for International Development (DFID), UK.

6.3 An important aspect of this project was that the interest in competition issues, did not remain limited to the project countries. It had, and continues to have, ‘spill-over’ effects in other developing countries of the world. Moreover, the project (specifically the approach referred as the *7Up approach*) is now considered as an effective means in advocating for competition reforms in the developing world, and has been recommended as a model for the donor community to consider while supporting initiatives on competition policy reforms in the developing world⁵. The International Competition Network (ICN) has also documented the contribution of the *7Up model* in that, “The project has helped to build national capacity and to promote awareness of the role of competition law and policy. It has helped to highlight the need for policy changes, including more effective consumer protection, amendments to legislation, the development of appropriate regulatory machinery, enhanced cooperation between competition authorities, and more extensive technical assistance and training for staff at all levels in competition regimes”.⁶

6.4 Motivated by the demands from various quarters (international policy community, civil society organisations, etc.) CUTS decided to replicate the ‘*7Up model*’ (based on competition research and policy advocacy, involving multiple stakeholders through a participatory process). Consequently, CUTS undertook two similar projects: one in six South and Southeast Asian Countries, referred to as 7Up2 Project (www.cuts-international.org/7up2.htm) supported by the Swiss Secretariat for Economic Affairs (SECO), the Swiss Competition Authority (COMCO) and the Department for International Development (DFID), UK. The other project (7Up3 Project) executed in seven countries of Southern and Eastern Africa region with support from the Norwegian Agency for Development Cooperation (NORAD) and the Department for International Development (DFID), UK (www.cuts-international.org/7up3.htm).

6.5 It has been a feature of all 7Up projects to work in partnership with local civil society organisations: advocacy groups and/or research institutions. Agreements are drawn up with the partner CSOs, with specific Terms of Reference (ToR), containing precise tasks and corresponding milestones to be achieved. This helps in proper project coordination and management, most of which is done through electronic communications. Meetings with partner organisations are also arranged periodically (starting off with the project launch and then undertaken periodically during regional events, NRG meetings in the project countries or trips by members of the project coordination unit), to discuss implementation issues, and on ways of streamlining operations, leading to better efficiency.

⁵ OECD (DAC), ‘Progress report by the task team on private sector development on preparation of policy guidance for donors’ April 2005.

⁶ ICN (2203), “Building credible competition authorities in developing and transition economies” report prepared by the ICN Working Group on Capacity Building and Competition Law Implementation for the ICN 2nd Annual Conference, Mexico, 2003, pp. 58-59.

(http://www.internationalcompetitionnetwork.org/media/library/conference_2nd_merida_2003/FinalReport_16June2003.pdf)

6.6 In each of the 7Up projects, CUTS has worked with leading civil society organisations – research institutions, consumer organisations, University departments and NGOs, enhancing their capacity to comprehend competition and regulatory issues better, and enabled them to pioneer competition research and advocacy in their respective countries.

6.7 One of the many positive outfalls of the collaboration between CUTS and the partner CSOs has been *strengthening of relationship among the 'southern civil society'*, which has emerged in the recent past as a strong coalition advocating for appropriate policies at the international level to foster a better regime of economic growth and sustainable development in developing countries. Over its engagement in the three 7Up projects, CUTS has been able to establish strong working relationship with nearly 50 civil society organisations from various parts of Asia and Africa, who have shown keen interest in continued pursuance of competition policy and law work. CUTS is committed to motivate more and more southern CSOs to get effectively engaged in developing and implementing national competition regimes and aims to achieve this as an outcome of its research based advocacy within competition policy and law issues.

6.8 CUTS is committed to promoting a healthy competition culture in the third world - through an evidence based policy advocacy process. The organisation aims to design tailor-made interventions (involving multiple stakeholders) for competition reforms in regions of Asia and Africa that require substantial amount of technical and capacity building support. The 7Up approach of CUTS has worked to its potential in many third world countries in contributing to both evolving an improved competition and regulatory regime, and also enhancing the understanding of various stakeholders on competition policy and law issues, in the following ways:

- National stakeholders (including policymakers) better comprehend the benefits from a healthy competition culture in developing and least developed countries;
- Contributed significantly to the process of adoption of new/amended laws in some countries where CUTS has been engaged with 7Up projects like – Botswana, Cambodia, India, Kenya, Mauritius, Vietnam and Zambia.
- Enhanced understanding of competition authorities of Ethiopia, Kenya, Vietnam and Zambia (who have acknowledged CUTS support) in terms of competition implementation as a result of engaging them as beneficiaries of capacity building initiatives.
- Competition authorities have expressed their interest in continuous engagement with CUTS especially for imbibing experiences from other developing; least developed and developed countries on competition enforcement. Two vivid examples of this are available in Vietnam and India. In Vietnam, SECO, which had supported the 7Up2 project is extending further support to CUTS to establish the competition and consumer protection regime there. In India, the Competition Commission of India has engaged CUTS in several of its advisory bodies to suggest good solutions, while the Planning Commission of India has invited CUTS to contribute to its 11th Five Year Plan Policy Document on Competition Policy and Consumer Policy.
- Civil society has emerged as a pioneer on competition policy and law work in the developing countries. This has resulted in: i) enhanced interest among civil society to engage on competition policy and law work, and ii) better attention among government

representatives on competition policy/law, due to the continued efforts of the civil society.

- Helped identify ‘specific elements’ in the realm of the regulatory environment in the host countries that require detailed analysis and discussions for operationalising competition regimes.
- Identified ‘*Trilateral Development Cooperation*’⁷ as an effective mechanism to raise the level of awareness and understanding on competition and thus contribute to the process of south-south (economic) cooperation.
- Sensitise development partners to recognise competition policy and law as an area within the purview of socio-economic development to be pursued in the developing world.
- Link competition policy with other public policy issues for better comprehension and to inspire wider public opinion and support for competition and regulatory reforms.

6.9 A table (*Annexure I*) has been created to capture the impact of CUTS and its partner’s activities on competition and consumer protection in the project countries, so far covered. It is a compilation of indicators, signs and hints that have been carefully collected by the organisation over time. This does not reflect the spill over effects of the project in other countries, where we may not have worked directly.

6.10 The impact, relevance and wide-ranging applicability of the *7Up approach* provides CUTS the confidence and the motivation to continue applying this methodology in its subsequent interventions. Over the period of applying this approach, CUTS has sharpened its own understanding on the subject, which has progressively refined the implementation mechanism of its methodology. The organisation’s understanding has also been refined further by external evaluation of its competition policy and law projects⁸. Such continuous improvement in the approach to competition policy and law work in the developing countries has incorporated the following ‘lessons’ learnt by the organisation:

- Civil society needs to adopt a ‘cooperative’ approach as compared to a ‘confrontationist’ approach while interacting with the government/policy makers for operationalising competition/regulatory regimes in their host countries.
- Engagement on competition policy and law needs to be continuous and spread out over time – something that requires considerable support from both the national government and the international community.
- Need to emphasise the linkage between competition policy and consumer welfare for elucidating the benefits from a functional competition policy and garner wide public support.
- Regional, multi-country projects help countries in deriving lessons from each other (neighbouring developing/least developed countries), rather than depending blindly on the west.

⁷ Trilateral Development Cooperation: an approach in development cooperation which involves a process wherein a ‘northern donor’ provides financial and intellectual support to a ‘southern TA provider’ to enhance the capacity of a ‘southern recipient’

⁸ A detailed mid-term evaluation of the project, “Capacity Building on Competition Policy in Select Countries of Eastern and Southern Africa” (CUTS 7Up3 Project) was done by *Scanteam Analysts and Advisers* appointed by NORAD, Oslo in 2006. (See evaluation report at: <http://www.cuts-international.org/pdf/7up3EvaluationReport1.pdf>)

- Capacity building activities at the national level need to address the needs/demands of specific ‘target groups’ – as a ‘one size fits all approach’ might not be effective.
- A pan-African trend in evolving/revising/operationalising competition laws has been witnessed. One of the reasons behind this being the advance made by regional blocs like – COMESA (eastern and southern Africa) and ECOWAS (western Africa) with regard the regional competition legislations, which makes it binding among member states to speed up the process of national competition reforms. This creates a great demand in these regions for the international community (especially organisations with expertise on competition policy and law issues and development partners, etc.) to respond to in order to help these young/budding competition agencies in implementing their competition legislations and also preparing the environment to ensure .

6.11 CUTS would like to respond to this demand by implementing this project entitled, “Strengthening Constituencies for Effective Competition Regimes in Select Western African Countries” (referred to as 7Up4 project) in Ghana, Mali, Nigeria, The Gambia, Burkina Faso, Senegal and Togo. Design of this (7Up4) project is described in the following section, which elucidates how it draws from the lessons learnt thus far from CUTS engagement from competition policy and law work in the developing world.

7. Overview of Competition laws in West Africa

7.1 Regional level:

7.1.1 West Africa comprises of two key regional integration organisations: The **Economic Community of West African States (ECOWAS)**, which regroups all countries of the region, and the **West African Economic and Monetary Union (WAEMU/UEMOA)**, which covers a subset of (Francophone) countries into a deeper integration process.

7.1.2 ECOWAS was established with the objective of creating a regional economic and monetary union. One of the aims and objectives of ECOWAS, pursuant to Article 2 of the 1975 Abuja Treaty, is to encourage competition in the economies of its member states through the elimination of anti-competitive practices, unfair trade practices, the elimination of customs duties, and other charges in respect of the importation and exportation of goods between member states and the abolition of trade restrictions.

7.1.3 ECOWAS has already embarked on the process of developing its competition legislation. On March 22, 2007, regional stakeholders agreed on adopting the ECOWAS Community rules on competition and investment during a workshop in Lomé, Togo.⁹ The workshop also agreed on the draft act relating to the establishment, functions and operations of the ECOWAS regional competition authority charged with implementation of Community rules of competition. The draft acts would be submitted to the next meeting of the Ministerial Monitoring Council.

7.1.4 The WAEMU community law on competition came into effect since January 01, 2003. It consists of the following salient features:

- to deal with anticompetitive practices inside the WAEMU;

⁹ <http://news.ecowas.int/en/presseshow.php?nb=22&lang=en&annee=2007> ECOWAS Press Release No:22/2007

- to curb restrictions and the abuse of a dominant position inside the WAEMU;
- to promote cooperation between the WAEMU Competition Commission and the national competition agencies of the member states.

7.1.5 Such progress at the regional level on competition has made it obligatory for the national governments (member states of ECOWAS and WAEMU) to identify competition reforms as a priority economic reform activity. It thus creates a great demand in this region for technical assistance and capacity development on competition policy and law issues – something that the international community should respond to in order to promote competitive processes in the market and create the environment for economic growth and development.

7.2 National level

7.2.1 The following table provides an overview of the status of competition legislation in some of West African countries (both Anglophone and Francophone). It is evident that while many of these countries are in the process of adopting competition laws in the region, many have had competition laws for a while now, with limited implementation of the act¹⁰.

Country	Name	Year	Current status of Competition Law
The Gambia	Competition	2007	Act recently passed; government developing operational strategy for implementing the act.
Ghana	Competition and Fair Trade Practices Bill	2004	Government has embarked on the process of developing a new Competition Bill.
Mali	Competition Ordinance	1992	Enforcement of the Ordinance through <i>Direction Nationale du Commerce et de la Concurrence (DNCC)</i> , since 1998.
Nigeria	No Law yet	–	Government is committed to developing a law though there is no consensus on the institution (Ministry/agency) that the competition agency should be housed under. Efforts have also been made to incorporate consumer protection elements into to the Competition Bill, and evolve a hybrid agency to implement the same.
Burkina Faso	Law No.15/94/ADP on the Organisation of Competition	1994	National Commission on Competition and Consumption has been operational since 1998
Senegal	Prices, Competition and Economic Disputes Act	1994	A new act was adopted as a part of the economic reforms programme initiated by the World Bank. A Competition Commission is in operation.
Togo	Competition law	1999	Despite the existence of the law, the Competition Authority is still not established

¹⁰ A more detailed account of the state of competition laws of these countries is provided in Annexure I

8. Project outline

8.1. The purpose of the project would be to develop the capacity of multiple stakeholders in select countries of Western Africa¹¹ to bring the debate on the need for an effective competition regime into the wider public domain. The project would not only help countries refine their competition regimes, but also assist them in tracing a roadmap for their effective implementation.

8.2 The project will be implemented with the following *Objectives*:

- Evaluate impediments to evolving national competition regimes and identify the best way for addressing such impediments through a participatory process involving multiple stakeholders.
- Develop the capacity of national stakeholders including policy makers, regulators, civil society organisations, particularly consumer groups, academics and media persons to understand and appreciate competition concerns from national, regional and international perspectives.
- Establish a channel of communication between civil society, business and the government in order to deliberate on the best way forward for promoting competition and consumer protection at the national level.
- Provide inputs into the process of drafting new competition legislation or reforming existing competition legislation, drawing on best practice from other developing/least developed and developed countries.
- Disseminate information materials (pamphlets, briefings, monographs, etc.) that elucidate the linkage between competition and other public policy issues in order to mobilise public support for competition and regulatory reforms.
- Help build constituencies for promoting competition and consumer awareness by identifying a representative group of national stakeholders and transforming them into a core cadre (nationally) on competition policy, regulatory issues and consumer protection.
- Establish dynamic linkages between the national stakeholders (national reference groups) and global networks and coalitions on competition and regulatory issues to sustain the interest and continue activities for promoting a healthy competition culture.

8.3 It is anticipated that on successful completion, the project would achieve the following *Outputs*:

- Enhanced knowledge on competition policy and consumer welfare issues across various national stakeholders.
- Countries helped to fast-track the process of evolution and implementation of national competition regimes – with substantial inputs from the civil society (thus establishing a process of partnership).
- Process of dialogue initiated between government, civil society and business community on economic and regulatory policy issues that will make it possible for the stakeholders to work together and shape the economic reforms agenda.
- Credibility of civil society organizations asserted as ‘actors’ in national competition reforms – thus motivating them to pursue the competition reforms agenda further in future.

¹¹ The Gambia, Ghana, Mali, Nigeria, Burkina Faso, Senegal and Togo

- The international community made aware of the need to promote a healthy competition culture in the region, and thereby to contribute meaningfully to the process of strengthening the competition regimes therein.

8.4 Considerable progress would be made by the project countries towards attaining the following project *Outcomes*:

- Profile of competition policy within the context of national development raised.
- Process to establish effective national competition regimes evolved.
- Promotion of a healthy competition culture in the project countries.

9. Project Activities

9.1 Summary of activities

9.1.1 The first step would be to conduct **Research** on the prevalence of anti-competitive practices and their ill effects, especially on consumers. Efforts would be made, in particular, to identify the factors that give rise to anti-competitive practices in the market and to find the best way forward to purge those factors. The research itself would involve all the stakeholders and this would not only raise their awareness but also stimulate discussion and debate at various levels. An assessment of the reasons that give rise to natural monopolies existing in the project countries would be made – especially in order to analyse if free competition in these sectors (where these natural monopolies exist) could negatively impact the economy and the consumers. CUTS has recently been involved in analysing political economy constraints affecting the evolution and implementation of competition regimes in developing countries (CDRF project¹²). Such constraints that are prevalent in these project countries and affect competition reforms would be analysed as a part of the country competition research. Further, an in-depth analysis of one sector/market would be done in order to ascertain significant impacts of anti-competitive practices prevailing in that sector having adverse impacts on welfare, poverty and growth. Efforts would also be made to assess the nature and extent of such impacts. CUTS proposes to undertake this detailed assessment in the ‘agricultural products’ market in the project countries, in order to understand the interface between the lack (or weak level) of competition in certain agricultural products in the project countries and its negative impacts on producers (small and marginal farmers) and consumers.

9.1.2 A unique feature of the project and the approach would be the involvement of civil society representatives as pioneers to take the debate on the need for an effective competition regime up to the policymakers, through a bottom-up **Advocacy** process. The project would incorporate a methodology and try to establish permanency in the dialogue between the civil society representatives and the policy-makers, on competition policy and law and associated issues.

9.1.3 The third element of the project would be **Capacity Building** (through training) of various stakeholders on competition policy and law issues. Over the period of implementation of the

¹² CDRF project undertaken by CUTS (<http://www.circ.in/cdrfsymp.htm>) aims at analysing political economy constraints in evolution and implementation of regulatory regimes (including competition regimes) in the developing world.

project – the specific set of stakeholders (who need training) and their particular ‘training needs’ would be identified.

9.1.4 The overall project implementation plan is represented sequentially as follows:

Phase(s)	Main activities	Period (Months)
Preparatory Phase	<ul style="list-style-type: none"> • Preparation of Operational Strategy Note (OSN) • Identifying the Project Advisory Committee (PAC) • Preparation of draft Preliminary Country Papers (PCPs) • Launch Meeting 	Months I to III
Research Phase	<ul style="list-style-type: none"> • Finalisation of Preliminary Country Papers (PCPs) • Preparation of the draft Country Research Report (CRRs) • NRG Meetings I (six, one in each country) 	Months IV to XII
Research Phase (contd.)	<ul style="list-style-type: none"> • Analysis of political economy constraints in implementing competition regimes • Assessment of natural monopolies and their implication on competition vis-à-vis economic development and consumer welfare • Field work including perception surveys • Detail analysis in one sector/market (agricultural product market) of the adverse impact of anti-competitive practices on welfare, poverty and/or growth • Finalisation of Country Research Reports (CRRs) • Interim Review Meeting 	Months XIII to XVIII
National Dialogues	<ul style="list-style-type: none"> • NRG Meetings II (seven, one in each country) • NRG Meetings III (seven, one in each country) 	Months XV to XXII
Training Workshops	<ul style="list-style-type: none"> • Regional Training workshop (Anglophone region) • Regional Training workshop (Francophone region) • National Training Workshops (seven, one in each country) 	Months XVIII to XXII
Information dissemination	<ul style="list-style-type: none"> • Quarterly E-newsletter • Dissemination of reports and other project outputs 	Throughout the period of the project

9.1.5 *Annexure XII* provides a schematic representation of how undertaking the various activities would help CUTS achieve the project outcomes.

9.2 Preparatory Work

9.2.1 CUTS has been able to collect basic information on the competition regime of the six project countries¹³. Five of which have been covered under one of its initiative named

¹³ See Annexes

‘Competition Regimes in the World’ which presents an idea of the national competition regimes of 120 odd countries across the globe. The country information would, however, require updating and considerable amount of detailing to be recognised as a status paper on the competition regime in these countries. This would be the starting point of the project – as project partners would start collecting and updating the country information. The information thus collected would be documented and act as inputs into the primary research output – i.e., Preliminary Country Paper (PCP) of the project countries.

9.2.2 An Operational Strategy Note (OSN) would be prepared that clearly charts out the schedule and sequence of project activities, their purpose and expected outcomes. The OSN would serve as the project implementation guidebook and allocate responsibilities to the project coordination and management unit (PCMU) at CUTS, project advisers and partner organisations.

9.2.3 Representatives of partner organisations, CUTS project coordination staff, select Project advisers and CUTS CCIER Advisory Committee members, experts, practitioners and specialists on the subject from the region and outside, representatives of IGOs and international organisations active in the region and on the subject and others would meet at one of the project country capitals (preferably Dakar/Accra, due to its connectivity and facilities) to *Launch* the project at an international conference. A total of 40-50 participants representing national stakeholders in addition to the above-mentioned groups would participate in the meeting and discuss in addition to generic competition policy and law issue relevant for the region, issues in the interface of competition and sectoral regulation, and competition and consumer protection, among others. Members of the Project Advisory Committee, CUTS project coordination unit and select experts would also discuss the Project Implementation Strategy, research methodology and advocacy plan on the sidelines of this meeting.

9.3 Research Activities

9.3.1. Field research would be carried out in each country to identify the macroeconomic and institutional context of competition and particular concerns and issues that arise. Every country has different competition concerns that will determine the nature of competition policy and law that is appropriate. This research phase of the project is therefore crucial to the capacity-building work in the later phases of the project.

9.3.2. The research will cover the following areas:

- Characteristics of the macro-economy (size and structure of the economy, trade, financial sector etc.);
- Government policy (internal and external liberalisation, privatisation and national ownership, regulatory policies, consumer policy etc.) that impinges on competition;
- Progress (if any) made by national governments with regard to operationalising competition regimes in project countries;
- Political-economy constraints in implementing competition regimes in the project countries;
- Interface between sectoral regulation and competition in select sectors;
- Investigation of existing competition abuses and distortions at all levels; and

- Identification of cross-sectional (business, consumers and government) perceptions on competition concerns.
- Assessment of the implication of natural monopolies on competition, especially from the perspective of economic development and consumer welfare.
- In-depth assessment of competition a particular sector (agricultural products market) and impact on welfare, growth and poverty reduction.
- Interactions between national and regional competition legislations and their socio-economic implications.

9.3.3. As an output of the preliminary research undertaken in the project countries a Preliminary Country Paper (PCP¹⁴) would be produced. The PCP would act as a base paper and help a diverse group of national stakeholders to enter into the debate on competition. It would also lay the foundation for the more detailed research that would be subsequently undertaken to produce the Country Research Report (CRR¹⁵) on the ‘Competition Scenario’ in each of the three project countries. An overview of the CRR has been provided in *Annexure XIII* of the proposal, which describes in detail the component of the CRR.

9.3.4 The objective of the detailed research (incorporated into the Country Research Report, CRR) will be to collect information on market players and sources of non-competition in several markets (e.g. rivalry and pricing policies, and structural and behavioural impediments to competition). This output will be complemented by a review of existing legal and institutional framework to foster competition, including consumer protection, dispute settlement system etc.

9.3.5 Most reforming developed and large developing countries have tended to adopt western institutional frameworks and policies, especially for the management of regulatory affairs (including competition). However, governance issues emanating from political economy characteristics of these countries have been seen to decelerate the implementation of such policies and operation of these institutional structures¹⁶. There is a need to analyse these issues, in order to offer the government (and other stakeholders) the necessary tools to shape their national competition regimes. The CUTS project, ‘Competition, Regulation and Development Research Forum’ have brought these issues to the fore. Thus assessment of political economy issues in evolution and implementation of competition and regulatory regimes would be an integral part of the assessment of the state of prevailing competition regimes in the project countries.

9.3.6 An assessment of the interactions (and mechanisms for such interactions) between the national competition legislations (wherever in place or proposed as in the Competition

¹⁴ PCP: Preliminary Country Paper (PCP) would be an essay that elucidates in brief the basic features of national policies and laws that have a bearing on competition in the market. It would also provide an overview of the efforts being made by the government (if any) to operationalise the country’s competition regime; hint at the possibility of anti-competitive practices in sectors that affect consumers most; and also provide information on consumer protection.

¹⁵ CRR: Country Research Report (CRR) would be the product of detailed research on competition in the country. The CRR would involve more analytical and prescriptive treatment than the PCP, though the overall structure of both these documents would have certain common aspects.

¹⁶ Collated from the outcomes of the CUTS project entitled, ‘Competition, Regulation and Development Research Forum’ (CDRF).

legislation) and the regional competition institutions/legislations would be undertaken. Efforts would be made to understand the possible socio-economic implications of such interactions between the national competition legislation and regional competition legislations.

9.3.7 Existing competition concerns will be identified through a structured questionnaire, which will be distributed to key individuals (a total of 150 - 200 in each of the project countries) to get an idea of their perception on the state of the competition regime in the country and identify areas of immediate attention. Respondent would comprising of people in the government, business, civil society, especially consumer groups and business associations, lawyers working in the field, quasi-governmental bodies e.g. regulators, public utility heads, competition authorities etc. This will be followed up by interviews with some targeted respondents, in order to gain information regarding prevailing anti-competitive practices at the micro-level and to ascertain the extent to which such practices hurt consumers and/or the economy.

9.3.8 An assessment would also be made of the reason behind the existence of natural monopolies in some of the sectors in the project countries. This would be particularly important in order to assess whether advocating free competition (in these particular sectors, where these natural monopolies exist) could negatively affect the country's economy and/or consumers.

9.3.9 Further, research would be undertaken to assess the impact of the absence of competition (or a weak level of competition) in the agricultural products market on welfare, growth and poverty. The proposed research would be undertaken to evaluate the level of competition in the specific agricultural produce sector in the project countries (Ghana, The Gambia, Mali, Nigeria, Burkina Faso, Togo and Senegal) and to identify possible reasons for the existing levels of competition. This is an important subject as a lack of competition can trap the farmers in a situation of poverty because it implies that prices farmers get for their produce are significantly lower than the retail prices that consumers pay. Consequently, surpluses which can be used for investment might be very low. The overall objectives of this assessment would be as follows:

- To summarize the current literature on agricultural competition in the project countries.
- To determine through questionnaire surveys and consequent analysis how institutional barriers to competition in the agricultural sector affect both producers (farmers) and consumers.
- To provide policy recommendations for overcoming these barriers if they are found to be important

In brief the methodology would comprise of – literature survey (to assess the level of competition in the agriculture products market and understand the possible reasons), questionnaire survey (to identify possible institutional barriers and trace the intermediary chain, etc.) and data collection on retail price of certain (selected) agricultural products. All this information would be analysed to construct recommendations on the possibility to use competition policy (and/law) as a means to better the state of producers and consumers.

9.3.10 The draft Country Reports would form the basis for discussion in an Interim Review Meeting to be held around the 14th month of the project

9.3.11 A Synthesis Report would be constructed by capturing the key findings of the research and substantiating the need for issue-based advocacy and capacity building in the project

countries and the region. A generic regional account of the political economy context of competition in the ECOWAS would be brought out through this report. It would also shed light on other aspects like structure of markets and the level of competition in them; prevailing anti-competitive practices and their impacts on consumer welfare and growth; and consumer perceptions on competition. Such a collation of this information would provide valuable insights to help implement national and regional competition legislations in the ECOWAS region, not only in the project countries but in also in other member states.

9.4 National Dialogues & Advocacy

9.4.1 In each country, key stakeholders from civil society organisations, media, academia, government, regulatory agency, business will be identified to form a National Reference Group (NRG). A series of three NRG meetings would be held in each country – where the results of research would be presented for deliberation and the plan for national advocacy decided upon.

9.4.2. In all the meetings, particular emphasis will be given to involving consumer and advocacy groups, where these exist, and media. Consumer concerns will be highlighted in all the dissemination materials and national consumer groups will be encouraged to use these to enhance their own capacity. Consumer groups and other organisations would be linked to INCSOC which CUTS has established in 2002. In countries without an active consumer movement, experienced and credible NGOs would be motivated to include consumer issues within their active agenda and get associated with the project implementation process.

9.4.3. On the basis of the research outlined above, specific issue-based advocacy documents will be prepared. Such publications would serve as reader-friendly exposition of competition issues and policies. The documents will be distributed widely and used to initiate discussions within the national reference groups and other stakeholders.

9.4.4. Research findings would be translated into specific policy recommendations tailored to particular national and regional concerns. Regional level output will be fed into the ongoing work at ECOWAS to develop a regional approach to competition and also into WAEMU to refine the regional policy of the Monetary Union, further by exploring synergies in national competition regimes. Another key output will be negotiating strategies for the countries individually and as members of a regional agreement at the bilateral and multilateral levels, respectively.

9.5 Training Workshops

9.5.1 CUTS has realised that in addition to research and advocacy efforts, special emphasis needs to be laid on capacity building (training) to help develop constituencies on competition policy and law in countries that have little or no experience and/or history of competition administration. As a part of this project - six national (one in each project country) and two regional Training Workshops would be held for particular target group(s). Resource Persons would be internationally renowned practitioners/academicians/experts on elements of competition administration, drawn from both within the region and outside (but with some

orientation of the requirements in the region). Experts will share their insights and international best practices on competition issues and distribute structured training materials.

9.5.2. These training seminars will focus on the following issues:

- *Domestic competition issues*: will cover issues affecting competition in the domestic market, e.g., Competition and development at the macro level, and on vertical and horizontal restraints; abuse of dominance; etc at the micro level.
- *Interaction between competition and regulation*: understanding the complementarities between competition and regulatory regimes.
- *Competition and consumer protection*: will focus on raising awareness and capacity with respect to competition and consumer laws and their implementation.
- *International competition policy*: focusing on issues relating to international and regional dimensions concerning competition policy & law.
- *Any other*: Any other topic for training generated as a demand from the project countries over the course of implementation of the project.

9.6 Information Dissemination and Sustainability

9.6.1 One e-newsletter would be developed every quarter and circulated to readers via e-mail. Additionally, a project webpage would be prepared and news, events and updates related to the project (including the e-newsletter) would be incorporated in this webpage. Once, the Country Research Reports (CRRs) are readied, an outreach strategy would be prepared to reach out to the specific target audience with the findings of the research.

9.6.2 As already mentioned earlier, the project would lead to the development of a network of individuals and organisations in the region working on and interested to further pursue work on competition policy and law issues. CUTS would bring the members of this network under INCSOC (www.incsoc.net). INCSOC is a unique network and an international platform dedicated to intellectual exchanges (including sharing relevant research outcomes, news impinging on competition, events, etc.) on competition policy and consumer protection issues, especially of the developing world. Hence, it would be ensured that competition and regulatory policy issues of the region are brought up for discussions and action through this platform. Further, CUTS would act as a facilitator and motivator to encourage country partners (even the government and/or regional agencies like the ECOWAS) to undertake follow-up initiatives at the country level, drawing from the outcomes of this initiative.

9.6.3 Various new tools, methodologies and approaches have recently been added to the ever-expanding literature on competition. The 7Up4 project provides a scope for the application of some of these tools and/or approaches. Specific mention could be made of the ‘Competition Assessment Framework’ (CAF) developed by the DFID (UK). The CAF is an approach that helps assess the level of competition in a particular sector. CUTS would encourage the country partners/other stakeholders to apply CAF where possible in the project countries. A research initiative on competition and development is being developed by the Overseas Development Institute (ODI, UK) and there would be possibilities for its linkages with the 7Up4 project. Further, various issues pertaining to competition have been highlighted in the recent work of IDRC, Canada in the book ‘Competition In Focus. The 7Up4 project research component would

take into account the relevant issues/elements from these above initiatives, which would have significance on two counts. One that the research methodology would be sharpened and made more ‘application-oriented’, and two that this CUTS project would have positive synergies with these (and other similar) initiatives, adding to the sustainability of the project outcomes.

9.7 Technical Assistance to Partners

9.7.1 One of the prime objectives of this project is to equip the partners (and other stakeholders) in each of the project countries with knowledge related to competition policy and law issues. In addition, CUTS would also enhance their skills and competence on certain key elements related to project management and implementation. The following table provides a brief outline of the various elements of technical assistance that would be provided to the partners.

When? (Stage of the project)	What? (Area/Topic)	Who? (Provider)
Preparatory Phase	- Orientation on the Project (objectives and outcomes)	• CUTS
Project Launch	- International Conference arrangement skills (partner organization in the project country to host the launch meeting)	• CUTS
	- Preliminary research on competition policy issues (Preliminary Country Paper)	• CUTS • Research Adviser • Project Adviser
	- Operational Strategy (project management, reporting technique, partnership arrangements)	• CUTS • Project Advisers
Research Stage	- Literature Review - Field Surveys - Data collection and analysis - Sector-Specific study (outline, orientation and execution)	• CUTS • Research Adviser • Project Adviser
Advocacy Stage	- Advocacy strategy (in general and issues to be addressed/raised at the National Dialogues)	• CUTS • Project Advisers • Research Adviser
National Training Workshops	- Basic skills for competition analysis, orientation on horizontal and vertical agreements (along with case studies); competition policy and consumer protection interface (especially w.r.t Unfair Trade Practices, etc.)	• International Resource Persons • CUTS
Regional Training Workshops	- Advanced and deeper understanding and knowledge on competition law	• International Resource Persons

	implementation (enforcement) issues	• CUTS
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10 Project Management

10.1. Project Advisory Committee

10.1.1 The project will be guided by an international project advisory committee (PAC) comprising of experts in the field: economists, lawyers and practitioners and representatives of donors and inter-governmental organisations. The research methodology and process of project implementation will be discussed between the project management unit at CUTS, PAC and the project partners at the launch meeting of the project. Regular advice would be sought from the advisers through electronic means and at meetings with PAC members on occasions outside the project, whenever that happens. In addition, close coordination will be maintained with United Nations Conference on Trade and Development (UNCTAD), OECD, World Bank, World Trade Organisation (WTO), European Commission and such other agencies, in order to keep them abreast of the progress and outcomes of the project.

10.2. Research and Coordination Staff

10.2.1 Philippe Brusick, former head of the Competition and Consumer Policies Branch of UNCTAD (CV available at: www.prbursick.org) will be the Project Advisor (Core Researcher) for the project. He brings in over 30 years of experience in the field, having lead the UNCTAD work in this area. Besides, he is proficient in English, French and Spanish, among other languages, and well aware of the situation with regard to competition in the region.

10.2.2 CUTS has engaged Lahcen Achy, Professor, INSEA, Morocco as the Research Director for this project. His role would be critical keeping in view the detailed assessment of competition – (i) at the country level, (ii) in a specific-sector, and (iii) of ‘natural monopolies’ existing in each project country, as envisaged in the project.

10.2.3 CUTS proposes to implement the project in collaboration with its Africa Resource Centres in Lusaka, Zambia and Nairobi, Kenya. A project management team would be established at the CUTS Centre for Competition, Investment & Economic Regulation (CUTS CCIER) and would include two project officers (one of who will be bilingual), to work under the overall guidance of the project director. The regular staff of CUTS will support them.

10.3. Partner Organisations

10.3.1 There will be one partner organisation (research institute, university department or NGO) for each of the six countries. CUTS has been in touch with prospective partner institutions and representatives from these partner institutions have been invited to international competition conferences dealing with issues relevant for the region to develop their basic understanding on competition and to be aware of their roles and responsibilities in steering the project. All the partner institutions will be required to nominate a contact person who will carry out /supervise the activities. *Annexure IV* provides a detailed account of the prospective partner institutions of CUTS for undertaking this initiative.

A detailed account of the roles and responsibilities of the various project personnel (including representatives of the partner organisations and their associates; project advisers and project team at CUTS CCIER) has been provided in *Annexure VIII*.

11 Duration and Schedule

The project will be conducted over the twenty-four months. A tentative schedule of activities is provided in *Annexure III*.

12 Project Evaluation

An end of the project evaluation (over a period of two months, after the project completion) would be undertaken in order to assess the extent to which the project was able to achieve its targets. IDRC, Canada undertakes end of project evaluation of many of its projects, and would lead this process of evaluating the 7Up4 project as well, in consultation with DFID, UK and CUTS. This evaluation would be undertaken after the completion of all the project activities.

Annexure I: Impact of CUTS competition related work in 19 project countries

Country	Period of CUTS intervention(s)	Impact(s)
1. Bangladesh	2004 to 2006 under the 7Up2 project and further activities	<ul style="list-style-type: none"> • The country is now considering the enactment of a new Competition Law with the assistance of the World Bank, as an essential part of a comprehensive programme on private sector development. • Raised the ante and involvement of civil society on competition and consumer issues. • Research and advocacy partners: Bangladesh Enterprise Institute and Unnayan Shamannay interested in technical assistance from CUTS to do a country-wide competition assessment of various sectors on the lines of one done in India (see below).
2. Botswana	2005 till present under the 7Up3 project	<ul style="list-style-type: none"> • CUTS commented on the recently passed (Draft Competition Bill 2007) to the government and the Attorney General's office, based on the competition research undertaken in the country, which were taken on board. • CUTS partner: Botswana Council for Non Government Organisations (BOCONGO) has been nominated to the Sub-group on 'Competition Policy' established by the government.
3. Cambodia	2004 to 2006 under the 7Up2 project	<ul style="list-style-type: none"> • The country is now speeding up the process toward adopting a competition law aided by UNCTAD. • Civil society is fairly engaged with the agenda, including educating parliamentarians.
4. Ethiopia	2005 till present under the 7Up3 project	<ul style="list-style-type: none"> • The Trade Practice Investigation Commission (competition authority of Ethiopia) has engaged CUTS to run programmes to enhance the capacity of its staff on competition administration issues.

5. India	Since establishment of CUTS in 1984, and through 7Up1 and 7Up2 projects, and other activities	<ul style="list-style-type: none"> • Enactment of a new Competition Act, 2002 and an amendment in 2007 • Published a path-breaking study in 2006 on several sectors and policy issues affecting competition: <i>“Towards a Functional Competition Policy for India”</i> (FunComp), which has catalysed several sectoral deep studies and adoption of a competition policy, in addition to a competition law. • Succeeded in getting the government to adopt a National Competition Policy (in the pipeline) • Chairman of the Economic Advisory Council to the Prime Minister of India has endorsed the competition policy and has asked for a competition assessment programme. • CUTS Secretary General, Mehta, serves on several government committees on competition and consumer protection. • Heightened interest among various stakeholders to engage on competition policy research and advocacy through continuous activities on competition and regulation
6. Kenya	2000 till present under the 7Up1 project and other activities	<ul style="list-style-type: none"> • Process of review and amendment of the competition law in line with the findings of the CUTS project • CUTS partner organisation – Institute for Economic Affairs (IEA, Kenya) have included competition policy and regulatory issues in their area of interest • Improving the capacity of the staff of Monopolies and Prices Commission (MPC) of Kenya (competition authority) through continuous engagement, which was acknowledged by the MPC.

7. Lao PDR	2004 to 2006 under the 7Up2 project	<ul style="list-style-type: none"> • The government has now recognised the need to adopt a comprehensive competition and consumer law to replace the existing Decree on Trade Competition issued by the Prime Minister in 2004. • Due to the country's low level of development and hence resource and capacity constraints, things move slowly here, but CUTS partner, the National Economic Research Institute (NERI) - a government-sponsored research institute, is committed to work on competition policy and consumer issues. NERI is now a member of the national committee set up by the government to draft a competition law, and is actively participating on various regional and international forums on competition. • Some engagement has also been done with the National University, but not quite responsive due to the overall atmosphere.
8. Malawi	2005 till present under the 7Up3 project	<ul style="list-style-type: none"> • CUTS has established sound working relationship with the Malawi competition authority (Malawi Competition and Fair Trade Commission). • Identified researchers interested in the subject and motivated them to continue to study the evolving competition regime in the country in order to provide support to the government and also raise awareness amongst civil society.
9. Mauritius	2005 till present under the 7Up3 project	<ul style="list-style-type: none"> • CUTS advocacy partner in the country: Institute for Consumer Protection (ICP) is now considered the most credible civil society organisation on competition and consumer protection issues in the country by the government. • CUTS and ICP's comments on the Draft Competition Bill (2007) of Mauritius have been accepted by the Ministry of Commerce and Industry (recognised by the Minister himself). • After many drafts, there is now a better chance of getting a new law adopted due to the increased level of awareness.

10. Mozambique	2005 till present under the 7Up3 project	<ul style="list-style-type: none"> • CUTS partner in the country: Associacao de defesa do consumidor de mocambique (DECOM) is a member of the multi-stakeholder Working Group on Competition Policy, and CUTS efforts has been to constantly develop the capacity of members of this working group in order for them to effectively contribute to the process of evolving a healthy competition regime in the country. • CUTS is also preparing comments on the draft Competition Policy of Mozambique based on the research and dialogues on competition policy undertaken in the project.
11. Namibia	2005 till present under the 7Up3 project	<ul style="list-style-type: none"> • Strengthening the consumer movement and evolution of a new (and the only) consumer organisation in the country – Namibia Consumers Association.
12. Nepal	2004 to 2006 under the 7Up2 project and other activities	<ul style="list-style-type: none"> • CUTS and its partner in the country SAWTEE have collaborated before the 7Up2 project activities by doing research for UNCTAD on the competition scenario in Nepal. Under the 7Up2 project, the two organisations have been working jointly on a competition awareness programme that has raised the level of understanding of civil society, business and government on the benefits of a healthy competition culture. Progress here has been slow due to the internal political situation.
13. Pakistan	2000 to 2002 under the 7Up1 project and further activities	<ul style="list-style-type: none"> • The country is now in the process of creating a new competition law with the assistance of the World Bank. • Research and advocacy partner: Sustainable Development Policy Institute (SDPI) now interested in collaborating with CUTS to do a macro assessment of the competition scenario on lines of FunComp project of India.
14. Sri Lanka	2000 to 2002 under the 7Up1 project	<ul style="list-style-type: none"> • The country has enacted a new law covering both competition and consumer protection in 2003.

15. South Africa	2000 to 2002 under the 7Up1 project	<ul style="list-style-type: none"> • Raised awareness on competition law issues significantly among the civil society, which was very low before the project began. • CUTS Secretary General, Mehta was invited to serve on an International Advisory Panel by the Government to draft a Consumer Policy and Law for the whole country, since done.
16. Tanzania	2000 to 2002 under the 7Up1 project	<ul style="list-style-type: none"> • Catalysed the World Bank to assist the country to amend its law and ensure its functionality. • Strengthened the consumer movement in the country with the establishment and activities of consumer organisations like Tanzania Consumer Protection Association (TCPA) and Tanzania Consumer Advocacy Society (TCAS).
17. Uganda	2002 till present under the 7Up3 project	<ul style="list-style-type: none"> • CUTS partner in the country CONSENT is considered a pioneer on competition policy and law research and advocacy, especially in terms of its linkages with consumer welfare issues.
18. Vietnam	2004 till present under the 7Up2 project and further activities	<ul style="list-style-type: none"> • Enhancing the level of understanding of the officials of the Vietnam competition authority (Vietnam Competition Administration Department, VCAD) by providing them support in terms of institutional development, research and capacity building. • Motivated the VCAD into developing a programme on capacity building with the Swiss Competition Authority (COMCO) as a fall out of the project done earlier, with CUTS continuing to provide assistance through a local office established in 2007. • Continued intensive engagement between the CUTS Hanoi office and the VCAD in all research and advocacy activities of both sides. CUTS's support has been explicitly recognised on VCAD's website along with other donor agencies.

19. Zambia	2000 till present under the 7Up1 project	<ul style="list-style-type: none"> • Established a close working partnership with the Zambia Competition Commission (ZCC) by establishing CUTS Africa Resource Centre in Lusaka, Zambia and identifying ‘Competition Policy and Law’ and ‘Consumer Protection’ as areas of this Resource Centre’s activities – not only in Zambia but in other countries of southern Africa • Government of Zambia has embarked on a process of revising the competition law of Zambia in order to incorporate elements of consumer protection within its ambit as per a recommendation under the 7Up1 project. • ZCC has acknowledged the support received from CUTS its developing the institution as one of the most effective competition agencies not only in Africa, but in the third world.
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Annexure II: Competition Scenario in the six project countries¹⁷

1. The Gambia

The Gambia has no legislation relating to contingency trade remedies and competition laws. Consequently, what exist are various laws governing trade and customs regulations. These include legislation regarding the protection of intellectual property, new legislation on government procurement, The Gambia Free Zones Act 2001 and The Gambia Investment Promotion Act 2001.

The Vision 2020 strategy outlines Gambia Government's current development Mission as thus: *'To transform The Gambia into a financial centre, a tourist paradise, a trading, export-oriented, agricultural and manufacturing nation, thriving on free market policies and a vibrant private sector, sustained by a well-educated, trained, skilled, healthy, self-reliant and enterprising population, and guaranteeing a well-balanced eco-system and a decent standard of living for one and all, under a system of government based on the consent of the citizenry'*.

This Mission implies a commitment to a market-oriented economic development agenda with an emphasis on a 'vibrant private sector' led growth. With the adoption of new liberalising laws, the object was to promote The Gambia as a trade gateway and investment haven and to:

- Provide an attractive business environment and incentives for business activity in The Gambia;
- Be a 'one-stop-shop' for investors;
- Attract, promote and increase the manufacture of goods and trade in goods and services; haven
- Co-ordinate, encourage, promote and facilitate investments in The Gambia; and
- Advise the Government on investment policy and related matters.

It was against this backdrop that the need to introduce a competition law was felt and development partners, notably the World Bank, equally endorsed and recommended for it as a sign of commitment towards a free market economy. Competitive markets are responsive to changing needs and opportunities, while competition stimulates business to look for more innovative and efficient ways of satisfying the needs of consumers.

The Draft Cabinet Paper on the 'Proposed Competition Law for The Gambia' was finalised in July 2002. The paper can be considered as a document articulating competition policy in The Gambia. The policy will be implemented through the Competition Bill of 2003, which is awaiting adoption by Parliament.

The objective of the proposed law is: 'To foster competitive markets and competitive business conduct in The Gambia by establishing a Competition Commission and a competition regime that will control anticompetitive arrangements, monopoly situations and mergers with the aim of improving the well-being of consumers and the efficiency of businesses in The Gambia'.

¹⁷ Source: CUTS & INCSOC, "Competition Regimes in the World – A Civil Society Report", Jaipur, 2006

The Bill covers the supply of goods and services in The Gambia, and sets out the core elements of a competition regime to be administered by an independent Competition Commission. The Bill prohibits two forms of RBPs: collusive horizontal arrangements, and bid-rigging agreements, on the grounds that they are inherently anticompetitive. The Commission is required to demonstrate that the parties implicated have infringed this prohibition, but does not need to show that they have anticompetitive effects. It can open investigations on the suspicion that an enterprise is party to a prohibited practice.

The Bill also includes disciplines on RBPs that are not prohibited *per se*, but on which the Commission is mandated to take remedial action if the practices are shown to have anticompetitive effects. Practices in this category are defined as restrictive business practices that are subject to investigation, and include:

- non-collusive horizontal arrangements in which the parties must supply 30 percent of goods or services in the market concerned, and which the Commission has reasonable grounds to believe have anticompetitive effects;
- monopoly situations, defined as situations in which 30 percent or more of goods and services of a given description are supplied or acquired by one enterprise; a benchmark of 70 percent is applied in the case of three or fewer enterprises;
- vertical agreements in which the Commission has reasonable grounds to believe that one or more parties are in a monopoly situation; and
- mergers, where one of the parties carries on its business in The Gambia, or is operated or controlled by a body corporate incorporated in The Gambia, and where either of the both parties, following the merger, account for, either as a supplier or buyer, 30 percent of a particular market for goods or services; or one of the parties to the merger has, prior to the merger, a market share of 30 percent or more, either as a buyer or a supplier.

Exemptions to the rules are:

- activities of a statutory monopoly;
- practices or agreements expressly required or authorized by an enactment, or by scheme or instrument made under enactment;
- any practices of employers or any agreement to which employers are party and that relate to the remuneration, terms or conditions of employment of employees;
- any practice, conduct or agreement in so far as it relates to the export of goods from The Gambia or the supply of services outside The Gambia;
- agreement or conduct in so far as it relates to the protection, exercise, licensing or assignment or rights under, or which exists by virtue of, laws relating to copyright, design rights, patents or trade marks, or other intellectual property rights;
- any practice, conduct or arrangement approved or required under an international agreement to which the State of The Gambia is a party;
- any agreement or conduct relating to activities within a free zone under the control of GIPFZA; and
- any enterprise with an annual turnover not exceeding D250,000.

The powers of investigation of the Commission extend to all classes of cases, and to the search for evidence to determine whether enterprises have complied. The penalties and remedies that

the Commission may impose on an enterprise found to be or have been party to a prohibited agreement are:

- Directive to cease to be party to the agreement or to terminate or modify the agreement, or its parts contravening the prohibition; and/or
- Imposition of a financial penalty, where the breach of the prohibition has been committed intentionally or negligently.

Every decision taken, and every determination and directive issued, by the Commission would be appealable. The Commercial Division of the High Court would hear all appeals.

2. Ghana

The 1992 Constitution, with its ‘directive principles of state policy’, guides Government and all citizens in their pursuit of national development. It also enjoins Parliament to enact relevant bills, and set up institutions to ensure a just and free society, whilst maintaining basic human rights as well as ensuring a healthy economy. Accordingly, the legal system stresses all the attributes and safeguards for the protection of property and human freedom. Thus, the constitution gives power to the Parliament, to make laws by passing bills aimed at regulating economic or business activities in the wider public interest and ensuring fair or honest trade practices.

There is, however, a general view among the informed people that, as a nation, the imposition of measures to foster competition in the product, financial and labour markets, as well as in the public utilities, is seen as a compulsion and not out of national conviction of the benefits of these principles, as in the attainment of social objectives.

This notwithstanding, various Acts have been formulated to create institutions that regulate certain economic activities in the country. Examples include Energy Commission (Act 541), Public Utility Regulatory Commission (PURC) (Act 538) and ‘Protection against Unfair Competition Act, 2000’ (Act 589) which is the main legal authority that protects producers and consumers of goods and services. In September 2000, a Bill was presented before the Parliament on Competition and Fair Trade Practices, which seeks, amongst others things, to establish a Commission that would ensure fair competition in trade practices, as well as a Trade Practices Court.

The rationale of the Bill is to control ‘Restrictive Business Practices’ (RBPs), which is explained as practices employed especially, but not exclusively, by multi-national enterprises, to influence the pricing, marketing and distribution of goods and services. The RBPs may involve collusive tendering; market and customer allocation; concerted refusal to supply; and discrimination and unfair pricing, including the use of affiliated enterprises. The two basic types of RTPs expounded by the bill are:

- those, which involve restrictive agreements between firms engaged in the market, in rival or potentially rival activities; and
- those, which are entered into by enterprises through an abuse or acquisition, and abuse of a dominant position of market power.

Protection against Unfair Competition Act (Act 589)

According to Act 589, commercial behaviour, such as causing confusion with respect to another's enterprise or its activities; damaging another person's goodwill or reputation; misleading the public; discrediting another person's enterprise or its activities; misleading advertisements and violation of trade secrets; as well as breaching Ghanaian law or international or regional obligations, contrary to honest business practices, constitutes an act of unfair competition.

The Act 589 clarifies 'causing confusion' as any act or practice, during industrial or commercial activities, that causes or is likely to cause confusion with respect to another person's enterprise or its activities, and the products or services offered by that enterprise.

Confusion may be caused with respect to:

- Trademark, whether registered or not;
- Trade name;
- Business identifier other than a trademark or trade name;
- The presentation of a product or service; and
- A celebrity or well-known fictional character.

Thus, the product, service or business activity could be protected if it has sufficient distinctiveness to distinguish it from the same or similar activities of other traders or competitors. Also, an act or practice in the course of industrial or commercial activities, that damages or is likely to damage the goodwill or reputation of another person's enterprise or its activities, constitutes an act of unfair competition, whether or not the act or practice causes confusion.

'Misleading acts', which directly affect the consumer, can roughly be defined as creating a false impression of a competitor's product or services. This can have serious effects, such that the consumer who relies on the incorrect information may suffer financial prejudice, and the honest competitor may also lose clients. Thus, the transparency of the market diminishes with adverse effects for the economy and welfare. Misleading acts may arise out of advertising or promotion, particularly with respect to the manufacturing process, suitability, the quality and quantity, geographical origin, the conditions and the price of the product.

'Discrediting acts' imply false allegations concerning a competitor, which is likely to harm his commercial goodwill. The aim is to entice consumers with incorrect information and the consequences could be detrimental, not only to the competitor but also to the consumer.

Again, violation of trade secrets, where one's manufacturing secrets and commercial secrets, which may either be information of a purely technical character, is divulged without the owners' consent, constitutes an act of unfair competition. Secondly, disclosure, acquisition or use of secret information by another person, without the consent of the rightful owner may, in particular, result from:

- Industrial or commercial espionage;
- Breach of contract;
- Breach of confidence;

- Inducement to commit any of the three above; and
- Acquisition of secret information by a third party who knew, or was grossly negligent in failing to know, that an Act referred to in the above was involved in the acquisition. According to the Act, information is 'secret information' if:
 - ✓ It is not, as a body or in the precise configuration and assembly of its component, generally known among, or readily accessible to, persons within the circles that normally deal with the kind of information in question;
 - ✓ It has commercial value because it is secret; and
 - ✓ It has been subject to reasonable steps under the circumstances by the rightful owner to keep it secret.

Any act or practice, in the course of industrial or commercial activities, shall be considered an act of unfair competition if it consists or results in:

- An unfair commercial use of secret test results or other data, the origin of which involves considerable effort and, which has been submitted to a competent authority for the purposes of obtaining approval for the marketing of pharmaceutical, or agricultural chemical products, which utilise new chemical entities; or
- The disclosure of such data, except where:
 - ✓ It is necessary for the protection of the public; and
 - ✓ Steps are taken to ensure that the data is protected against unfair commercial use.

In addition to all stated above, any act or practice in the course of industrial or commercial activities, that is contrary to honest practices, constitutes an act of unfair competition.

Anticompetitive Business Practices

However, before a regulatory body was established and/ or the formulation of Act 589, there were cases that bordered on consumer protection and unfair trade practices, in which the common laws of the nation were used in their adjudication. Two of such cases are presented below:

One naturally wonders how these cases would have been ruled if they had occurred after the enactment of the 'Protection against Unfair Competition Act, 2000'- Act 589. To easily judge cases like the examples given above, Legislative Instruments (LIs) were issued by the Minister of Justice, for the purpose of developing regulations aimed at protecting the public, as consumers and producers of goods and services, from unfair competition.

3. Mali

The Competition regime of Mali was established through a government *Ordinance* [No. 92-021/P-CTSP of April 13, 1992]¹⁸ in the year 1992. The main aim of this ordinance was to introduce free competition in the Mali markets. A *Decree* [No. 92-133/P-CTSP of April, 24 1992], set the mode of implementation of the ordinance.

¹⁸ <http://www.droit-afrique.com/images/textes/Mali/Mali%20-%20Prix%20et%20concurrence.pdf>

Anti-competitive practices that the law aims to curb are as follows:

- Abuse of dominance (price fixing, output restrictions, refusal to buy, exclusive dealing arrangement)
- Predatory pricing
- Bid rigging
- Tied sale or provision of service.
- Refusal to Deal (to sell a product or provide a service);
- Refusal to provide information on price list and selling terms to dealer;
- Disruption of market by anormal ways, against competitors.
- Misleading advertising or false representation (UTPs)
- The smearing of competitors (and other behavior like trademark/ logo imitation aimed at distorting informations on competitor).

In 1998, the *Direction Nationale du Commerce et de la Concurrence (DNCC)*¹⁹ (http://www.maliexport.com/maliportal/docs.php?page=1_9) was created under the Ministry of Trade and Industry, with the mission of:

- Organising, developing and supporting activities of trade promotion in order to increase their role in the social and economic development of the country.
- Draw up regulation on trade and competition in relation with other relevant policies.
- Enforce regulations related to trade and competition.

The government also established the *Conseil National de la Concurrence (CNC)* in the year 1999 to perform an advisory role on competition issues for the Commerce Ministry (“Ministère du Commerce”)²⁰. The CNC draws up an annual report on the state of competition in Mali that is used as a basis for government actions. The CNC also gives its opinion on price regulation and concentration issues.

4. Nigeria

Nigeria is yet to develop its competition law. Efforts are currently being made to draft the competition law. Nonetheless, competition cases or issues in various sectors of the economy are handled at present, directly or indirectly, by the following regulatory institutions, among others:

1. The Nigerian Investment Promotion Commission (NIPC);
2. Nigerian Communication Commission (NCC);
3. Central Bank of Nigeria (CBN);
4. Securities and Exchange Commission (SEC);
5. Consumer Protection Council (CPC);
6. Special Trade Malpractices Investigation Panel;
7. National Agency For Food and Drug Administration and Control (NAFDAC);
8. Standards Organisation of Nigeria (SON);
9. Petroleum Products Pricing Regulatory Agency (PPPRA);
10. Nigerian Civil Aviation Authority (NCAA);

¹⁹ http://www.maliexport.com/maliportal/docs.php?page=1_9

²⁰ Décret N° 99-202/P-RM du 11 juillet 1999.

11. National Broadcasting Commission (NBC);
12. National University Commission (NUC); and
13. Nigeria Tourism Board (NTB).

The Nigerian Investment Promotion Commission Decree No. 16 of 1995

This decree established the Nigerian Investment Promotion Commission (NIPC) as the successor to the Industrial Development Co-ordination Committee (IDCC). The NIPC is an agency of the Federal Government of Nigeria, with perpetual succession and a common seal, which means the Commission's leadership structure will always have a successor after expiration of tenure of office of the incumbent leader. This is specially established, among other things, to:

- coordinate, monitor, encourage and provide necessary assistance and guidance for the establishment and operation of enterprises in Nigeria;
- initiate and support measures, which shall enhance the investment climate in Nigeria for both Nigerian and non – Nigerian investors;
- promote investments in and outside Nigeria through effective promotional means;
- register and keep records of all enterprises to which the NIPC Decree legislation applies;
- identify specific projects and invite interested investors to participate in those projects;
- provide and disseminate up-to-date information on incentives available to investors;
- assist incoming and existing investors by providing support services; and
- evaluate the impact of the Commission on investment in Nigeria and recommend appropriate remedies and additional incentives;

Securities and Exchange Commission Act No. 45 of 1999

The Investment and Securities Act No. 45 of 1999 was promulgated on May 26, 1999. The Act repealed the Security and Exchange Act of 1998. The new Act promotes a more efficient and virile capital market, pivotal to meeting the nation's economic and developmental aspirations in this new millennium.

Among the various roles of the Commission is to register and regulate securities exchange; capital trade points; futures; options and derivatives exchanges; commodity exchanges; and any other recognised investment exchange.

Trade Malpractices Decree 1992

This law pinpoints certain offences relating to trade malpractices and sets up a Special Trade Malpractices Investigation Panel to investigate such offences. The law is violated by any person who:

- falsely labels, packages, sells, offers for sale or advertises any product so as to mislead as to its quality, character, brand, name, value, composition, merit or safety;
- for the purpose of sale, contract or other dealing, uses or intends to use any weight, measure or number which is false or unjust;
- sells any product by weight, measure or number and delivers to the purchaser a less weight, measure or number than is purported to be sold;
- advertises or invites subscription for any product or project which does not exist.

The Consumer Protection Council has been established in Nigeria under decree No. 66 of 1992 with the following objectives:

- provide speedy redress to consumer complaints through negotiations, mediation and conciliation;
- seek ways and means of removing, from the market, hazardous products; and cause offenders to replace such products with safer and more appropriate alternatives;
- publish, from time to time, a list of products whose consumption and sale have been banned, withdrawn, restricted, or not approved by the Nigerian Government or foreign governments;
- cause an offending company, firm, trade association or individual to protect, compensate, provide relief and safeguards to injured consumers or communities from adverse effects of technologies that are inherently harmful, violent or highly hazardous;
- organise and undertake campaigns and other forms of activities, that will lead to increased public consumer awareness;
- encourage trade, industry and professional associations to develop and enforce, in their various fields, quality standards designed to safeguard the interests of consumers; and
- encourage the formation of voluntary consumer groups or associations for consumers' well being.

In the exercise of its functions, the Council is empowered to apply to court in preventing the circulation of any product, which constitutes an imminent public hazard; and/ or compels a manufacturer to certify that all safety standards are met in their products.

The Federal Government of Nigeria is planning to transform the '*Consumer Protection Council (CPC)*' into a new commission known as '*Nigerian Trade and Competition Commission (NTCC)*'. The Permanent Secretary of the Federal Ministry of Commerce made this official disclosure on September 27, 2004. The proposed Commission (NTCC), is expected to handle all issues relating to *Consumer Protection, Competition Policy, Anti-dumping, Unfair Trade Practices and Weights and Measurements Administration*.

Urgent need of competition law

A long lingering controversy over privatisation, especially over the sale of Nigeria's key refineries has become a wake up call for urgent steps to be taken by the new administration to ensure the enactment of a suitable competition law and policy for Nigeria. Number of observations on the issue from a competition law point of view has been expressed. The first is that the entire transaction brings to the fore, the huge legal deficit created by the lack of a competition law or antitrust legal regime in Nigeria. It is a great anomaly that a government would embark on a macro-economic reform agenda, which is not underpinned by an appropriate legal foundation for the promotion and protection of competition.

It must be noted that governments, which have liberalized or deregulated vital sectors of the economy through privatisation unwittingly create new dangers in the absence of a competition law. For example, when vital sectors of an economy are liberalized through privatization and deregulation as Nigeria has done, and thus ushering in, in place of government monopolies, private players who are not constrained by social interests and whose overriding drive is profit, there is nothing to prevent the new undertakings from engaging in cartel and abusive behaviour such as price fixing, market division, and excessive pricing. In the absence of a competition law, such practices (which are cardinal sins in every country having a competition law regime

because of their harmful effects to the economy), would not be illegal, no matter how much they hurt the economy and the consumers.

The refineries incident has shown that half liberalisation could in some cases be worse than no liberalisation at all, since it could engender hitherto unknown dangers. Therefore, any market liberalisation programme like Nigeria's that is designed in a way that it lacks an essential component like a legal regime to regulate and protect competition, is fundamentally flawed and therefore ought to be reconsidered.²¹

5. Burkina Faso

A. Competition Evolution and Environment

National Level

Burkina Faso has progressively brought the liberalisation of its economy, in the fields of commerce and prices, in particular. It has also brought in privatisation, the setting up of a competition regime and the training of agents responsible for the realisation of the competition law and policy.

Liberalisation of Commerce and Prices

This has involved the adoption of the following measures:

- elimination of restriction on quantity at import level;
 - elimination of NTBs;
 - liberalisation and diversification of the distribution networks;
 - liberalization of prices and putting an end to price control; and
 - facilitation of import procedures and formalities and the setting up one-stop-shops for administrative formalities
- with respect to the creation of enterprises, trade and investment.

Privatisation

The privatisation process consisted of the progressive disengagement of the State from enterprises in favour of the private sector. At present, of the 88 State companies, more than 30 have been privatised.

Setting up of a Competition Regime

The liberalisation of the economy has obviously brought about the installation of a market economy, with competition as a corollary. Hence, a national competition law has been adopted. In fact, Burkina Faso has evolved and adopted a competition law with a broad application margin. It is known as Law No.15/94/ADP on the organisation of competition in Burkina Faso. It essentially covers price liberalisation and regulations relevant to competition, anticompetitive practices and relevant sanctions.

²¹ The privatisation of the refineries, competition law, and economic competitiveness, Dr Nnamdi Dimgba, July 27, 2007 <http://www.vanguardngr.com/articles/2002/features/law/law827072007.html>

The national competition framework is derived from this law. This law provides for the setting up of the National Commission on Competition and Consumption (Commission Nationale de la Concurrence et de la Consommation, CNCC), an autonomous body responsible for the competition regulation in Burkina Faso.

Community Level

Since July 01, 1996, crude and handicraft products circulate freely in the WAEMU territory. A plan for the harmonisation of internal taxation has been evolved and established since 1998. Since January 01, 2000, industrial products are exempted from duties and entrance taxes. On January 01, 2000, the external tariff came into application. In May 2002, the community (WAEMU) competition legislation was adopted and has been implemented since January 2003.

B. Competition Law

The National Competition Law

As indicated above, Burkina Faso has adopted a competition law, (No 15/84/ ADP of May 05, 1994) related to the organisation of competition in Burkina Faso. The law defines three types of violations likely to affect the normal administration of competition. They are:

- Anticompetitive practices (agreements between enterprises, abusive exploitation of a dominant position on the interior market);
- Restrictive competition practices (imposed prices, below cost-price selling, non conformity to billing regulations, non communication of price ranges and conditions of sale, refusing to sell, discriminatory practices among professionals, disorderly sales, para-commercialism, non-compliance to regulations relative to consumers' information, false advertising)
- Fraudulent practices at import and export levels, on guarantee and after-sales service, selling substandard goods and non-respect for the safety of consumers.

Community Competition Legislation

Community law on competition came into effect since January 01, 2003. It consists of the following:

- Regulation No. 02/2002/CM/WAEMU, to deal with anticompetitive practices inside the WAEMU;
- Regulation No 03/2002/CM/WAEMU that relates to procedures applicable to restrictions and the abuse of a dominant position inside the WAEMU;
- Regulation No. 04/2002/CM/WAEMU dealing with State assistance inside the WAEMU and to the conditions of application of article 88 (c) of the treaty;
- Directive No. 01/2002/CM/WAEMU dealing with issues related to the transparency of financial relations, on the one hand between the member States and public enterprises, and on the other, between the member States and international or foreign organisations; and
- Directive No. 02/2002/CM/WAEMU to promote cooperation between the Commission and the national competition structures of member states through the application of articles 88 and 90 of the WAEMU treaty.

Hence, community legislation deals with regulations relative to anticompetitive practices by firms, namely, agreements and abuse of dominant position, concentration among enterprises, public assistance likely to affect competition, financial relations between member-states. As can

be seen there are two types of regulations, namely those relative to firms and those relative to States. The texts of the regulations and the directives define the structures or organisations regulating competition within the WAEMU territory, the place and role of the national structures, mechanisms, procedures and sanctions. This implies that the texts are applicable to all the states of the WAEMU. Every state must comply with them.

C. Institutions and its Competencies

National Bodies

a) The National Commission on Competition and Consumption. Established under the law no 15/94/ADP of May 05, 1984, it is operational since August 01, 1998. It is the official national competition authority.

As such, its mission is to

- deal with issues relative to competition and consumption;
- sanction anticompetitive and restrictive practices; and
- sanction violations of the law.

It has three roles:

- an advisory role, issuing opinions and recommendations;
- an observatory role, issuing every year a report of the state of competition in Burkina Faso; and
- a repressive role, issuing injunctions and penalties.

The Commission is autonomous. It may be called upon by the administration, legally recognised consumers' associations and economic operators or professional organisations representing their interests. It also has the power to take action on its own.

b) The General Administration of Trade (DGC)

It is responsible for the application of the general policy of the Ministry, relative to trade, price and competition. Within this framework, it is responsible to enunciate legislative texts relative to trade, price and competition.

c) General Inspection of Economic Matters (IGAE)

It is responsible for:

- controlling the implementation of regulations relative to industry, commerce and the organisation of competition;
- controlling the implementation of the price policy relative to products subjected to regulation;
- setting up a national price observatory for most common consumer goods; and
- informing and sensitising consumers on the competition regulation.

The General Inspection of Economic Matters is also responsible for the enunciation of regulations relative to quality, metrology, standardisation and the control of the implementation of regulations. It has all powers to investigate and may call upon, subject to the approval of the minister, technicians of different ministries and any expert whom it may deem necessary.

d) Courts and Tribunals

Their roles are initiating procedures; pronounce penal and civil sanctions to violators of competition law. Appeals against decisions of the CNCC are made in front of the Commercial Chamber of the Appeals Court of Ouagadougou.

Community Level Bodies:

a) The Commission

In competition matters, the Commission's powers cover the eight member states. It acts through the Department of Fiscal Customs and Trade Policies, and in particular, through the Trade and Competition Authority. Its mission is to monitor compliance to the community law at member state level and hence:

- receive complaints directly through the national structures;
 - investigate and initiate legal actions; and
 - take provisional measures; decide on restrictions and fine firms found guilty of malpractices.
- Before taking any action, it seeks the opinion of the Competition Advisory Committee.

b) WAEMU's Court

In competition matters, WAEMU's Court has the power to take cognisance of legal actions taken by Union bodies and appeals against Commission's decisions. In such cases, the Court can annul or amend the Commission's rulings.

Limitations

A. National Level

Limitations have been identified in the following:

1) Non existence of a Competition Culture

This is due to the fact that competition law and policy are recent concepts and that these are often contradictory to the past economic system when prices were regulated.

2) Ignorance of the Texts

Most of the actual texts are not known or known to a little extent by the people. This knowledge deficit has an influence on the behaviour of the businesses, the consumer or the administration.

3) Shortcomings in the Texts Relative to Competition

The texts on competition are, in general, considered to be good. Nevertheless, some shortcomings have been noted.

4) Malfunctions at the Economy Level

They are numerous and diverse. Some examples may be given:

a) Landlocked country: Due to country's landlocked situation, Burkina Faso is one of the WAEMU states where production costs are high. This also means that competition from imports is also limited.

b) The dominant position on the economy of foreign firms and foreign products: In Burkina Faso, firms act in powerful cartels. In addition, foreign companies serve the market and disciplining them is a tough proposition;

c) Monopoly situation: A monopoly situation prevails in the market. Competition does not exist in many sectors of the economy.

d) Assistance from the State: A number of state companies benefit from subsidies from the State to the disadvantage of private sector companies.

5) The Weakness of Implementation Bodies: Case of the CNCC:

a) Financial difficulties: The budget given to the CNCC, though representing an important effort on the part of public authorities, does not allow it to do its work. Furthermore, procedures to obtain funds are very long, which consequently slow down the execution of annual activities;

b) Material difficulties: On this count, the Commission is of a skeleton nature. It has no logistics; this does not facilitate investigations when called for; and

c) Human resources: The permanent secretariat, which is the armed wing of the Commission, has meagre resources. It presently consists of a permanent secretary, three investigators, an executive secretary and one coordinator. In addition, the administrative staff and the commissioners have limited knowledge on competition issues.

B. Community Level

1) Competition Regulations and Directives

These texts were adopted in May 2002 and implemented on January 01, 2003. It should be reckoned that they are not well known to the public, not even to those who are supposed to put them in application. Although the community law is supra national, individual states would unlikely accept to let go of their sovereignty.

Moreover, the states are not at par in terms of competition. There are those who have competition law and relevant competition bodies, and those who do not have any of these. This is a handicap for the implementation of the community law.

2) The Competition and Trade Commission within the WAEMU

Responsible for the follow up and the implementation of the competition policy, the Commission lacks personnel. It has only two staff members responsible for competition issues.

Anticompetitive Practices

A. National Level

1) Agreements

In Burkina Faso, cases of agreements to fix prices or tariffs are common. For example, barristers have adopted the minimum and maximum for their fees during a general assembly. The same applies to the newspaper market where the market players agreed on a uniform price for newspapers, subscription tariffs, advertising rates and commissions paid to agencies. Highway transporters on the Ouagadougou - Bobo Dioulasso axis have agreed on fixed prices for passenger tickets.

2) Abuse of Dominant Position

Such practices are also common in Burkina Faso. For example, the Unique Sugar Factory forces distributors to purchase a certain number of tons of granulated sugar in proportion with the amount of sugar cubes ordered. The same applies to the Unique Brewery. It has created a society to which it sells all its products from which distributors have to purchase. These cases have been mentioned in the annual report on the status of competition in 1999 and 2000.

B. Community Level

The community regulation only came into force in January 01 2003; the commission has, therefore, not found any violation till now, moreover the Advisory Council, whose approval is required before any decision is taken, is not operational yet.

Consumer Protection

Burkina Faso is considering a comprehensive legislation on consumer protection. A law has already been drafted for this purpose. Many aspects of consumer protection are taken care by some existing laws though they are not strong enough.

Burkina Faso has three consumer organisations, namely:

- The Burkina Consumers' Association;
- The Burkina League of Consumers; and
- The Burkina Consumers' Organisation.

The objectives of all these organisations are to advocate the material and moral interest of consumers, by giving them assistance and informing them on their rights and duties. It must be underlined that these organisations do not have decision-making or sanctioning powers against economic operators. In case of violations related to competition and consumption, they can take action before the relevant authorities (CNCC, IGE, Tribunals).

6. Senegal

Competition Environment and Legislation

Since 1965, Senegal has had competition laws governing most sectors of its economy, which include state-owned business enterprises within their general scope. As part of the SAP in 1994, Senegal embarked upon economic reforms under the World Bank initiative, and these reforms

included the revision of competition law. The rationale behind these reforms was to create a favourable business environment to attract foreign investment and to integrate the country into the world economy. In 1994, Senegal adopted the Prices, Competition and Economic Disputes Act (No.94-63) within the framework of SAP implementation.

Senegal's competition law revision was aimed primarily at raising awareness, and was based on the independence of the competition authority. The main changes introduced since 1994 concerned the creation of a group of specialised investigators, and measures to enhance the powers of the Competition Commission.

The principal responsibility of the Commission is to monitor anti-competitive practices. In addition to these provisions, the 1994 Act contains a special provision on the regulation of prices and administrative dispute-settlement procedures concerning administered prices. This means that certain products and services are still governed by the administered-price system. These are hydrocarbons; pharmaceutical products; charcoal; goods transport intermediaries' tariffs; and telephone, water and electricity services. The market, other than for these products and services, determines prices.

It must be noted that Senegal's competition legislation appears to be modelled on French competition law. Three bodies, namely The National Department of Internal Trade, The National Competition Commission and The Council of State are implementing the revised Act.

Sectoral Regulation and Anticompetitive Business Practices

Financial Sector²²

The banking sector in Senegal is regulated by the Central Bank of West African States (BCEAO), which keeps tight control of monetary policy. There are no state-owned commercial banks in Senegal. However, three banks dominate the market with nearly two thirds of all deposits. There are eight commercial banks currently operating in Senegal. Foreign exchange payments are directly executed by Senegal's commercial banks. Exchange controls are administered by the Directorate of Money and Credit, which has delegated some authority for approving transactions to the BCEAO and other authorised banks. All exchange transactions, relating to foreign countries, must be effected through authorised banks, the postal administration or the BCEAO.

As opposed to the banking sector that controls 85 percent of the financial market share; insurance companies hold 11 percent of the total financial systems assets. As a protection measure, the Government requires that all goods and merchandise, directly imported for trade or industrial purpose, must be insured, either through representatives approved by the Minister in charge of Finance, or through brokers established in Senegal.

Telecommunications Sector

The Telecommunications sector in Senegal is regulated by the Regulatory Agency for Telecommunications (RAT), which is in charge of regulating the industry and promoting the development of the New Information and Communication Technologies. In addition, the

²² 2 http://www.trade.uktradeinvest.gov.uk/text/senegal/doingbusiness/07_regulations/statetrading.shtml

Consumers Protection Agency (CPA) is in charge of protecting Senegalese consumers against the monopoly of utilities companies. The Government set up the telecommunication regulatory agency in early 2002.

On December 14, 2003, Senegal's Parliament passed an updated telecommunications law that should lead to further liberalisation of Senegal's telecommunications sector. The key element of the law is the creation of a quasi-independent regulatory agency under the Presidency. The new Telecommunication Act supersedes the 1996 telecommunication law; further liberalises the market for a number of services; and removes some monopoly benefits held by Sonatel, which retained a monopoly in basic telephone services until the end of 2003. The law could lead to more investment in the sector.

With this development, more competition is likely in the telecom market, with new players entering and more business opportunities arising. It was observed that the prevention of anticompetitive practices in the telecom sector should be realised via appropriate measures, for the purpose of preventing suppliers who, alone or together, engage in or continue participating in anticompetitive practices.

Safeguards introduced for the reduction of anticompetitive practices shall include, in particular:

- engaging in anticompetitive cross-subsidisation;
- using information obtained from competitors with anticompetitive results; and
- not making available, to other services suppliers on a timely basis, technical information about essential facilities and commercially relevant information, which are necessary for them in order to provide services.²³

Energy Sector

Senegal is one of the leading developing nations with a strong renewable energy policy. Senegal's current renewable energy policy encourages citizens to get involved in the implementation, financing, and management of solar projects.

The liberalisation of the electricity sector in Senegal necessitated the creation of the Electricity Regulation Body by the Government. The responsibility of the Regulation Body is to monitor prices, prepare tenders and approve any influx of investment into the sector.

Consumer Protection

L'Association de Défense des Usagers de l'Eau, l'Electricité, les Télécommunications et les Services (The Association for the Protection of Water, Electricity, Telecommunication and Service Users -ADEETels), and L'Association pour la Défense de l'environnement et des Consommateurs (the Senegalese Association for the Protection of the Environment and Consumers-ASDEC) are the two consumer organisations in Senegal. In addition to the two, Consumers International has a sub-regional office in Senegal.

²³ http://www.wto.org/english/tratop_e/serv_e/telecom_e/sc75s1.wpf+antiCompetitive+practices+in+Senegal+&hl=en&ie=UTF-8

ASDEC endeavours to protect the consumer against the expensive costs of products and services; informs and educates consumers to prevent them from buying bad quality or out-of-date products; works towards a form of long-lasting consumption, protecting the environment.

As a way of protecting consumers against unsafe foods, the Government has enacted rules and regulations that guide importers and food manufacturers, as a requirement for the employment of food handlers. With such laws and regulations in place, the Government requires the labelling of canned and preserved food products applicable to both domestic and imported goods, and for both human and animal consumption. Such foods must carry a label in French, indicating the nature of the product, the duration of its preservation and, where required, prescriptions for its use.

7. Togo

Trade policy

Togo is a founding member of the Economic Community of West African States (ECOWAS), whose development fund is located in Lomé. ECOWAS aims at accelerating the process of economic integration. The country is also a founding member of the West African Economic and Monetary Union (WAEMU). The WAEMU policy framework includes common external tariff. This has led to a low average external tariff and to the absence of significant non-tariff barriers and major export restrictions. The West African Development Bank affiliated with the WAEMU is, also based in Lomé.

Foreign Investment

In the 1980s Togo was distinguished by a relatively pro-Western, entrepreneurial stance. However, incidents of political conflict during 1991 to 1994 including the targeting of foreign-owned shops (principally Lebanese and Indian) by rioters in January 1993, and in 1998, following the contested presidential election in June, together with the maintenance of many restrictions on foreign investment and evidence of increased corruption have deterred foreign investment as well as they stalled the privatisation process.

Togo's current Investment code, enacted April 1990, was designed as an improvement over the previous code, and offers foreign investors guaranteed repatriation of capital and profits. The former investment code offered tax exemptions, but these were abused, and were removed in the 1990 revision. The Investment code, which applies only to foreign investment of more than million CFA francs (about \$42,000), allows foreign participation up to 100% ownership in eight listed sectors (agriculture, fishing, and forestry; manufacturing; mining; low-cost housing; tourist infrastructure; agricultural storage; applied research; and socio-cultural activities), requires that the business must employ at least 60% local workers and provide at least 25% of the funding.

The 1989 export-processing zone (EPZ) law gives companies the advantages of duty-free imports of materials for production, a less restrictive labour code, and the ability to hold foreign-currency accounts. About 35 firms were operating in the EPZ in 2002, representing investments from France, Italy, Norway, Denmark, the United States, India, and China. A severe electricity

shortage in the EPZ from March to May 1998 hurt manufacturing enterprises particularly. In 2000 a Franco-Canadian consortium took over the state power company.²⁴

Regulation

Regulations for the establishment of foreign and domestic private enterprises are in theory well-defined, but there is a great deal of discretion in their implementation, and thus the possibility of discrimination. Lack of judicial and regulatory transparency is a significant obstacle to business development. Togo's structural adjustment efforts aim for a large-scale overhaul of the legal and regulatory framework to address these shortcomings. Measures include regional initiatives regarding business and investment law, such as the common WAEMU investment charter mentioned above. The common business law treaty (OHADA), entered into force as of 1, January 1998, should theoretically reduce judicial uncertainty across the region; however, in fact it will function well only after an overhaul of the national judicial system.

Although Togo has laws that make corruption a crime, it has spread as a business practice in recent years. Government procurement contracts and dispute settlements are more likely to go forward with after palms are greased than in the past. Giving a bribe, whether to private or government officials, is considered a crime, but is generally expected.

Price control and profit margin regulations have been largely eliminated in the only sectors still subject to administrative price controls: electricity, water, and telecom. Private competition in telecommunications was introduced at the end of 1999, introducing better market-oriented pricing in that area.²⁵

Legislation and Competition

Togo's Competition law was adopted in December 1999. It aims to improve the competition environment, prices, consumers' protection, and competition regulation. 76 articles constitute the law No. 99-011 of 28 December 1999. The first part of the law prohibits price control and emphasizes importance of the competition rules. The second part is devoted to anticompetitive practices, sanctions and procedure.

Two decrees, decree N°2001-207/PR (which has set up the enforcement procedure of the law No.99-011), and decree N°208/PR (which regulates the National Competition and Consumption Commission) have been adopted. However, the major weakness of the Competition law is that the National Competition and Consumption Commission is still not functioning, so organisations and individuals whose rights and interests have been infringed by violation of the Competition law cannot lodge a complaint with the Commission. Consumers require enforcement of the Competition law, but they are still waiting for government's response.

Another important trend in economic liberalization is the movement toward privatisation of parastatal enterprises, and the gradual removal of monopolies for those state entities that remain in operation. The cotton ginning parastatal, for example, now has private ginning competitors, although the conditions for dividing national cotton production between the ginning enterprises

²⁴ <http://www.nationsencyclopedia.com/Africa/Togo-FOREIGN-INVESTMENT.html>

²⁵ <http://www.state.gov/e/eeb/ifd/2006/62384.htm>

is a matter of regulation rather than open competition. The state pharmaceutical sales company has also lost its monopoly, and a wide range of generic drugs is available from private competitors.

Consumer Protection

Awareness on Consumer protection issues in Togo is extremely low in spite of the existence of many consumer organisations such as: L'Eveil des consommateurs, Association Togolaise de Défense des Consommateurs (ASTODEC), SOS Usagers, Association nationale des Consommateurs et de l'Environnement (ANCE), Association Togolaise des Consommateurs (ATC). In reality, only three of them (ATC, ASTODEC and ANCE) are implementing various initiatives on common welfare issues in the country.

ATC protests regularly against the consumers' abuses and anti-competitive practices of local companies in various areas such as: electricity, phone services, water services, and drinks. ATC denounces the high costs of products and services; informs and educates consumers to prevent them from buying bad quality or out-of-date products. Unfortunately, the consumer organisations face scarcity of resources, which do not allow them to mobilize sufficient number of members and consumers in order to promote consumer protection and competition law. External financial support is needed for consumer advocacy as consumer views should be taken into consideration in the policy making process as well as in the privatisation process of public utilities.

Examples of Anti-Competitive Business Practices

- *Cartel of Cement Manufacturers*. Media campaign against the consumers' abuses in the case of the cement price-fixing is taking place in order to protest against the two private companies (Wacem and Cimtogo), which make agreements on prices charged on customers. (3150 F for 50 kg that is 4.9 Euros). The Consumer law adopted by the Parliament prohibits this practice, but the situation has not changed. The consumer organisations expect government to end this practice.

- *Sand sellers' price increase*: The absence of regulation in this sector enables the Association of Sand Sellers to charge excessive prices for sand (old price 15.000 F CFA, present price: 25.000 F CFA (1 EURO = 655.957 FCFA)). Consumer organisations have demanded from the government to take action in order to assure the rights of consumers.

- *Abuse of dominance in Electricity sector*: The privatisation of the government owned National Electricity Company was supposed to reduce the degree of market imperfections in the economy as privatisation opens the door for new entrants and which also leads to increased competition. In reality, the new company Togo Electricity (TE) made the situation of consumers worse as it abused its dominant position to increase prices. The government had to interfere again. After negotiations with the TE the electricity bills were corrected and about refunds were made to 400,000 consumers, who were overcharged on their electricity bills.

Annexure III: Project Activity Schedule

C: International Conference; PCP (D): Preliminary Country Paper (Draft); PCP (F): Preliminary Country Paper (Final); CRR(D): Country Research Report (Draft); CRR(F): Country Research Report (Final); E: E-Newsletter; NRG: National Reference Group; RTW: Regional Training Workshop; NT: National Training

Years	Year I												Year II											
	I	II	III	IV	V	VI	VII	VIII	I X	X	XI	X II	I	II	III	IV	V	VI	VII	VIII	IX	X	XI	XII
Activities ↓																								
Operational Strategy and Groundwork																								
Project Launch Meeting			C																					
Research and Field Surveys																								
Research Report			PCP (D)				PCP (F)							CRR (D)						CRR (F)				
Advocacy and Outreach			E C			E		NRG I	E			E		C	NRG II E				E		NRG III	C	E	
Interim Review Meeting															C									
Training Activities																			RTW		NT	NT		
Final Meeting																							C	
Project Report																								

Note: Project Evaluation would be undertaken during the XXV and XXVI months of the project

Annexure IV: Partner Organisations

The following is a list of prospective partner organisations for this project. CUTS has had preliminary discussions with these organizations, and they have confirmed their interest to be a partner in the project.

Anglophone countries:

1) Pro Poor Advocacy Group (Pro-PAG), Gambia

The Pro-Poor Advocacy Group (Pro-PAG) is one of the leading Civil Society Organisations in Gambia. The Secretariat was set up in August 2003 with the unique mandate to engage the Gambia Government on pro-poor policies and programmes using the national budget as its key advocacy tool. Since its inception, Pro-PAG has worked constructively and critically with Government, NGOs and all other stakeholders (including UN Agencies) to encourage public savants to be responsive and accountable to the poor. This is being achieved by monitoring and tracking Government policy against planned and actual budgetary expenditure and by forming alliances and linkages with the government, other stakeholders and local communities to influence the budgetary formulation process, policy change and socio-economic development in the Gambia. Pro-PAG has also been continuously engaged by CUTS to emerge as a pioneer on competition policy and law issues in The Gambia. The organisation has been constantly following the progress made in the country with regards formulation of a competition law and a representative has been in touch with relevant government officials on this matter.

2) Institute of Statistical, Social and Economic Research (ISSER), Ghana

ISSER was established by the University of Ghana in 1962 to provide a programme of teaching and research in statistics, with particular reference to the methodology, collection and analysis of official statistics. It was later realised that expanding the scope of the Institute to include fundamental and applied research in the social sciences, to establish the basic data needed for effective development and modernisation, would be beneficial to the nation as a whole. It is in line with this vision that the Institute was converted, in 1969, into the Institute of Statistical, Social and Economic Research (ISSER).

ISSER's mission is to carry out activities that would promote, in particular, the socio-economic development of Ghana in particular and Africa in general. Specifically, the Institute is expected to undertake research in the social sciences, and promote human resource development that:

- Have immediate bearing on the problems and the development needs of Ghana in particular and Africa in general;
- Relate to special assignments from government and other agencies as a way of providing guidance, support and advice;
- Are in keeping with the academic purposes of the University: especially in relation to advanced teaching, enriching and adding to the teaching and effectiveness of institutional programmes in the social sciences; and

- Serve to monitor and evaluate the effects of development policies, projects and programmes both in terms of their objectives and general consequences.

3) Department of Social Science, University of Bamako, Mali

The Department of Social Science is a research and education centre of the University of Bamako supervised by the Ministry of National Education. The Department's mission is promotion of scientific research and dissemination of information relevant for the country's social and economic well-being. In pursuance of its mission, the department cooperates with various regional and international institutions.

4) Consumer Affairs Movement of Nigeria (CAMON), Nigeria

CAMON is a non-governmental organization established in 1995 to promote and protect the Rights and Interests of Consumers in Nigeria. Other areas of activities of CAMON are: Competition policy, Trade, Environment and Sustainable development. CAMON is a founding member of All-Nigeria Consumer Movements Union (ANCOMU) and primary member of the International Network of Civil Society Organizations on Competition (INCSOC). CAMON has been a long time partner of CUTS especially on issues of trade and competition policy, and has also contributed a chapter on Nigeria in the publication: Competition Regimes in the World published by CUTS and INCSOC in 2006.

Francophone countries:

5) Le Consortium pour la Recherche Economique et Sociale (CRES), Senegal

CRES is a research institution established at the University of **Cheikh Anta Diop** in 2004, by a group of teacher-researchers from different backgrounds: economics, law, sociology. Its status of an association recognised by the Ministry of Home Affaires of Senegal is going to change into an NGO focused on development.

CRES missions are the following:

- Contribute to research and analysis capacity building in the fields of economic and social science in Senegal and in the rest of Africa;
- Promote quality expertise in order to help decision-making the field of economic and social development;
- Initiate research and training programmes, especially in the field of poverty, productivity, competitiveness, economy and education, regional and local development;
- Develop partnership with university researcher, administration experts and institutions supporting development.

CRES conduct high quality research meeting high requirements that is why is the International Development Research Centre (IDRC) continues cooperation of many years with CRES as its Partner Institution.

6) Centre d'Etudes, de Documentation, de Recherches Economiques et Sociales, (CEDRES) Burkina Faso

CEDRES is an independent research centre established at the Economic and Management faculty of the University of Ouagadougou in 1977. Its objective is to promote economic and social research. It consists of three laboratories with about 50 researchers. CEDRES promotes a multi- and interdisciplinary approach and co-operates with many African institutions, especially research centres and universities. CEDRES publishes an international review called CEDRES-Etudes.

7) Association togolaise des consommateurs (ATC), Togo

ATC is an independent development NGO established on January 9, 1999 in Togo.

Its main objective is to work for defense of consumer interests by means of:

- Raising education and awareness of consumers about their rights and obligations;
- Promotion of “culture of quality”;
- Environment protection;
- Poverty alleviation.

ATC is a member of Consumers International and is a renowned NGO working for development, and acknowledged by the Ministry of Development. ATC is also member of the National Competition and Consumer Commission - the Competition authority of Togo.

Annexure V: Project Advisory Committee & CUTS CCIER Advisers

Project Advisory Committee (proposed)

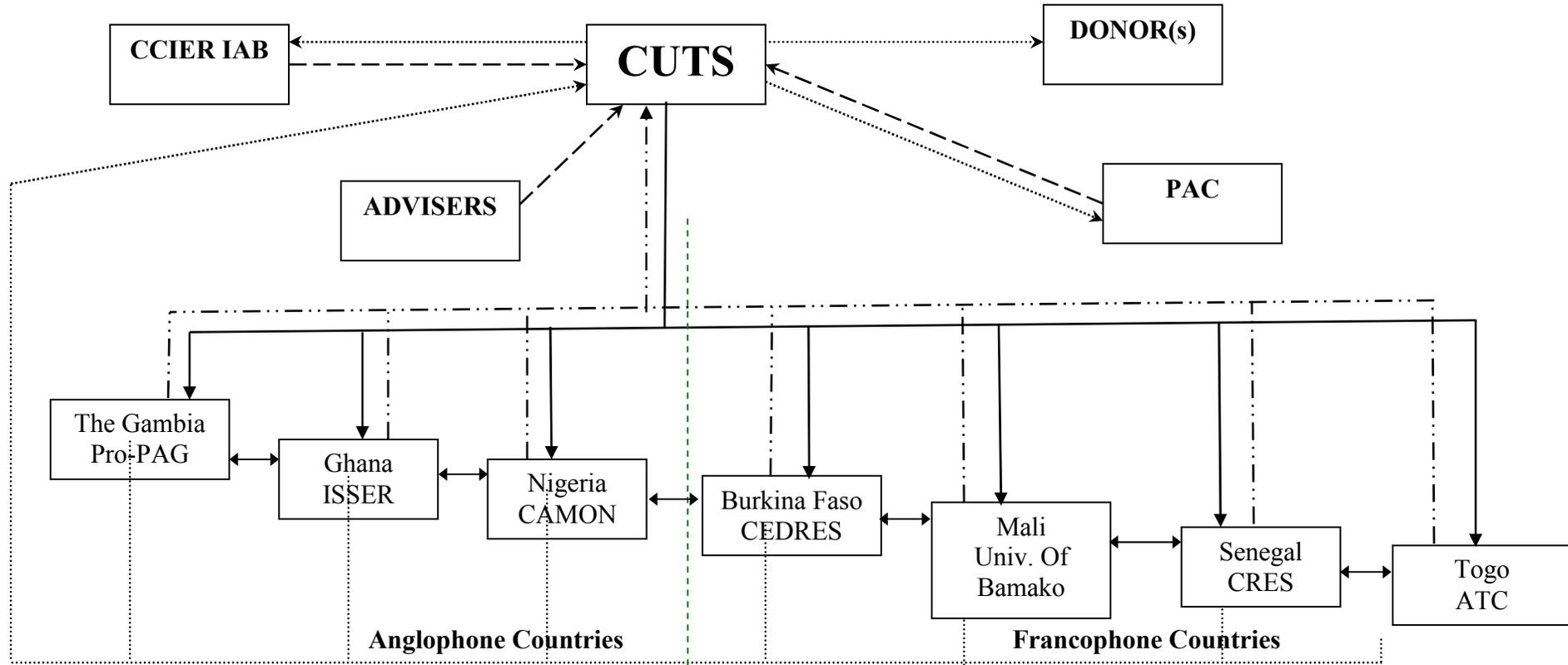
- Philippe Brusick, Principal Advisor of the Project (Former Head Competition and Consumer Policy Branch, UNCTAD, Geneva, Switzerland)
- Fred Jenny, Supreme Court of France (Cour de Cassation), Paris, France
- Cezley Sampson, National Director, Energy Efficiency, Jamaica
- Allan Fels, former Chairperson, Australian Competition and Consumers Commission, Australia
- John Preston, Competition Consultant, DFID, UK
- Enobong Umoessien, ECOWAS Secretariat
- Amadou Dieng, Chargé des Questions de Concurrence, WAEMU

CUTS CCIER International Advisory Board

In addition, members of the International Advisory Board of CUTS Centre for Competition, Investment & Economic Regulation (CUTS CCIER) would also be consulted while planning and implementing the project activities. The members are as follows:

- Dr. Frederic Jenny (*Chairman of the Advisory Board*), Cour de Cassation (Supreme Court of France), France
- Mr. Robert Anderson, Counsellor, Intellectual Property and Investment Division, WTO, Switzerland
- Mr. Allan Asher, Chief Executive, Energywatch, London, UK
Mr. Philippe Brusick, Former Head, Competition and Consumer Policy Branch, UNCTAD, Switzerland
- Dr. S Chakravarthy, Former Member, MRTP Commission, India
- Prof. Simon Evenett, Professor, University of St. Gallen, Switzerland
- Dr. Eleanor Fox, Professor, New York University School of Law, USA
- Dr. Scott Jacobs, Managing Director, Jacobs and Associates, USA
- Dr. R. S. Khemani, Adviser, Competition Policy, World Bank, USA.
Mr. George K Lipimile, Executive Director, Zambia Competition Commission, Zambia
- Dr. Gesner Oliveira, Former Professor, Fundacao Getulio Vargas, Brazil
- Dr. S. L. Rao, Chairman, Institute for Social and Economic Change, India
- Dr. Cezley Sampson, National Director, Energy Efficiency, Jamaica
- Dr. Taimoon Stewart, Research Fellow, University of West Indies, Trinidad and Tobago
- Dr. Wang Xiaoye, Professor, Chinese Academy of Social Sciences, China
- Ms. Mona Yassine, Chairperson, Egyptian Competition Authority, Egypt

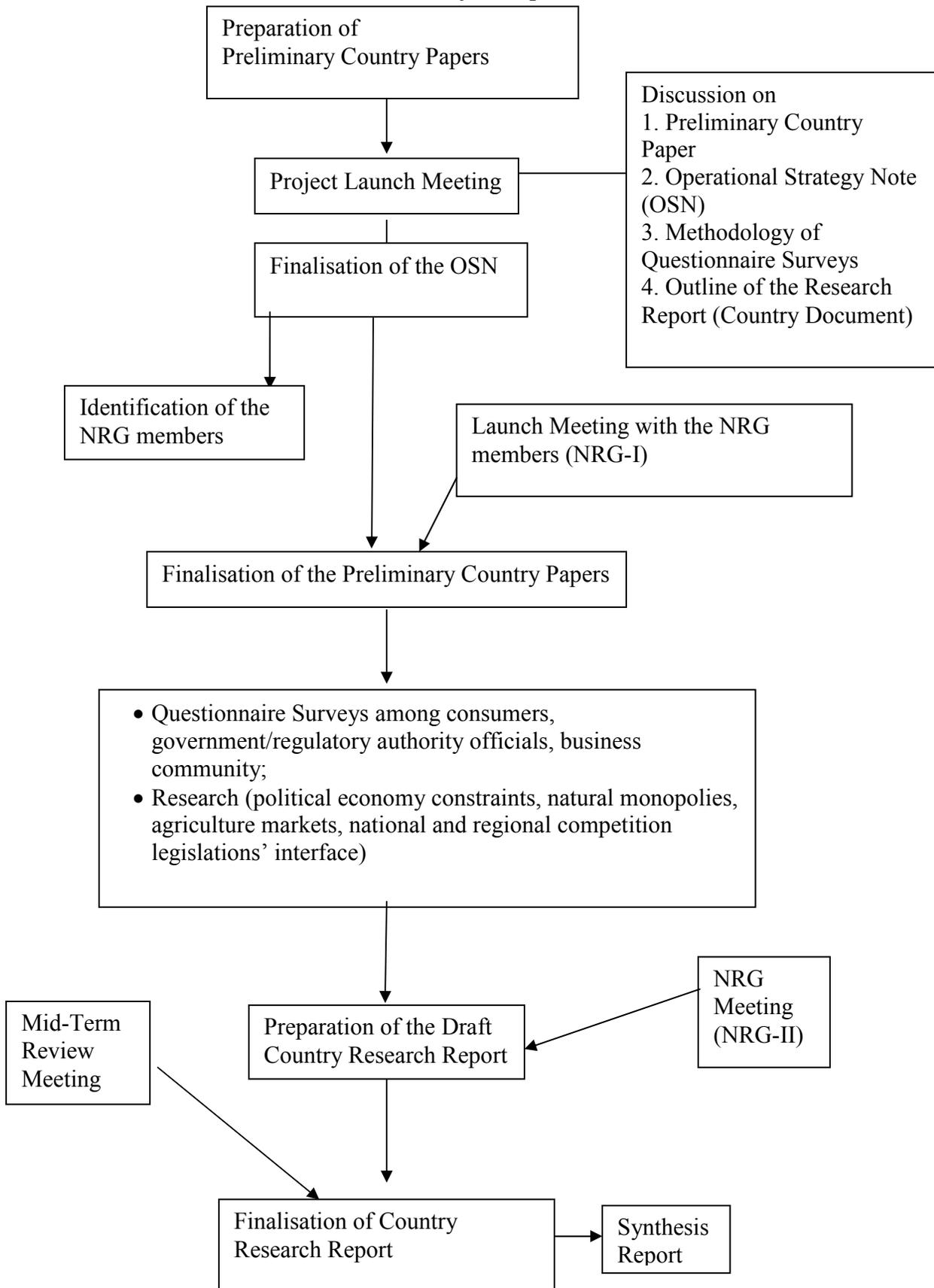
Annexure VI: Project Implementation and Management Structure

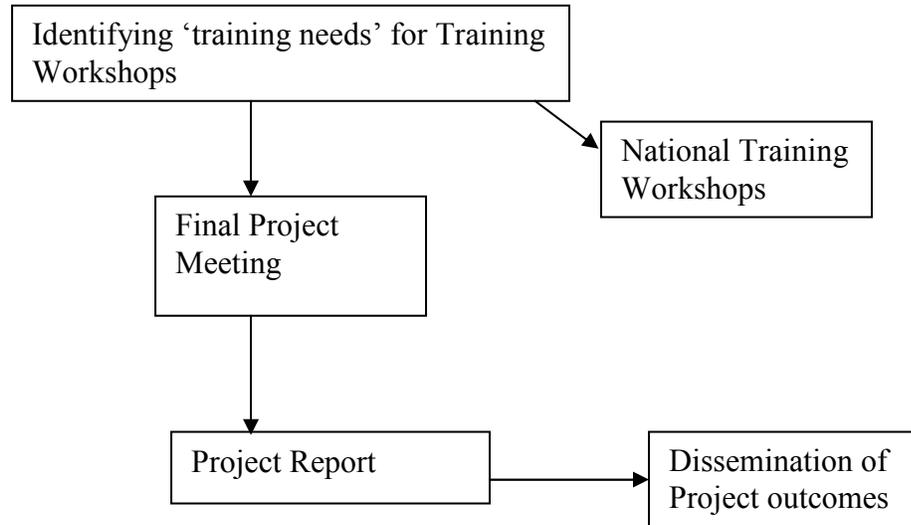


IAB: International Advisory Board
 PAC: Project Advisory Committee
 Pro-PAG: Pro-Poor Advocacy Group
 ISSER: Institute of Statistical, Social and Economic Research
 Univ. of Bamako: University of Bamako, Mali
 CAMON: Consumer Affairs Movement of Nigeria
 CEDRES: Le Centre de Documentation, Recherche Economiques et Sociales
 CRES: Consortium Pour la Recherche Economique et Sociale
 ATC: Association Togolaise Des Consommateurs

Coordination, Monitoring & Supervision \longrightarrow
 Guidance & Consultation $- - - - \longrightarrow$
 Reporting $\dots\dots\dots \longrightarrow$
 Learning by sharing \longleftrightarrow
 Information sharing and feedback $- \cdot - \cdot - \longrightarrow$

Annexure VII: Project Implementation Plan





PROJECT OUTPUTS

1. Preliminary Country Paper
2. Output of Field Surveys
3. Country Research Report
4. Synthesis Report: Comparative analysis of the 7 country documents
5. Country Advocacy Plan
6. Article on competition related issues for national newspapers and/or project newsletters
7. Preparation and maintenance of database with coordinates of representatives of relevant stakeholder groups at the national levels, national reference groups and other key regional figures
8. Quarterly Project Progress Report
9. Proceedings of the Launch Meeting, National Reference Group (NRG) meetings, Regional Conference
10. Project Report

Annexure VIII: Roles and Responsibilities of the Project Personnel

Sl. No.	Identity	Project Personnel	Designation/Position	Expertise	Roles
1	COUNTRY PARTNER FOR BURKINA FASO – <i>CEDRES</i>	Taladidia Thiombiano	Director, Centre d'Etudes, de Documentation, de Recherches Economiques et Sociales, (CEDRES), Burkina Faso; & Professor at University of Ouagadougou.	He has obtained two master degrees in Economy of Development at Paris II - Pantheon University and in Econometrics at Paris IX - Dauphine University. He is also PhD. in Economics of Development at Paris II – Pantheon; and holds a Certificate of Environmental Economics from Economic Development Institute of the World Bank. Dr Thiombiano teaches econometrics, economic epistemics, methodology of research, economy of environment, economy of natural resources and economy of development at the Ouagadougou University. He possesses teaching experience from other African countries (Togo, Benin, Madagascar, Mali and Mauritania) and France. Apart from various articles about economic issues, he is an author of several books.	<ul style="list-style-type: none"> • Undertaking the role of the core researcher for the 7Up4 project in Burkina Faso • Leading the project team within CEDRES. • Project Coordination on behalf of CEDRES • Designing and implementing advocacy activities
2	COUNTRY PARTNER FOR THE GAMBIA – <i>ProPAG</i>	Omar Ousman Jobe	Head of Programmes/Policy and Budget Analyst, Pro Poor Advocacy Group (Pro-PAG), The Gambia	He holds a Master of Philosophy with research focus on Development Practices in Third World Countries; and M. Phil in Development Economics from University of Paris I – Pantheon-Sorbonne (France). He has also been leading the organisation's work on competition policy and law issues in the country.	<ul style="list-style-type: none"> • Undertaking research on competition, regulatory and consumer protection issues in The Gambia. • Leading the project team within ProPAG • Project Coordination on behalf of ProPAG • Designing and implementing advocacy activities

Sl. No.	Identity	Project Personnel	Designation/Position	Expertise	Roles
5	COUNTRY PARTNER FOR NIGERIA - <i>CAMON</i>	Adedeji Babatunde Abiodun Prof. Ade S Olomola Core Researchers (Consultant To CAMON)	Coordinator General, Consumer Affairs Movement of Nigeria (CAMON) Director of Agriculture & Rural Development Department, Nigeria Institute of Social and Economic Research (NISER)	He is the founder coordinator general of CAMON and a board of trustee member of All Nigeria Consumer Movements Union (ANCOMU). His professional interests and activities are consumer protection, competition, trade, environment and sustainable development issues, on which he has been actively engaged in Nigeria for over a decade. He completed his B.Sc. (Hons) in Agriculture Economics, M.Sc. in Agriculture Economics and Ph.D in Agriculture Economics from University of Ibadan. He had also been awarded a Fulbright Senior African Scholarship in 1994/95. He is member of Scientific Committee CODESRIA-IFS Research Network on Sustainable Agriculture in Africa since 2003 and also life member of Nigeria Economic Society.	<ul style="list-style-type: none"> Project Coordination and management. Undertaking Advocacy activities Providing research support Core Researcher for the project in Nigeria
6	COUNTRY PARTNER FOR SENEGAL - <i>CRES</i>	Prof. Abdoulaye Diagne Prof. Abdoulaye Sakho	Professor of Economics, Cheikh Anta Diop University, Dakar, Senegal; & President of Le Consortium pour la Recherche Economique et Sociale (CRES) Professor of Law, Cheikh Anta Diop University, Dakar, Senegal;	Abdoulaye Diagne is a professor of economics. And director of the Centre for Applied Economic Research (CREA) at the University Cheikh Anta Diop, Dakar. He has coordinated the work of the Micro Impacts of Macroeconomic and Adjustment Policies (MIMAP) in Senegal. MIMAP supported research on the analysis and design of policies to combat poverty in more than a dozen countries around the world. Abdoulaye Sakho has an excellent knowledge of the legal business	<ul style="list-style-type: none"> Leading the project team within CRES. Project Coordination on behalf of CRES Core Researcher for

Sl. No.	Identity	Project Personnel	Designation/Position	Expertise	Roles
			& President, Regulatory Agency for Telecommunications and Posts of Senegal, (ARTP).	environment in Senegal and the region. He has gained more than twenty years of experience in teaching and legal counseling. Among other subjects, he is teaching business and commercial law, bank law, international commercial negotiation. He is also teaching at the IDLI (International Development Law Institute, Rome) as an expert in competition law and company law. He has published numerous articles on business, commercial and development issues.	the project in Senegal
7	COUNTRY PARTNER FOR TOGO - <i>ATC</i>	Honore Blao	Association Togolaise des Consommateurs (ATC)	Mr. Blao is both a very active journalist and a researcher. He completed his Master Degree in Economics and Management at Benin University in Togo. As a journalist, Mr. Blao has more than fifteen years of experience in covering economic and development issues. He has worked for the French press agency called Syfia (created under the aegis of the Organisation Internationale de la Francophonie), Reuters in Togo, Inter Press Service and for a Vatican information agency FIDES. Since 2004 he has been systematically dealing with competition and consumer issues as a consultant for the Consumer Association of Togo (ATC).	<ul style="list-style-type: none"> • Project Coordination and management. • Undertaking research activities • Developing Advocacy strategies
8	PROJECT ADVISORY COMMITTEE ²⁶	As indicated in the proposal (<i>Annexure V</i>)	Corresponding designation of the PAC members are mentioned in the proposal	Various international experts and practitioners on competition policy and law, sectoral regulation, regional	<ul style="list-style-type: none"> • Providing inputs from the beginning of the project in order to

²⁶ Similar advisory opinion would also be sought from members of the CUTS CCIER's International Advisory Board (refer *Annexure V* of the proposal) from time to time on issues related to research and capacity building.

Sl. No.	Identity	Project Personnel	Designation/Position	Expertise	Roles
			(Annexure V)	integration issues, with experiences of working in the region and outside, bringing the necessary diversity and richness of experience that would enhance the project implementation process.	<p>enrich the project planning and implementation process.</p> <ul style="list-style-type: none"> • Reviewing research documents and other outputs of the project, from time to time. • Engaging in the capacity building activities.
9	PROJECT TEAM AT CUTS	<p>i. Project Adviser</p> <p>ii. Project Director</p>	<p>Philippe Brusick, Former Head, Competition and Consumer Policies Branch of UNCTAD (CV available at: www.prbursick.org)</p> <p>Pradeep S Mehta, Secretary General, CUTS International (CV at www.pradeepsmehta.com)</p>	<p>He brings in over 30 years of experience in the area of competition policy and consumer protection issues, having lead the UNCTAD work in this area. Besides, he is proficient in both English and French languages. He is well aware of the situation with regard to competition in the region.</p> <p>Pradeep Mehta serves/has served on several policy-making bodies of the Government of India, related to trade, environment and consumer affairs, including the National Advisory Committee on International Trade of the Ministry of Commerce and its working groups.</p> <p>Mehta also serves on the advisory boards of Centre Advisory & Review Group of the Research Centre on Regulation and Competition, Institute for Development Policy and Management, Manchester University, UK; Institute for Consumer Antitrust,</p>	<ul style="list-style-type: none"> • <i>Project Advisor</i> – carrying out advisory role on the research, advocacy and capacity building elements of the project • Overall guidance to the process of planning, developing and implementing the project.

Sl. No.	Identity	Project Personnel	Designation/Position	Expertise	Roles
		iii. Research Adviser	Lahcen Achy, INSEA, Morocco	<p>Loyola College, Chicago, USA; <i>Brains Trust</i> of the Evian Group, Lausanne; the OECD's Advisory Committee for Investment in Africa, OECD, Paris; Advisory Committee of the Central Electricity Regulatory Commission, New Delhi. Over 700 articles of Mehta have been published in several newspapers and magazines on issues relating to consumerism, competition policy, and trade & economics. He has written and/or edited several books and monographs.</p> <p>Familiar with the elements of research as envisaged in the project and be familiar with issues in the region/developing world.</p>	<ul style="list-style-type: none"> • <i>Core Researcher</i> – encompassing the role of reviewing and analysing research documents in both English and French languages • Provide guidance to CUTS and partner organisations on the research component of the project.
		iv. Project Coordinator	Rijit Sengupta, Centre Coordinator & Deputy Head, CUTS CCIER	<p>Experienced in implementing and managing international development projects for over seven years. Have been involved with the coordination of two earlier 7Up project – the 7Up2 and the 7up3 projects.</p>	<p>Managing the overall coordination of the project activities, etc.</p>

Sl. No.	Identity	Project Personnel	Designation/Position	Expertise	Roles
		v. Project Associates	<p>i. Cornelius Dube Economist, CUTC CCIER, CUTC International</p> <p>ii. Sonia Gasparikova, Legal Research Assistant, CUTC CCIER. CUTC International</p>	<p>Cornelius is a Masters in Economics from the University of Zimbabwe and currently working with CUTC as an economists dealing with international competition policy and law issues of CUTC CCIER. Before joining CUTC, he has been working with the Zimbabwean competition agency (for over three years) as an economists handling both research and investigation functions.</p> <p>Sonia holds a Masters degree in International business and company law from University La Rochelle, France. She has been working on international competition policy and law issues at CUTC CCJER. Fluent in English and French languages.</p>	<ul style="list-style-type: none"> • Involved mostly with the research and coordination work related to the project in the Anglophone countries. • Involved mostly with the research and coordination work related to the project in the Francophone countries

Annexure IX: Diagram - The integration of the 7Up4 network into INCSOC advocacy coalition

