

# Capacity Building on Competition Policy in Select Countries of Eastern and Southern Africa (7Up3 Project)

## Country Advocacy Plan (Stage-II)

### 1. Background

---

CUTS is implementing a two-year project ‘*Capacity Building on Competition Policy in Select Countries of Eastern and Southern Africa*’ codenamed **7Up3 Project** in seven countries: **Botswana, Ethiopia, Malawi, Mauritius, Mozambique, Namibia and Uganda**, with support from the Norwegian Agency for Development Cooperation (NORAD), Norway and the Department for International Development (DFID), United Kingdom.

One of the main aims of the 7Up3 project is to develop the capacity of national stakeholders including the policy makers, regulators, civil society organisations, academicians and the media in each of the project countries through a participatory process to understand and appreciate prevailing competition concerns from the national, regional and international perspectives, and enable them to respond appropriately.

Specific **objectives** of the project are:

- Conduct an evaluation of the competition concerns, including their regional dimensions, faced in these countries and the existing architecture for dealing with those concerns by identifying key constraints;
- Develop the capacity of stakeholders including the policy makers, regulators, civil society organisations, particularly consumer groups, academics and media persons to understand and appreciate competition concerns from national as well as regional and international perspectives;
- Provide inputs for drafting new legislation or reforming existing legislation, drawing on best practice from other countries;
- Prepare and distribute materials on competition policy & law widely to raise national awareness;
- Identify key stakeholders to form and institutionalise a national reference group in each project country and organise meetings/trainings;
- Help build constituencies for promoting competition and consumer awareness by actively involving and building capacity of policy makers, civil society organisations, academics and media persons, and
- Create and link the country stakeholders with networks, such as International Competition Network (ICN) and International Network of Civil Society Organisations on Competition (INCSOC), to sustain interest and activities in promoting a healthy competition culture.

The project is divided into **2 Stages**:

The first stage (**Stage-I**) of the project, comprising of mainly research and information dissemination activities is spread over eighteen months and has been implemented in three steps –

- i. Step I: Preparatory phase;
- ii. Step II: Research phase; and
- iii. Step III: Dialogue and Seminar phase

The second stage, comprising of two components: advocacy and training, would be implemented, after the completion of the Stage-I of the project.

This ‘Country Advocacy Plan’ lays down the framework for implementation of the activities of the **Stage-II** of the 7Up3 project, drawing from the findings of the Stage-I.

## **2. Country Advocacy Plan: purpose and strategy**

---

### *I. Purpose*

The *Country Advocacy Plan* (CAP) charts out the framework of activities to be implemented in the Stage-II of the project, which deals with disseminating the findings of the research phase (Stage-I) of the project by undertaking specific advocacy activities in the project countries. Further, the Stage-II of the project also identifies specific ‘training and capacity building requirements’ in the project countries based on the findings from the research phase; discussions in the National Reference group (NRG) meetings; discussions with key stakeholders (partners, NRG members, Project Advisory Committee members and government representatives) in the project countries; and inputs received from the research and advocacy partners in the project countries.

On the overall, the outcomes that the CAP aims to achieve, depending on the specific requirements in the project countries can be segregated into:

- changes in the competition law and/or enforcement guidelines;
- recommendations on the structure and functions of the competition agency, and
- recommended changes in other economic policies which also constitute parts of the broad national competition policy besides competition law, to ensure consistency and complementarities for economic development; etc.

The CAP highlights Country Action Programmes for advocacy and capacity building to be carried out in each of the project country within and beyond the project’s framework, on the basis of recommendations from the respective National Reference Groups. Among others, one of the key agenda of the Country Action Programme would be to chalk out specific ‘training’ activities.

## II. Emerging Recommendations<sup>1</sup>

The following recommendations emerged over the process of dialogues with multiple stakeholders – as issues that would help develop a healthy competition regime in the project countries and the region.

- The ‘need’ is to develop Competition Laws that have stakeholders’ support.
- Competition Authorities need to develop comprehensive ‘Public Relations/Communications Strategy’
- Government has to take a big share of the responsibility to achieve the target for promoting a competition culture, and ensure participation of other stakeholder groups in the process.
- ‘Political Will’ is necessary to support the process for developing and implementing competition regimes.
- A process of dialogue has to be established and encouraged between the 3 important stakeholder groups:  
*Civil Society – Business - Government*
- Demonstrate the need for an appropriate regulatory framework as a measure to ensure meeting objectives of competition and consumer protection.
- There is an urgent need for ‘Capacity Building’ on competition policy and consumer protection issues in African countries.
- Consumer Organisations in Africa lack capacity, and there is a need for enhancing their abilities to work on competition policy and consumer protection issues.
- There lies a need for development partners to support civil society/consumer organisations’ activities on competition policy and consumer protection issues.
- Competition Authorities should ensure participation of civil society/consumer organisations in undertaking competition outreach and advocacy activities.
- Need to have the provision of a *Competition Fund* under a Competition Law to support consumer awareness building activities on competition issues.
- Have a process of rewarding journalists for reporting anti-competitive conduct (have a contest for journalists on reporting competition cases, and reward the best ones)

## III. Comments from the review of the 7Up3 progress (Scanteam Report)

The following comments from the Scanteam Analysts and Advisers, who evaluated the progress of the 7Up3 project have been taken into consideration, while developing the Country Advocacy Plan document, and hence the proposal.

- Shifting the funding to a more targeted approach towards the specific needs of the individual partner countries could merit consideration.  
➔ From the discourse in the national dialogues (NRG meetings) it emerged that there is an urgent need for capacity building on competition issues for various stakeholders in each project country, a fact that was further testified while interacting with respondents during the field survey. Keeping this in mind, and the above recommendation of the Scanteam evaluators, it was decided to have 7 national level training workshops and 1

---

<sup>1</sup> These were raised during a Panel Discussion organised during the 7Up3 Regional Conference in Addis Ababa, Ethiopia on 27-28 March 2006 on “Promoting a Healthy Competition Culture – How to Move Ahead in Africa”. The views received were from a diverse group comprising of academicians, competition authority officials, development partner and consumer organisations/NGOs.

regional training workshop instead of having 3 regional training workshops as had been proposed earlier.

- Stage II will be crucial for the effect of the project. The country advocacy plan and a country action plan, which according to the OSN, will be prepared after the research phase will be important for defining the content of stage II. Without the second stage, the effect of the project will most likely be limited.  
➔ Specific activities of the Stage-II of the project have been identified and enumerated in the ‘Country Advocacy Plan’.
- As the regulatory conditions in the participating countries differ considerably, the Stage II approach should be sharpened by tailoring the activities to their specific needs.  
➔ This has been taken care of by identifying specific topics for having discussions in the national dialogues, and also providing training on specific issues as is evident from the research undertaken in each project country.

#### *IV. Overall Strategy*

- i. An ‘**Inception Meeting**’ to discuss the plan of action of the Stage-II, involving all the project partners and members of the project management and coordination unit of CUTS International, would be organised at a centralised location in the region (preferably Nairobi, as it is well connected to all project countries). This meeting would help review the achievements and shortcomings of the Stage-I (research and dialogues), and chalk out a plan of action for the Stage-II of the 7Up3 project.
- ii. **Third & Fourth Round of NRG meetings** – to be organized on specific topics that accord attention in each of the project countries (as revealed from the country research, discussions in NRG meetings and with conversation with key stakeholders)
- iii. Of the 3 **training workshops**, to have **1 at the regional level**; and organise the following:
  - a) **7 National Training Workshops** to be undertaken in each of the project country capitals for identified stakeholders (Refer last sentence in the fifth paragraph on page 5 of the *Scanteam Report*)<sup>2</sup>, and
  - b) Develop 7 ‘**Competition Law Tool-kit**’<sup>3</sup> in collaboration with the line Ministry for use by the competition authority (wherever is existent) or the relevant Ministry and other stakeholders.

---

<sup>2</sup> The *Mid-Term Review of the 7-Up3 project*, undertaken by Scanteam Analysts and Advisers (Oslo), June 2006 observes: ‘...shifting the funding to a more targeted approach towards the specific needs of the individual partner countries could also merit consideration’, for activities in the Stage-II of the project. Taking this into consideration and the realisation for greater thrust on capacity building of various stakeholder groups on competition policy and law, it has been decided to have national-level training workshops at the country level, instead of having them all at the regional level. Therefore, 1 regional level training workshop would be organised instead of 3, in addition to 7 national level training workshops in the Stage-II of the project.

<sup>3</sup> Development of a customised competition tool-kit for the project countries is recommended given the lack of a reference document for policy-makers to frame laws and implement policies addressing competition issues in their countries. This user-friendly tool-kit would contain some specific case studies (success and failures), which would aid the implementation of current competition laws and regulations and suggest appropriate future options where they remain weak or absent.

### 3. Activities at the National Level

---

#### COUNTRY ACTION PROGRAMME<sup>4</sup>

##### 3.1 Botswana

The Botswana Parliament passed the National Competition Policy for Botswana in August 2005. The decision by Government to formulate the Competition Policy came out of the concerns about the likelihood of private anticompetitive practices (which has also been endorsed by the perception survey undertaken in the 7Up3 project), thus underscoring the Government's reform objectives.

As submitted by the government, the Botswana Competition Policy is reported to impact 56 other government policies, which would need to be fine tuned in order to integrate competition principle (promoting competition) in those policies.

As a way of protecting intellectual property rights from infringement and in order to promote the development of creations and innovations, intellectual property rights have been exempted and excluded from the ambit of the competition policy.

Competition Act of Botswana is being drafted now, however, there has been little or no public consultation on the elements of the law. The Act would need to pass through focus-group discussions with specific stakeholder groups like – business, sector regulators, and civil society before it is finalised. One of the elements that would need to be incorporated into the law is the issue of regulating the behaviour of MNC<sup>5</sup>s.

There is a need to develop the awareness of the public at large (consumers) on the benefits from a functional Competition Policy and Law, to garner wider support for the effective implementation of the policy and the law. This is particularly required in the face of the survey findings that one of the most prevalent anti-competitive practices is price-fixing, which affects retail and textiles sectors; sectors that have direct interface with consumers at large.

##### Advocacy

- The government needs to inform the public of the present status of drafting of the Competition Act. Wide public consultation would need to be done especially with the business community, regulatory authorities and civil society to identify the salient features of the Botswana Competition Act. This raises the issue of the government department entrusted with the development of the legislation of having a clear-cut 'communications strategy' for garnering wide public support for its effective functioning.

---

<sup>4</sup> Please note that the cost of the activities provided in this section is the total cost that would be required for that activity, to supported by the budget available from both NORAD, Norway and DFID, UK

<sup>5</sup> A large number of MNCs, especially from neighbouring South Africa control a chunk of the retail sector. Their behaviour would need to be closely monitored to ensure consumer interests are not affected.

- Sustained advocacy and public education programmes would need to be chalked out by the government to demonstrate the benefit of a functional competition policy and law to various stakeholder groups, to ensure effective implementation of the policy and the law.
- Identified government policies would need to be fine-tuned to incorporate competition principles in them.

#### Activity

- The **Third NRG Meeting** should be organised on the specific topic of *'Benefits from a Competition Policy and Law'*, to be organised for multiple stakeholders (business, academicians, regulatory agencies, consumer organisations and media). Findings from the 7Up3 research in Botswana should be disseminated.
- The **Fourth NRG Meeting** should be organised on *'Elements of a Competition Law for Botswana'* with multiple stakeholders.
- **National Training Workshop** would be held on *"Competition Law and Consumer Protection"* for multiple stakeholders.
- Develop a **'Competition Law Tool-kit'** in collaboration with the Ministry of Trade and Industry for use by policy-makers.

#### Recommendation for future research:

- 'Competition Policy and its contribution to achieving Millennium Development Goals (MDGs) in Botswana'
- 'Competition Policy and Poverty Reduction in Botswana'

### **3.2 Ethiopia**

Ethiopia's economic performance will depend on its ability to continuously improve the business environment for the private sector, further liberalize the economy - particularly in the financial and telecommunications sectors - attract foreign direct investment, speed-up the privatization process, streamline the bureaucracy and maintain political stability.

Trade Practice Proclamation (329/2003) came into effect in the year 2003, and The Trade Practice Investigation Commission (TPIC) was established under its provisions, for the purpose of regulating trade practices. It has been observed that the proclamation lacks comprehensiveness and doesn't address issues like Mergers and Acquisitions, vertical and horizontal constraints.

Further, some deficiencies in the structure of the TPIC are also evident, e.g. the law doesn't state the actual number of members that the Commission should be composed of. Further, in spite of having the provision for inclusion of representatives from the private sector and consumer associations, these two stakeholder groups are not represented in the present Commission.

Many of the monopolistic enterprises are in the commodities and services sector, e.g. sugar, cement, electricity, telecom, water, soft drinks, etc. As a result of these consumers are directly affected by anti-competitive behaviour of these enterprises. This calls for developing

the awareness of consumer/consumer representatives/media on the need for competition policy and law in consumer interests.

#### Advocacy

- There is a need to lobby the government for its consideration of developing a comprehensive competition law for Ethiopia. The law should be developed through a transparent process encompassing wide public consultation, especially with stakeholders like – consumer organisations, academicians and research institutions. Assistance should also be sought from developing country experts and practitioners to draw the essential elements of the new law.
- A need also emerges for wide public awareness on Competition Policy and law and Consumer protection.
- Dialogue with policy-makers would be essential to convince them of the need for a functional competition policy and law that abets economic growth through private sector development and facilitates associated efforts towards poverty alleviation.

#### Activities

- The **Third NRG Meeting** should be organised on the theme of ‘*Competition Policy and Consumer Protection*’ and the invitees should be representatives from multiple stakeholder groups. The purpose would be to raise awareness on the need for an effective competition policy and law for consumer protection in Ethiopia.
- The **Fourth NRG Meeting** could be organised as a dialogue between NRG members, CUTS and policy-makers on the ‘*Need for a Competition Policy & Law for Ethiopia*’.
- A **National Training Workshop** would be organised with participation of multiple stakeholders on ‘*Competition Policy and Law*.’
- Develop a ‘**Competition Law Tool-kit**’ in collaboration with the Ministry of Trade and Industry for use by policy-makers.

#### Recommendation for future research:

- Competition in the Agriculture Sector of Ethiopia

### **3.3 Malawi**

In the face of trade liberalisation, many have blamed cross-border dumping as a reason for the poor performance of the manufacturing sector in Malawi, but a careful re-look attributes the reason to local manufacturing units being inefficient and for their reliance on obsolete technology.

The competition policy for Malawi was approved in 1997. Its broad policy objective is to promote economic efficiency and protect consumers’ interests. It has three broad strategies namely lowering barriers to entry; reducing restrictive business practices; and protecting the consumer. The Competition and Fair Trading Act (CFTA), was assented to by the President on 30<sup>th</sup> December 1998 and gazetted on 31<sup>st</sup> December 1998.

Consumer Protection Act (CPA) passed in 2003 is the legal framework for consumer protection. Apart from providing for the establishment of Consumer Protection Council, the Act provides for channels consumers can use for trade remedies arising from unfair trading practices.

The Competition and Fair Trading Commission is the institution provided for by the CFTA for the promotion of competition in Malawi. The Consumer Protection Council is the institution assigned with the responsibility to implement the Consumer Protection Act meant for the protection of consumer from unfair trade prices.

Though, the CFTA was passed in 1998, the government appointed the Commissioners only in the year 2005, and an interim Secretariat. If seven years is the standard taken by the government to institutionalize and resource the competition legislation, then it is only understandable that the consumer protection council has a long way to go.

Though competition and consumer protection issues are closely inter-related, there is a lack of coherence between these two legislations in Malawi. Had this issue been addressed, the government could have even explored the possibility of having one agency instead of two for implementing these legislations.

While the government has shown some intent in operationalising the competition authority (Competition Commission), there has been no movement in establishing the Consumer Protection Council. Under the circumstances, and as has been revealed from the research findings, consumers are affected by anti-competitive practices that exist in the Malawi market, especially collective price fixing, whose occurrence was reported to be rampant.

#### Advocacy:

- In view of the limited human capacity of the Competition Commission, there is a need to identify a core group of people – representing multiple stakeholder groups to act as an extended arm of the Commission, providing them information about anti-competitive practices which might go unnoticed;
- This Core Group would especially keep track of unfair business practices prevailing at the micro-level that have direct bearing on consumer protection. This would help create some baseline information for the Consumer Protection Council to take forward as and when the latter becomes operational;
- The Ministry of Trade and Private Sector Development (MTPSD) should revisit the provisions of the competition and the consumer protection laws, and see how they could relate more explicitly to each other. At this point of time there seems to be some lack of coherence between the two. The option of having combining the two legislations could also be explored.

#### Activities:

- The **Third Round of NRG** meeting in Malawi to be organized for multiple stakeholders (government representatives, regulatory authority representatives, academicians, NGOs and media) around the specific theme of “*Competition Policy and Consumer Protection*” – where the discourse would take a look at both the competition policy and consumer protection legislations and explore how consumer protection objectives could be addressed through the implementation of the competition legislation.
- The **Fourth Round of NRG** meeting would be organized as a dialogue between the NRG members and key policy-makers (high-level officials of MTPSD, Malawi

Competition and Fair Trade Commission, academicians) on “*Ways to Strengthen Activities of Malawi Competition and Fair Trade Commission*”.

- A National **Training Seminar** to be held for the Competition Commission/Academicians/NGOs on “*Competition Law enforcement*”.
- Develop a ‘**Competition Law Tool-kit**’ in collaboration with the MTPSD for use by the Competition authority and reference by policy-makers.

Recommendation for future research:

- Sector-specific study on effect of privatisation on competition<sup>6</sup>.

### 3.4 Mauritius

Mauritius has a Competition Act of 2003. The law is currently being reviewed with the help of consultants from the Commonwealth Secretariat; and the Minister of Industry, Commerce, SMEs and Cooperatives will hopefully present a new Competition Bill. Issues pertaining to – independence of the competition authority, inter-linkages with sector regulators, structure and functions of the competition agency require wider public debate to reach a consensus on the way ahead.

It was revealed from the survey undertaken under the project that the business community perceives a competition legislation for Mauritius should be able to address unfair business practices. Many lines of business activities and agreements are presently excluded from the provisions of the Competition Act. About 60% of the sample believes that no enterprises should be exempted from the law and in case there should be exemptions the majority believe that it should be SMEs who should benefit. The current law does not make such provisions. On the overall, the survey results tend to confirm collective price fixing, market sharing and entry barriers as the most common factors affecting competition in the Mauritian markets.

According to an UNCTAD study conducted in 1995, the market concentration in the country was very high indeed, more so in the public utilities sector like telecom, air transport, import and distribution of cement, banking, leasing, and car rental.

10 years later, the market concentration is still high, despite liberalisation in the telecom sector, rise in FDI and private sector participation. It’s a duopolistic monopoly in the banking sector where two banks dominate the market. There is a monopoly situation in the insurance and construction sectors. Two major players control the cement import sector. Price-fixing and resale price maintenance galore in the retail sector.

It seems that consumers are aware of the most important legislations, which exist to check anti-competitive practices, namely the Consumer Protection Act (1988), the Fair Trading Act (1988) and the Hire Purchase Act. Thus there could be practical difficulties for them to seek remedies, as awareness of the legislation does not seem to be an issue.

---

<sup>6</sup> This is particularly required in view of the findings from the research in Malawi that despite market liberalisation and privatization, for example in the sugar sector and (opaque) beer manufacturing , competition has not been forthcoming in these sectors with only one/two operator controlling the majority of the market.

The present framework for consumers and other stakeholders to address their complaints/grievances must be revisited. This calls for the possible option of using the media as the platform to bring cases to the notice of the relevant authorities. It provides an opportunity in view of the fact that the newspapers like *News On Sunday*, *L'Express* report regularly on consumer issues. Linkages between consumer organizations (to act as recipients of news on anti-competitive practices that affect consumers) and media should be strengthened and some sort of information-sharing mechanism could be developed.

#### Advocacy

- Specifically, issues pertaining to – independence of the competition authority, inter-linkages with sector regulators, structure and functions of the competition agency require wider public debate.
- Credible consumer organizations should act as recipients of information (*Consumer Information Cell*) on anti-competitive practices that affect consumers from the public, and develop a mechanism of sharing such information with the media (print and electronic) to bring them to the notice of relevant authorities.
- Civil Society should have a greater role to play in fostering competition by creating, stimulating and sustaining active consumer movement, for which they would need to be resourced. Moreover, consumer organizations should have the right to bring cases forward

#### Activities

- The **Third NRG meeting** should be organised to discuss the '*Features of a Competition Bill for Mauritius*' – especially issues relating to the structure and functions of the competition authority, and inter-linkages with sector regulators.
- The **Fourth NRG meeting** can be remodelled to a workshop on '*Reporting Competition Issues in Consumer Interests*' for media representatives and consumer organizations to develop a strategy for information-sharing and discuss it with relevant authorities.
- A National **Training Seminar** to be held on "*Competition Policy and Law*" with business representatives, consumer organizations and media representatives.
- Develop a '**Competition Law Tool-kit**' in collaboration with the Ministry of Industry, Commerce, SMEs and Cooperatives for use by policy-makers and the competition authority, which comes into force.

#### Recommendation for future research:

- Study the impact of competition on consumer protection in select sectors

### **3.5 Mozambique**

Between 1994-2004, Mozambique registered an annual GDP growth rate of 8.2%. To maintain this momentum of growth would require economic reforms, enhanced foreign direct investment and the development of agriculture, transportation and telecommunication services specifically. This could be achieved by the evolution of a sound regulatory environment backed by an effective legal system. Mozambique's legal system is fragmented and its practitioners are under-trained, poorly paid and ineffective.

Mozambique doesn't have a competition policy or law, but is in the process of drafting a policy, which would be made public in September 2006. The existing rules, regulations and laws are not sufficient to check anti-competitive practices. The survey undertaken as a part of the 7Up3 research in the country, hint at the prevalence of anti-competitive practices mostly in the utilities sector (water and energy), manufacturing and agriculture. Prevalence of anti-competitive activities in these sectors has a direct bearing on consumer welfare. However, from the interaction with consumers, it is not evident if the consumers are aware of this.

Mozambique is characterized by a small economy and with a small domestic demand, across most industries. Thus, industry concentration in Mozambique is relatively high probably because demand is sufficient for only very few firms to thrive in each sector of economic activity.

Informal business sector also has a role in keeping the prices in many goods and services low. It has few and low barriers to entry and numerous participants who serve the low-income category of the people in the peri-urban localities and also rural areas. This sector also prevents the emergence of a successful pricing cartel in the urban and retail stores.

A 'working group' on competition was constituted under the Ministry of Trade and Industry to serve as the focal point for training, education and constituency building on competition policy. However, the progress by the 'working group' has been quite slow – therefore a certain extent of 'hand-holding' of the 'working group' should be one of the prime aims of the advocacy activities in Mozambique under the 7Up3 project. This is further necessary in view of the fact that the pro-competition lobby in the country is rather weak, and the government doesn't seem to move on a fast-track for developing the competition policy and law in the country.

#### Advocacy

- The government has made progress in the right direction by appreciating the need to draft a competition policy before developing the competition law for the country. Findings from the 7Up3 research should be fed into the process of developing the competition policy for the country.
- Further, the identification of a 'working group' on competition also demonstrates a positive will of the government to operationalise a competition regime in the country. Keeping this in view, a process of close interactions should be developed between the NRG and the 'working group' members. They should be invited to all the NRG meetings.
- Specific advocacy activities under the 7Up3 project in Mozambique should aim at:
  - a) Developing the capacity (thorough discussions and trainings) of the 'working group' (and NRG member) on competition issues, and sensitising them to understand competition concerns relevant for the country;
  - b) Develop a close working connection between the members of this 'working group' the NRG and CUTS, on competition issues – to foster 'learnings' through information exchange.

### Activities

- Invite members of the ‘working group’ on competition to the **Second Round of NRG** meeting and share with them the *findings of the research on competition in the country (7Up3 Mozambique CRR)*.
- Organise the **Third NRG Meeting** (and invite ‘working group’ members) for a brainstorming on ‘*Elements of a Competition Policy for Mozambique*’
- The **Fourth NRG Meeting** should be transformed into a **workshop/lecture** for select NRG members and members of the ‘Working Group’ on ‘*Competition Policy and Law*’. Seek help from Portuguese speaking experts (try to get representative of the Portuguese Competition Authority; or seek help from Gesner Oliveira, former Head of Brazilian Competition Authority and Member of International Advisory Board of CUTS CCIER)
- Organise 1 **National Training Workshop** on ‘*Competition Policy and Law*’ for multiple stakeholders (especially including the members of the ‘working group’), in collaboration with the MTI, Mozambique.
- Develop a ‘**Competition Law Tool-kit**’ in collaboration with the Ministry of Trade and Industry, which charts the way forward for the country towards developing a functional competition regime, and helps policy-makers and practitioners as a reference document.

### Recommendation for future research:

- Competition in the Informal Sector

## **3.6 Namibia**

Namibia Competition Act (Act no. 2 of 2003), made provisions for the establishment of the Namibian Competition Commission (NaCC) to implement the Act. The Act is yet to come into force and presently the regulations of the Act are being readied by the Ministry of Trade and Industry.

Once the regulations come into effect, NaCC would start the process of competition education with the following organisations/institutions<sup>7</sup>:

- Namibia Agricultural Trade Forum (NATF)
- Namibia Chamber of Commerce (NCC)
- Namibia Manufacturers Association (NMA) and
- Law Society of Namibia (LSN)

The prevalence of Multi-national Corporation in the Namibia, and their dominance in certain sectors of the economy calls for a strict watch on the behaviour of such corporations, which could only be possible with the operationalisation of the NaCC, as soon as possible.

Consumer interests are under-represented in Namibia. Namibia does not have a consumer protection law in place, no effective consumer lobby at the moment and consumer protection desks in regulatory institutions and in private businesses operates voluntarily with no real obligations. Efforts need to be made to organise consumers, empower them with

---

<sup>7</sup> Personal communication with Douglas Weissner, one of the Commissioners of the Namibia Competition Commission (NaCC) in May 2006.

relevant information about laws, regulations and redressal mechanism so that their concerns are brought on board in the process of policy making and implementation.

The Ministry of Justice's Law Reform and Development Committee was working on drafting a consumer protection law a couple of years ago, but this did not go far. According to officials from the Ministry of Trade and Industry, the development of consumer protection legislation will be next on the Ministry's agenda after the completion of the legislation on the national quality infrastructure.

#### Advocacy

- The inputs from the research on competition scenario in Namibia would need to be shared with the MTI officials and NaCC.
- Wide public support would need to be garnered for effective implementation of The Namibian Competition Act 2003. This would require sustained information dissemination and capacity building for multiple stakeholders.
- Expedite the process for drafting the Consumer Protection Law in the country and develop a mechanism of dialogue between the relevant Ministry (MTI) and stakeholder representatives to implement the consumer protection Act.

#### Activity

- The **Second NRG Meeting** to be organised to *share the findings of the research on competition in the country (Namibia CRR)*, and invite people from NATF, NCC, NMA and LSN.
- The **Third NRG Meeting** could be remodelled to a seminar for registering the perspectives of the business community towards the competition law in Namibia. The theme could be '*Business perspectives on Competition Law in Namibia*' and the meeting should aim at discussing with NATF, NCC, NMA and other similar business organisations.
- The **Final NRG Meeting** on the specific topic of '*Benefits from a Competition Policy and Law*', to be organised for multiple stakeholders (business, academicians, regulatory agencies, consumer organisations and media)
- A National **Training Seminar** to be held on "*Competition Policy and Law*" for NaCC, NATF, LSN representatives.
- Develop a '**Competition Law Tool-kit**' in collaboration with the Minister of Trade and Industry for use by policy-makers and the NaCC.

#### Recommendation for future research:

- Implementing Competition Law for regulating behavior of MNCs in Namibia

### 3.7 Uganda

Uganda doesn't have a specific legislation on competition. Enactment of Competition policy and law and setting up an enabling institutional framework need to be expedited and implemented without further delays. A draft law has been prepared and is making the rounds of the government departments for a long time now.

There is a low level of understanding and appreciation of competition policy and law issues among many civil society organisation, therefore there is a need to develop the capacity of the civil society organisations to comprehend competition issues better, especially those

which affect consumer interests. A strong civil society can act as a pressure group to lobby the government for operationalising the draft competition law of Uganda.

There is a provision under the draft Competition Act, which provides for establishment of a 'Competition Fund', to be used for running educational programmes to raise awareness on competition issues in the country. This would be crucial in developing support for implementing the law.

Competition related news have been seen reported in the newspapers of Uganda on some occasions. However, there is a need for developing the understanding of reporters on competition issues, and equip them with the know-how of 'investigative reporting' of anti-competitive practices, especially those at the micro-level that go un-noticed or reported.

#### Advocacy:

- Extensive dissemination of the 7Up3 research report on Competition in Uganda among policy-making community and civil society organisations. This would lay the foundations for the civil society to exert pressure on policy-makers to expedite the process of enacting the Competition Act.
- Develop the understanding of civil society organisations and the media on 'Competition policy and Law' issues, particularly those affecting consumers interests as revealed from the 7Up3 Uganda CRR.
- Establishing a process of information sharing between civil society and media – especially for the purpose of reporting anti-competitive practices that go otherwise un-reported.
- Lobby the government for retaining the provision of the 'Competition Fund' under the draft Act, which would help develop wide public awareness and support necessary for implementing the competition legislation (when it comes into force).

#### Activities:

- The **Third NRG Meeting** should be organised on the specific theme of '*Why is a Competition Law necessary in Uganda?*' In addition to the NRG members, this meeting should also target some senior officials from the Ministry of Tourism, Trade and Industry (MTTI) of Uganda for sensitization.
- The **Fourth NRG Meeting** should be targeted especially at civil society organisations and media representatives, in order to discuss the *possibility for developing a channel of communication between these stakeholder groups for the purpose of bringing anti-competitive cases to the knowledge of the general public and policy-makers.*
- A **National Training Workshop should be organised** on '*Competition Policy and Law*' for multiple stakeholders (government department, regulatory authority, civil society, media, academicians, business community)
- Develop a '**Competition Law Tool-kit**' in collaboration with the Ministry of Tourism, Trade and Industry (MTTI) for use by policy-makers and the competition authority, which comes into force.

#### Recommendation for future research:

- Competition Policy and pro-poor growth

## 4. Activities At The Regional/International Level

---

### 4.1 REGIONAL TRAINING WORKSHOP

A 3-day Training workshop on Competition policy and Law would be organised, tentatively at Johannesburg/Pretoria in February 2007.

#### I. Tentative Agenda:

The following broad themes would be covered in this 'Training Workshop', and the Faculty of the CUTS Institute for Regulation and Competition (CIRC) would be engaged as resource persons in this training workshop. Efforts would also be made to involve Fordham Competition Law Institute, Fordham School of Law, New York with this training workshop.

#### Themes:

- Competition Law and Policy: Rationale and Objectives
- Introduction to competition analyses (Basic concepts: the Firm and the Market, including firm conduct and market structure, market definition: product market, geographic market/relevant market)
- (Mergers and Acquisitions) M&A Regulation in Competition Law; Types of mergers; Efficiency gains vs. market power; Merger Impact Assessment.
- Dominance and market power (including abuse of dominance - price discrimination and predatory pricing)
- Restrictive Practices (Horizontal and Vertical arrangements)
- Restrictive Practices Assessment.
- Competition law and Sectoral Regulation
- Cross-border competition concerns, jurisdictional issues (National and regional competition policy)
- Competition Law & IPRs
- Case Studies (e.g., merger impact assessment, abuse of dominance, restrictive practice assessment)

II. Participants: 25-30 international participants (comprising of representatives from the project countries of the following stakeholder groups)

- Competition Authorities/Line Ministry
- Regulatory authorities
- Research Institutions/University Departments/Law School
- Consumer Organisations
- Business Associations (Chambers of Commerce, Manufacturing Associations, etc.)
- Media representatives

III. Resource Persons: Resource persons would be drawn both from within the region and outside, and would comprise of academicians, practitioners (representatives of competition agencies), development partners with considerable experience on the issues to be dealt with. CUTS researchers and faculty of CUTS Institute for Regulation and Competition (CIRC, [www.circ.in](http://www.circ.in)) would also be available. Efforts would also be made to engage resource persons from the Fordham Competition Law Institute, New York.

## 4.2 FINAL PROJECT MEETING

The Final Project Meeting would be organised in February/March 2007, and the Agenda, List of participants would be developed over due course. The possibility of organising it in Botswana/Mauritius/Lusaka/Nairobi is being explored now.

### 5. Stage-II Time Schedule

Time → ↓ Activities	Months						
	December 2006	January 2007	February 2007	March 2007	April 2007	May 2007	June 2007
2 <sup>nd</sup> round NRG Meetings (Namibia and Mozambique)	✓	✓					
3 <sup>rd</sup> round NRG Meetings (except Namibia and Mozambique)	✓	✓					
3 <sup>rd</sup> round NRG Meetings (Namibia and Mozambique)		✓					
Competition Tool-kit	✓	✓	✓	✓	✓	✓	
Regional Training Workshop			✓				
Final Project Meeting				✓			
4 <sup>th</sup> round NRG Meetings					✓	✓	
National Training Workshops					✓	✓	
Final Report						✓	✓