

*International Conference*

**Competition Policy, Private Sector Development &  
Poverty Reduction in Africa**

*Organised under the project*

**Capacity Building on Competition Policy in Select Countries of  
Eastern & Southern Africa (7Up3 project)**

*29-30 March 2007, Domaine Les Pailles, Mauritius*

## Proceedings

### **1. BACKGROUND**

*An international conference was organised by CUTS International in Mauritius on 29-30 March 2007 to review the outcomes from the first phase of a project entitled, “Capacity Building on Competition Policy in Select Countries of Eastern and Southern Africa”, also referred to as the 7Up3 project, implemented in seven countries of the region, viz. Botswana, Ethiopia, Malawi, Mauritius, Mozambique, Namibia and Uganda. The conference was organised by CUTS in association with the Ministry of Industry, SMEs, Commerce & Cooperatives, Government of Mauritius, and with support from the Department for International Development (DFID), UK and the Norwegian Agency for Development Cooperation (NORAD), Norway. The country partner of CUTS (for the 7Up3 project) in Mauritius – Institute for Consumer Protection was also actively involved in the process of organising this conference. The event in addition to providing an opportunity to the partners (civil society) to share project findings with the international community, also gave opportunity for other organisation (civil society) from sub-saharan African countries to familiarise themselves with issues related to competition in the region and explore possibilities of getting involved with the subject in their respective countries. The following is in brief the proceedings of the conference.*

### **Day One: March 29<sup>th</sup> 2007**

#### **2. INTRODUCTION AND WELCOME**

##### **2.1 Welcome by Pradeep Mehta, CUTS International**

Pradeep S Mehta, Secretary General, CUTS International, welcomed all participants and the distinguished delegates to the meeting undertaken to review work done under the first phase of the 7Up3 project (Capacity Building on Competition Policy in Select Countries of Eastern and Southern Africa) – which studied the evolution and the present state of implementation of competition regimes in seven countries (Botswana, Ethiopia, Malawi, Mauritius, Mozambique, Namibia and Uganda) in eastern and southern Africa. He informed the audience that the official ‘Inaugural Session’ had to be shifted to 1130 hrs in view of the Hon. Minister of Commerce – Mr. Rajeshwar Jeetah’s convenience. The minister, who would formally inaugurate this conference, had another engagement at the Chamber of Commerce in the morning. The first ‘technical session’ followed.

### **3.1 TECHNICAL SESSION I: COMPETITION POLICY AND DEVELOPMENT**

#### **3.1.1 Competition Policy and Economic Reforms by Dr. S Chakravarthy, India**

The following were the highlights of the issues raised by S Chakravarthy:

- It is indeed important to understand the distinction between Competition Policy and Competition Law.
- Economic reforms have been undertaken by the developing countries, through various policy processes, which include deregulation and simplification of licensing procedures; exemption of large number of industries from approvals and quotas; introduction of new economic adjustment measures; divestiture and sale of government assets; and gradual decline in the interventionist role of the public sector.
- A policy outcome that many developing and least developed countries have designed their economic reforms process has been ‘promotion of competition in the markets’.
- It is necessary for the competition law in developing (and least developed) countries to take into account the inherent weaknesses of SMEs, which constitute a large proportion of the economy. An appropriate approach could be for the competition regime to initially offer a ‘gestation period’ of 5-7 years for SMEs to educate themselves on competition before trying to compete nationally and internationally.
- It is in the interest of a country’s economy to promote ‘Contestable Markets’ – which offer easy entry and easy exit for firms.
- Some of the challenges faced in developing and implementing a competition regime (especially in the developing world) were identified as follows –
  - Designing an appropriate competition law;
  - Lack of understanding on competition issues;
  - Competition authorities need to concentrate more on behavioral issues rather than on structural issues;
  - Low budgets/resources; and
  - Weak consumer organizations (if at all present).
- Competition law should be modified and adapted to serve varied needs and purposes in the countries and based on the socio-economic-political realities of those countries. There cannot be a ‘one size fits all’ approach and hence the propensity of developing countries to look west for developing and implementing competition laws has to be changed – through developing domestic/regional constituencies on competition policy and law issues. This is what the 7Up3 project is attempting to achieve in the project countries – and hence the project is timely and relevant.

#### **3.1.2 Competition Policy and Economic Development in Botswana by Monnane M Monnane, Botswana Institute for Development Policy Analysis (BIDPA), Botswana**

In his presentation based on the research done on competition policy in Botswana, Monnane highlighted the following issues:

- It is important to synergise competition policy with other public policy issues, particularly those which evince on economic development, in the realm of investment and trade.
- A Competition Policy was formulated for Botswana in 2005, but this has not been implemented, and the process of drafting the Competition Law has been in progress for over a long period. The policy has a number of objectives, and one of them is to ensure that it compliments other government policies that aims at enhancing economic efficiency and prevents unfair business practices.
- Keeping in view the special needs of SMEs sector, it is imperative, especially from the perspective of a country like Botswana to exempt SMEs from the ambit of the competition law, or at least to have exceptions.
- One aspect that deserves a deeper analysis is the impact of privatization on competition in the economy.
- Air Botswana is being privatized – what would be impact of this? Would this mean the emergence of a monopoly (that could abuse its position)? How would a competition authority (had it been in place) dealt with the situation?

### **3.1.3 Competition Policy and Economic Development in Malawi by Charles Chilimampunga, Centre for Social Research, Malawi**

- Malawi has a competition policy of 1997, and a law that was passed in 1998.
- The competition policy identifies the overall goal of promoting economic efficiency and consumer protection in the country and underscores the following means of achieve this goal, i.e., by:
  - lowering barriers to entry;
  - reducing restrictive business practices; and
  - protecting the consumers
- The Malawi Competition and Fair Trading Act came into being in 1998, its objective are:
  - to prevent abuse of dominance;
  - to control business from reaping excessive benefits, to the disadvantage of consumers; and
  - to protect companies from unfair and restrictive trade practices by counterparts in the same market
- The implementation of the law only started in the year 2005, through the establishment of the Malawi Competition and Fair Trading Commission (MCFTC). MCFTC is a professional body and has started undertaking some investigations (eg. in the petrochemical and financial sectors)
- Malawi ranks among the poorest countries in the world, and thus its competition policy and the process of implementation of the law needs to take into consideration the developmental objectives of the country. In this regards the takeover case of ‘Malawi Telecom’ was cited as an instance that deserved a more thorough assessment of its impact on development than what preceded the actual takeover process.

### **3.2 TECHNICAL SESSION I (CONTD.): POLITICAL ECONOMY CONSTRAINTS IN IMPLEMENTING COMPETITION REGIMES**

#### **3.2.1 Political Economy Constraints in implementing competition regimes: experience of Mauritius by Mosadeq Sahebodin, Institute for Consumer Protection (ICP), Mauritius**

- Mauritius is in the process of drafting a new Competition Act. There was an earlier competition law (Competition Act 2003, drafted by the previous government) that has been repealed by the new government (on grounds of paternity) and the process of drafting the new Law is in progress.
- In the meanwhile anti-competitive practices continue unabated in the country. Iron Bars market is a perfect example where a company - Desbru International abused its dominant position and pressed for price increase; caused a lockout in the factory for several days; interrupted supply and took the construction industry hostage. No legal action was however taken on such a conduct. There was recent news that a major portion of Desbru International's assets would be taken over by Murray & Robert, a South African company. This indicates the possibility of Iron bars market moving towards a situation where a foreign company would control more than 80% of the market.
- Several such examples (of anti-competitive conduct) in the steel, cement, milk powder and consumer goods markets underscore the urgent need for the competition law to be operational.
- It is believed that lack of political will and connivance by the private sector (as also reported in some news stories in a local newspaper *L'express Dimanche*) had affected the implementation of the law. Private sector in particular had played a major role in weakening the Act (2003) as well.
- The close proximity of some sections of the government with the business community (including the admission of taking funds from business houses for political party funding) has been often criticised as it could influence government policies including competition policy that has an impact on private sector development.
- The Utilities Regulation Act (URA) 2004 disqualifies the appointment of a person as Chairperson or Commissioner, if s/he is actively involved in politics. This is often cited as a reason behind the non-implementation of the URA, as in Mauritius people with political backgrounds are often found heading sector regulatory agencies.

#### **3.2.2 Political Economy Constraints in implementing competition regimes: experience of Uganda by Shaban Sserunkuuma and Kimera Henry Richard, Consumer Education Trust of Uganda (CONSENT)**

The presentation was done in parts by two representatives from CONSENT, Uganda. Shaban Sserunkuuma started the presentation, which was concluded by Kimera Henry Richard. The highlights of their deliberation have been captured below:

- The process of opening up the market (privatisation and liberalisation) has gradually started in the Ugandan economy, but there is a lack of regulatory frameworks to control this process of market-oriented reforms. Public sector monopolies are being transformed into private sector monopolies, due to the lack of enforcement of the competition regime.
- Uganda does neither have a consumer protection act or a competition act. A draft competition bill (that had been prepared) has been rejected by the Cabinet, which has asked the Ministry of Tourism, Trade and Industry to redraft the Bill.
- The East African Community (EAC) has developed a regional competition policy for the region (comprising of Kenya, Tanzania and Uganda). Now the challenge for Uganda as a result of this move of the EAC is to develop its competition law in order to meet the requirements for regional integration that the country is committed to under the EAC.
- There has been a gradual appreciation of the need for a competition law in the country – through the process of involvement of various stakeholders in the process. It has been understood that competition legislation should be discussed as a domestic legislation.

#### Observations by the Chair

Nicola Mazzarotto representing the United Kingdom Competition Commission was given the role of making observations on the presentations in the first technical session, and the following is what he pointed out as the crux of the presentations in the first session:

- It is evident that aspects stemming from political economy affairs determine the implementation of a competition regime;
- In this aspect, the process of competition administration in developed countries (particularly, in Europe) is not much different from the situation in many developing countries;
- There needs to be flexibility in the process of implementing a competition regime, especially in case of developing (and least developed countries) keeping in view the special needs of certain quarters like SMEs and informal sector;
- The model of implementation cannot be one that is borrowed from the West, but has to be one that is based on the socio, economic and political realities of the country;
- A challenge often faced by policy-makers is the decision of – ‘How much to privatize utilities’?

With this, Nicola opened up the floor for discussions.

#### **Floor Discussions**

The following points emerged from the floor discussions:

- In case of countries like Botswana, etc. which is an immediate market for products coming from the neighbouring South Africa, it is important to assess the impact of competition on domestic business from international (cross-border) businesses.

- Often market share definition in a country like Mauritius (small economy) becomes difficult – and thus it becomes difficult to ascertain what constitutes ‘abuse of a dominant position’?
- In order for competition to thrive in a market, the goal should be to develop a market that exudes the spirit of a ‘contestable’ market – where easy entry and easy exit is possible. However, one aspect that needs to be borne in mind is that in a contestable market there are bound to be ‘winners’ and ‘losers’ – the challenge would be to protect the ‘losers’.
- Any effort to dilute competition in the market would be detrimental for the economy and the consumers.
- It would be inappropriate to stretch competition policy to take care of all market weaknesses (like the informal sector, SMEs)
- Competition Policy and Sectoral Regulation: how to develop synergies between competition authorities and sector regulators in developing countries remains a riddle that has to be solved.
- There is a need for evidences to elucidate how a healthy competition regime has worked in the benefit of consumers. The lack of such evidence makes it difficult to take the argument in favour of having a competition regime to the wider public (stakeholders). How the rights of a consumer could be preserved through a competition law?
- Experience from many small (economy) countries demonstrates the trend that discussions have begun on the possibility of developing hybrid laws – which would take care of competition, consumer protection and utilities regulation. Hybrid agencies would implement such laws. Such possibilities have been discussed in countries like Nigeria and could be relevant for countries like Malawi, Uganda, Mauritius and Namibia, as well.

#### **4. FORMAL OPENING SESSION**

##### **4.1 Initial Remarks by P. Radha, Principal Trade Analyst, Ministry of Commerce, Mauritius**

These initial remarks preceded the official opening of the conference by the Minister. It was observed that the conference marks the culmination of the project undertaken in seven project countries by CUTS International, and is expected to provide valuable insights for an in-depth understanding of the intricacies and complexities of competition policy, especially those pertaining to the region. The Ministry of Industry, Small & Medium Enterprises, Commerce and Cooperatives was happy to having been able to cooperate with CUTS in organising this conference, which would help the country in its mission to operationalise its competition regime. The Mauritian government is committed to promoting competitive spirit in the economy and imbibe experiences of the other countries in the region and outside. This is testified by presence of the Hon’ble Minister in the conference, who would formally open the conference.

#### **4.2 Opening address by Hon'ble Rajeshwar Jeetah, Minister of Industry & Commerce, Mauritius**

The Minister started by welcoming all the participants to Mauritius, and hoping that the international participants are able to take some time off work and go around to see the wonderful environs of this beautiful island country. He started by conveying his gratitude to CUTS International for having provided this opportunity to the Mauritian government to be a host to this extremely important and timely conference in the country, especially at the time when the government was engaged with developing the country's Competition Legislation. The Minister was convinced that this discourse on competition would benefit those entrusted with the responsibility of developing and implementing the country's competition law. Mr. Jeetah highlighted the following issues in his speech:

- The present Government is committed to promoting democracy and democratic outcomes in the country.
- Its commitment to ensuring 'continuity' in the legislative and governance system is endorsed by the fact that it embarked on developing the competition regime of the country – a mission that the previous government had embarked on, but could not complete in its tenure.
- There has been some delay in the process of finalising the Competition Act of Mauritius – a process that was initiated in February 2006. However, the government recognises the need to have a law that corroborates with the socio-economic and political situation in the country, and hence has been extremely careful in developing this law. A Draft No. 10 has been arrived at.
- He asserted that the Competition Law would definitely be finalised in the year 2007.
- The Minister provided the example of the State Trading Corporation (STC), which he observed would need to play an extremely important role to ensure competition in the market and also cater to the needs and interest of consumers. He cited one instance when the STC helped the government overcome cement shortage in the country – a situation, which could have had considerable negative repercussions on the country's economy and infrastructure development.
- 'Putting people first' is the *mantra* of the government; something that the government is constantly striving to deliver.
- He was happy that CUTS by the help of this conference and otherwise through its project on competition policy and law has opened up the doors to various stakeholder groups in the country to participate in the process of developing the country's competition law further.
- Mauritius is committed to promoting a functional competition regime – comprising of an effective competition legislation, an independent competition authority, and supported by a wide group of stakeholders.

At the end of his speech, he thanked all the participants and formally declared the conference open.

### **4.3 Introductory Speech by Pradeep S Mehta, CUTS International**

The following were the highlights of the opening speech by Pradeep S Mehta, Secretary General, CUTS International:

- The fact that the Mauritius government is co-hosting this event conveys a lot! It endorses the interest the government has on promoting competitive markets in the country and preserving consumer interests.
- Research outcomes of the 7Up3 project are focused on how competition policy relates to the wider context of economic development, in the project countries.
- It is a positive sign that Mauritius is taking its time in the process of developing its competition law, and constantly reviewing the law to match its socio-economic and political realities, instead of blindly ‘looking west’.
- The country has realised that ‘one size fits all’ approach does not always provide the dividends – and this should be a lesson for others in the region to imbibe and emulate.
- CUTS intends to, in addition to developing the basic understanding and interest of various stakeholders on competition policy through this project, also provide support in terms of the requisite skills to professionals and practitioners engaged with the process of implementing the competition regimes. Pursuing this goal, CUTS would be developing county-specific “Competition Tool-kits” to guide the process of implementing the competition regimes in the project countries.
- The other element of capacity building to be touched upon by CUTS in the subsequent stage of the 7Up3 project would be imparting ‘trainings’ to various stakeholders in the project countries. An outcome of the discussions CUTS would have with the project partners in the course of this conference would help develop the ‘basic framework’ of these training workshops.

He concluded his remarks by thanking the participants for their presence in this conference, and also expressed his gratitude to the Minister for being present in this meeting.

### **4.4 Speech by Roger Nellist of the Department for International Development (DFID), UK**

Roger Nellist representing DFID, UK spoke on the work that DFID, UK has been doing on competition policy and law in the developing world, including its partnership with CUTS in its competition policy and law work in various parts of Africa and Asia.

The following were the highlights of his speech:

- DFID’s mission is to help reduce poverty in the world. The agency believes that a vibrant, productive private sector working in a competitive market environment would deliver the higher rates of economic growth that are essential for poverty reduction.

- A dynamic private sector requires the ‘right enabling’ environment or ‘investment climate’ to operate. An effective competition policy is an important component of a sound ‘investment climate’.
- It is being pursued by this ideology, that DFID has been engaged with encouraging developing countries to adopt and implement competition regimes – appropriate to their needs and situations.
- In doing this work, DFID has been associating with various partners like the World Bank; other bilateral agencies (like NORAD, etc.); CUTS; and the research community.
- DFID has been actively engaged with developing the COMESA competition policy; preparation of Tanzania’s new competition law; and peer review of South Africa’s competition law. DFID has also been in the forefront of initiating competition research in India; and co-funding a long-term private sector development programme in Bangladesh.
- A new element of DFID’s support to operationalising competition regimes in developing countries is a ‘Competition Assessment Framework’ (CAF) – a tool to assist senior policy-makers in identifying anti-competitive arrangements and practices in their countries and to address them appropriately.
- The CAF could also be useful for other stakeholders like civil society and consumer organisations.
- DFID is developing an inventory of case studies that provide evidence of how a functional competition policy impacts citizen’s welfare. The wide range of examples and case studies unearthed by the 7Up3 project would contribute immensely to this inventory.

4.5 The Formal Opening Session concluded with the ‘Vote of Thanks’ proposed by Mosadeq Sahebodin, of ICP, Mauritius (project partner of CUTS in Mauritius) to the Minister of Commerce, Mauritius Government, other country partners of the 7Up3 project, local stakeholders, University of Mauritius, DFID, NORAD and CUTS.

## **5. TECHNICAL SESSION – II: COMPETITION POLICY, PRIVATE SECTOR DEVELOPMENT & POVERTY REDUCTION**

### **5.1 Competition Policy, Private Sector Development & Poverty Reduction, Roger Nellist, DFID, UK**

Roger Nellist’s presentation on the subject was aimed at developing an overall understanding on the conceptual linkage between competition policy, private sector develop and poverty reduction, and its lessons/implications for the developing world. In establishing this relationship he drew cases from assessment of competition regimes in various developing countries undertaken by CUTS, CUTS partners and other researchers. At the outset, he pointed out that there was a ‘missing link’ in the sequence – which really bound competition policy and poverty reduction; and that this ‘missing link’ was of ‘Growth’.

The following are the highlights of Roger's presentations:

- Fair competition enhances consumer welfare – by offering choice; maintaining standards; and lowering prices of goods and services. This hurts the poor less. (direct link between competition policy and poverty reduction)
- Indirect benefits of a functional competition regime are realised in terms of general growth enhancements; and the resultant access to sustainable livelihoods in the formal sector.
- Competition abuses harm consumers – a fact that is evidenced by the various anti-competitive practices in the consumer goods sector, revealed from CUTS 7Up3 project. Examples from CUTS 7Up2 project (undertaken in six countries of Asia, [www.cuts-international.org/7up2.htm](http://www.cuts-international.org/7up2.htm)) also endorse the above observation.
- The Investment Climate Survey of the World Bank undertaken in over 27 countries demonstrates the importance of competitive pressures on companies to stimulate innovation, which enhances their productivity.
- An increase in private investment has been accompanied by a corresponding decrease in poverty in India, China and Uganda. Thus a key to decreasing poverty lies in the ability of a country to attract private investment. A functional competition policy constitutes an integral part of the regulatory environment that stimulates private investment by reducing uncertainty in the market and boosting investor confidence.
- DFID, UK is embarked in a mission to accumulating evidence from the developing world to further strengthen this linkage between competition policy, private sector development and poverty reduction.
- Further, DFID, UK has been actively engaged with assessing the state of competition in various developing countries, and providing the necessary tools to senior policy-makers of these countries to combat anti-competitive practices and effectively implement their competition regimes. In this regards, DFID has developed the 'Competition Assessment Framework'.
- Eventually, certain significant challenges that impede the implementation of competition regimes were identified – e.g., competition policy and its conflict with other policy objectives; lack of political will and independence; small size of many developing and least developed country markets; persistence of anti-competitive practices and natural monopolies; and capacity constraints.
- In his conclusion, Roger reiterated that fair competition matters a great deal in Africa – and in order for African markets to be competitive appropriate competition laws and proper implementation strategies need to be drawn up, which requires in addition to developing the capacity of practitioners entrusted with the responsibility to implement the act, also the participation of various stakeholders in the process.

## **Floor Discussions**

- There is a need to develop some sort of a guiding framework to help developing countries evolve their competition laws. The Competition Assessment Framework developed by the DFID, UK could be helpful in this regard.
- A challenge for developing countries often is to strike a balance between the objectives of industrial policy on one hand and preserve consumer interests on the other hand. But, this is a challenge that developing countries must address and a functional competition policy offers this possibility.
- Competition policy has evolved as a subject over the past, and is now considered as a crosscutting issue like that of environment, health, gender, etc.

## **5.2 Competition Policy and Private Sector Development in Mauritius, Reshma Peerun, University of Mauritius**

Reshma is a member of the research team (Sunil Bundoo and Kheshwar Jankee Chandan, were the other two members) that undertook the research on the prevailing competition scenario in Mauritius, under the 7Up3 project. She raised the following issues in her presentation:

- Competition policy encompasses the whole spectrum of government measures that affect the behaviour and structure of enterprises and industry.
- Objectives of Competition policy vary from country to country but generally it tries to discourage anti-competitive behaviour.
- Benefits of a competition policy accrue both to consumers and the business community. While the benefits to the consumers are easily tangible, often firms do not understand the benefits that accrue to the business community. As a result of this, the business community often perceives a competition law as an additional administrative burden.
- Concerns about competition policy that arise from businesses – stem from the fact that competition policy is thought to undermine the objectives of industrial policy, which is not the fact.
- Given such a background, it is imperative to convince the business community of the benefits that accrue to them from a functional competition policy. This would determine the success of a competition regime, given that business plays a vital role in operationalising competition policy and law.
- Assessment undertaken in the 7Up3 project in Mauritius revealed that anti-competitive practices are rampant in the economy – viz., like market sharing, exclusive dealing and price fixing.
- Market concentration in Mauritius tends to be higher than average, on account of the size of the economy and the fact that not many big businesses operate in each sector. In such a situation, stability of the market needs to be analysed concurrently with concentration in order to get a better picture.

### **Floor Discussions**

- The size of the market (often characterised by few dominant players in each sector) makes it necessary to design the law and the subsequent interventions accordingly.

- Competition law has not been operational in the country on account of change of political power. Given this, some sort of continuity has to be ensured by the government.
- A future trend of the market could be of convergence (like has been in other countries, e.g, Namibia) – where SMEs have come together to abide by necessary compliances, as individually they were unable to do so. The regulatory institutions would have to take note of the emergence of such trends in future and make provisions accordingly.

### **5.3 Competition Policy and Private Sector Development in Mozambique, by Alberto T Bila, University Eduardo Mondlane, Mozambique**

A significant issue that Bila highlighted in his presentation was the fact that the Mozambican economy is dominated by the existence of an extremely large number of Small and Medium Enterprises (SMEs) and thus the competition law and the process of competition enforcement would have to corroborate with the characteristics of the SMEs. The other issue that he highlighted was the fact that there is no dearth of regulations in the country – but the fact remains there is little progress as to ‘Who’ would implement/enforce those regulations and ‘How’? The issues he raised are summarised as under:

- The government needs to understand and re-think its role in motivating private sector development in the country from the perspectives of ensuring that private sector development leads to equitable growth and social development. At present it seems there is a severe lack of political will in this regards.
- Mozambique lacks a framework for private sector development in the country, and hence an ‘enabling environment’ for the private sector to flourish. It is often seen that the government favours big projects, while there is hardly any focus on the development of the SMEs sector, which occupies a large chunk of the market and provides livelihoods to a vast majority of Mozambicans.
- The financial sector is oligopolistic; and there is a high level of government interference in this sector. Anti-competitive practices are rife in transport, telecom, utilities and energy sectors.
- The country is undergoing a spate of legal reforms, which includes the competition policy and law of the country.
- The Ministry of Trade and Industry has presented the draft to the council of ministers. It is expected that the government would involve the stakeholders into the process of developing the law through a consultative process, once the ‘draft’ has been approved by the council of ministers.

#### **Floor Discussions:**

- It is not clear as to when the Mozambican competition law would become operational. It is sometimes even felt that the government is not very keen to fast track the process of developing and implementing the law. Reasons behind this are unknown.

- Mozambique requires a framework for private sector development. The competition act would have to corroborate with the contours of this private sector development framework.
  - The process of development and implementation of the competition law of Mozambique would have to take into consideration the issues of the SMEs sector, which dominates a majority of the country's market.
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## **6. 7Up3 Project Partners Meeting**

### **6.1 Participants:**

#### *i. Partners:*

- Monname M Monnane, BIDPA, Botswana
- Barulaganye Mogotsi, BOCONGO, Botswana
- Seifu Ali, AhaECoPA, Ethiopia
- Charles Chilimampunga, CSR, Malawi
- Mosadeq Sahebodin, ICP, Mauritius
- Reshma Peerun, University of Mauritius, Mauritius
- Alberto Bila, UEM, Mozambique
- Mauzinho Nicol's, DECOM, Mozambique
- Rehabeam Shilimela, NEPRU, Namibia
- Kimera Henry Richard, CONSENT, Uganda
- Shaban Sserunkuuma, CONSENT, Uganda

#### *ii. Advisers and other experts:*

- Peter Muchoki Njorge, Monopolies & Prices Commission, Kenya
- Roger Nellist, Investment Climate Team, DFID, UK
- Douglas Reissner, Namibia Competition Commission, Namibia
- S Chakravarthy, Consultant on Competition Policy, India

#### *iii. CUTS representatives:*

- Rijit Sengupta, CUTS CCIER, CUTS International, India
- Clement V Onyango, CUTS Nairobi Resource Centre, Kenya

### **6.2 Summary of Proceedings**

6.2.1 Rijit Sengupta, representing CUTS CCIER and coordinating the 7Up3 project initiated the discussions in this partner's meeting. He started by conveying the 'good news' that the Norwegian Agency for Development Cooperation (NORAD) has approved support to the Stage II of the project. The agency would support the project till February 2008, as per the present contract.

6.2.2 He summarised in a brief presentation the activities of the *Stage-II* of the project (as under), some of which have already been undertaken and the other to be implemented over the course of the project.

- i. A Training Workshop entitled, “Africa Regional Training Workshop on Competition Policy and Law Implementation” was undertaken over 15-17 February 2007 in Pretoria, South Africa in partnership with the Institute for Global Development (IGD), South Africa. Over 30 participants comprising mainly practitioners representing the competition authority and/or the line Ministry (handling competition issues, in countries without a competition authority) from 10 Sub-Saharan countries were present in the workshop, which provided a blend of theoretical discourse on competition issues and practical hands-on exercise of how to deal with competition affecting situations.
- ii. The international conference being held in Mauritius entitled, “Competition Policy Private Sector Development and Poverty Reduction in Africa”, in partnership with the Mauritius Ministry of Industry, SMEs, Commerce & Cooperatives was an occasion to showcase the research findings of the project and link competition with private sector development, growth and poverty reduction in eastern and southern Africa.
- iii. The next set of activities would be to organise National Training Workshops (NTWs) on competition policy and law implementation in the project countries. CUTS would work with the local partners in order to develop the format and agenda of the workshop, and also finalise the logistical arrangements. The partners’ meeting would help develop an overall framework of these training workshops and also identify some of the Resource Persons from among the experts present in the meeting.
- iv. A challenge that needed to be addressed was the impending need to develop the understanding on competition policy and law issues in each of the project countries. Although the project has been able to raise the understanding of a select group of stakeholders, what needed to be done was to reach out to a larger group of people. One way for accomplishing this would be to develop briefing papers on country-specific issues linking competition with other public policy issues – and thus taking the debate on the ‘need for a healthy competition regime’ to a wider group of people to influence policy.
- v. Given the fact that many of the countries have a ‘budding’ competition enforcement agency (competition authority) and many don’t have them at all (and are in the process of constituting these authorities) there is a ‘felt need’ for guiding these institutions in the process of implementing their competition laws. CUTS has conceptualised the preparation of ‘Competition Toolkits’, which would act as a resource hand-book and help guide the competition authorities/line Ministries in the process of competition enforcement. Country specific ‘Competition Toolkits’ would be prepared for each of the project countries.

6.2.3 Speaking further, Rijit highlighted some of the accomplishments of the 7Up3 project, which would help focus on the future of competition research, education and advocacy, not only within the schedule of the 7Up3 project, but also beyond it.

- i. The 7Up3 project has helped civil society pioneer the work on competition research and advocacy in their respective countries. It would be necessary to sustain the momentum achieved on the subject in the countries by conceptualising country-level initiatives on competition, especially by the civil society organisations leading this process in the project countries.
- ii. Interest on competition issues has been transmitted gradually by the civil society to various government circles and policy-makers. Both the state and non-state actors have been able to establish a process in order to engage with each other on improving the competition scenario in the countries.
- iii. The need for skill enhancement and capacity building has been appreciated especially in the government circles (particularly among the department/institutions dealing with competition affairs in the countries).
- iv. Regional authorities (COMESA, SADC, SACU, AU Commission) have shown interest in imbibing the outcomes from the project into the process of synergising regional legislations/processes with the national competition regimes.

6.2.4 Following the presentation, the floor was opened up for interventions by the project partners, advisers and the experts, and the following is a summary of the discussions that ensued:

#### 6.2.5 Substantive Issues:

- i. Liberalisation of economies (especially in the project countries) makes it necessary for the process of competition evolution and implementation to take into consideration the impact of privatisation on competition in the market.
- ii. One of the positive impacts of the project has been that it has led to the formation of some sort of network among the organisations in the seven countries of economic policy issues, and especially competition and consumer protection. The representatives have also been provided the opportunity to learn from the expertise and knowledge of leading international competition scholars and experts (e.g., through conferences such as these) and linked to international networks and resources on the subjects.

#### 6.2.6 Specific Points:

##### *National Training Workshop:*

- iii. The period between June to August, 2007 should be allocated for these events, after prior consultation with the project partner organisations. 3-4 International resource persons (a mix of the resource persons from the region, other developing countries and developed countries – comprising

- of practitioners and academicians) should be identified for these training workshops. A panel of 8-10 trainers could be constituted.
- iv. Commitments were received from Peter M Njoroge (Kenya) and Roger Nellist (DFID,UK) for nominating a representative from their institutions as a Resource Person. S Chakravarthy (India) also offered himself to be available for these training workshops.
  - v. In order to maintain continuity, follow-up training workshops should also be envisioned.
  - vi. Contacts would have to be maintained with the trainees to ensure that they are able to put to work the skills that they acquire over these training workshops.
  - vii. Partner organisations would select these trainees. A number of 25-30 trainees would be selected for these workshops, and comprise civil society organisations, consumer organisations, research institutions, university departments, media representatives, regulatory authorities and government departments.
  - viii. The purpose of the training would be to create a corpus of scholars in each of the project countries, who could complement the process of competition implementation in the project countries.
  - ix. CUTS would prepare a draft framework agenda for these workshops – comprising of a balance of theoretical aspects of competition policy and law, and practical exercises on dealing competition issues. The agenda for each workshop would be finalised with inputs and suggestions from the partner organisations. Further, inputs from the regional training workshop agenda should be incorporated in the agenda of the national training workshops.

National Reference Group (NRG) Meetings:

- x. It was proposed to have the fourth round of the national reference group meeting in conjunction with the training workshops.
- xi. After some discussions, it was finalised that NRG meetings would be held for half a day; and followed by two and a half days of the training workshop. Therefore, these events would be held over a period of 3-days in each of the project countries.
- xii. A CUTS representative (either from Headquarters in India, or the Africa offices) would participate in these events as a facilitator.

Periodical Publications:

- xiii. The partners would identify issues from the following that have been highlighted over the process of the project implementation (or add some more of their choice, that is relevant):
  - ✓ Competition Policy and Economic Development
  - ✓ Impact of Privatisation on Competition
  - ✓ Competition Policy and Consumer Protection
  - ✓ Business Welfare aspects of Competition Policy
  - ✓ Competition Law as a tool to regulate MNC behaviour

- ✓ Competition and the SMEs sector
- ✓ Anti-competitive Practices and Corruption
- xiv. CUTS confirmed that a token honorarium would be provided to the contributors of these publications.
- xv. It was desirable that 2 country specific briefing papers are developed in each of the project countries. These briefing papers would be extensively used for advocacy/awareness generation in the project countries.
- xvi. Kimera Henry Richard (CONSENT, Uganda) suggested developing interesting posters on Competition Policy issues as a public education tool and disseminate these extensively in the project countries/region.

Competition Tool-kit:

- xvii. As had been shared with the project partners earlier (in the Stage-II Inception Meeting in November 2006, Nairobi), a brief presentation on the competition tool-kit was made, especially to orient the partners and the others on the 'inputs' that would be required for developing these tool-kits. It was expected that the partner organisations would accumulate the inputs for these tool-kits, and help in the process of developing them.
  - xviii. CUTS is in the process of finalising a 'Competition Toolkit for Vietnam'. The outline of the toolkit is therefore ready, and all that needs to be done is to make these toolkits country specific – with as many case studies, illustrations, examples as possible.
  - xix. A suggestion was posted that once the 'draft Toolkits' are ready it should be reviewed by a 'working group' constituted in each country for this purpose and their inputs incorporated in the toolkit.
  - xx. Ideally the line ministry and/or should be the primary target for these toolkits. But, other stakeholders would also be encouraged to use the toolkit for better comprehension of the direction that competition reforms should progress in each country.
  - xxi. End-October 2007 was identified as the deadline to finalise these toolkits.
  - xxii. Douglas Reissner of the Namibia Competition Commission welcomed the idea of developing the 'Competition Toolkit' and expressed his eagerness to be involved with the process, helping NEPRU (the Namibia country partner) in the process of developing the tool-kit.
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## Day Two: March 30<sup>th</sup> 2007

### **7. TECHNICAL SESSION III: REGIONAL COMPETITION LEGISLATIONS AND NEED FOR HARMONISING NATIONAL COMPETITION LAWS**

#### **7.1 COMESA (Common Market for Eastern and Southern Africa) Competition Policy and Regulations, by Peter M Njoroge, Monopolies and Prices Commission, Kenya**

7.1.1 Peter M Njoroge is the Commissioner of the Monopolies and Prices Commission (MPC), Kenya and has been closely associated with the development and planning for implementation of the COMESA Competition Policy and Regulations. The following issues were highlighted by Peter in his delivery:

- While the competition legislation for the regional bloc was adopted by the COMESA Council of Ministers in December 2004, it has been quite recently that the process for operationalising the legislation has been expedited.
- Discussions are at an advanced stage currently on the process of getting the COMESA Competition Commission into action.
- Currently, COMESA is appointing a Board of Commissioners.
- One of the major objectives of the COMESA Competition Law and Regulations is to deal with competition cases where more than one jurisdictions is involved – a situation that becomes impossible to be resolved through national competition laws
- COMESA competition legislation takes stock of the whole gamut of competition law including restrictive business practices, horizontal agreements (agreements among competitors), vertical agreements, and abuse of dominance.
- The legislation also incorporates Consumer Protection into its purview.
- Adoption of the COMESA Competition Policy and Regulations has also exerted pressure on those member states of COMESA (the biggest regional bloc in Africa comprising of 20 countries), who do not have a competition law in place.
- Under such circumstances, CUTS endeavour of developing understanding and knowledge on competition policy and law issues in eastern and southern Africa through the 7Up projects is an extremely relevant initiative.
- Peter highlighted the importance of the capacity building aspect of the 7Up3 project, that in view of the fact that the promulgation of competition laws in the region has been a relatively new phenomenon (in countries that have embraced a competition law) and there is an impending need to develop not only the capacity of the government officials and practitioners entrusted with the responsibility of implementing the law, but also among other stakeholder groups in order to develop a competition culture.

- He asserted that the outcomes of the project would provide useful inputs not only to the COMESA Secretariat but also act as a valuable reference to the COMESA Competition Commission.

## **7.2 Harmonisation of Business Laws in Africa – Commission of the African Union by Adou Jean Yves, AU Commission, Ethiopia**

7.2.1 Jean Yves represents the African Union Commission that has embarked on an exercise to harmonise business laws in Africa, with the objectives of facilitating business growth across the continent. A workshop was held in Swaziland in December 2006 to kick-start this process and it emerged that competition law and consumer protection law were two laws which were included in the harmonisation exercise.

7.2.2 Yves apprised the audience of certain salient points of this harmonisation exercise, which comprised of – its objectives; inventory of the initiatives; results of the Swaziland workshop; and the way ahead. The highlights of his delivery were as follows:

- Principal objective of harmonisation of business laws in AU is to facilitate business operations and transactions at low cost. It includes creation of markets at regional and continental level characterised by free movement of goods, services, and capital.
- Institute of African Law has also carried out works on reforms on the model of legislations in investments.
- It is true that at the continental level the AU has only just embarked on the process. By 2025, AU aims to have an integrated and united Africa that has law, justice and peace that is interdependent and determined to achieve an ambitious strategy of economic and social development.
- The development of business brings about creation of wealth, employment and fosters development of new technologies, reinforces trade and brings about support to social activities in areas of health, education and in so doing contribute to the achievement of MDGs. It is imperative that the continent examines the question of a business law in a very holistic manner instead of waiting for influence coming from multi-lateral institutions.
- A recommendation received at the Swaziland workshop was for the AU Commission to establish a African Union Standing Committee on Harmonisation of Business Laws in Africa with its principle objective of elaborating the instruments for the harmonisation. The committee should comprise of the member states of the AU and receive inputs from institutions working in the relevant fields, e.g. OHADA, African Law Institute, UNIDROIT, UNCITRAL and other research and academic institutions willing to assist the Commission.
- Concerning the work programme it was suggested that a work programme be developed for the next five years to work on the priority areas. Competition Law and Consumer Protection Law are 2 of the priority areas that have been identified by the Commission.

- Further, the work programme should concentrate on initiating studies, organising workshops to ultimately develop and elaborate instruments for the harmonisation process. The work programme would be closely supervised by the Standing Committee, which should meet periodically to take stock of the progress and provide guidance to the direction of the process.

### **Floor Discussions**

The following is a summary of the floor discussions reflecting issues raised in connection with both the above presentations:

- The COMESA Competition Policy and Regulations articulate the practical relationship envisaged between the regional authority and national competition authorities of the member states. There is a clear understanding regarding the scope of operations among the national and the regional competition authorities. While, the COMESA competition policy acknowledges the responsibility of the national competition authority on issues within the jurisdiction of a particular country, it assumes responsibility in cases that have regional dimensions (i.e., in cases where more than one country is involved).
- COMESA Commission Secretariat would be in place by October 2007 (expected).
- COMESA Competition Commission would draw reference from the operations of the INTERPOL.
- It is essential for the AU Commission to take stock of the progress being done by the 'Investment Climate Facility for Africa' (a new multi donor and private sector initiative to catalyse investment promotion and private sector development in the continent), and explore the synergies between these two initiatives.
- The AU Commission was suggested to initiate impact assessment studies; and look at both domestic investment and foreign investment.
- The AU Commission should establish close contacts with the national competition authorities in order to co-ordinate its activities better and streamline the process keeping in view the priorities and work programme of the national competition authorities.

### *Status of Competition Law in The Gambia*

A request was made to The Chair by Omar Jobe, Researcher representing Pro-Poor Advocacy Group (PROPAG), The Gambia to present before the audience a brief overview of ‘Competition Regime in The Gambia’. The following paragraphs summarises his presentation in brief:

- *Contextual Factors:* Gambia is a small size country with a small domestic market, and a tax based economy about 80 percent of revenue comes from taxation. The country has a very narrow economic base as it depends on agriculture, tourism and export trade.
- *Government Measures:* Government has reduced the extent of state ownership of public enterprises; eliminated price controls; adopted a divestiture policy and established a divestiture agency; a system of licensing of public utilities has also been introduced.
- *Current Status:* The Gambia is on the verge of adopting its competition law. Currently, the Ministry of Trade is adding its final touches to the draft bill, which would be presented before the Parliament soon. Some Commonwealth Secretariat consultants were entrusted with the assignment to develop The Gambia’s competition bill. It is further envisaged that the competition authority would start functioning with a small Secretariat and support staff, and then gradually grow in size with time. It is not expected that the authority would start with a big (financial and human) resource base.
- *Premise of the Proposed Bill:* The Competition Bill would enable the evolution of free functioning markets, and open it up to both internal and external competition. The bill would be applicable to both the private and the public sectors. The Gambia business community has welcomed the initiative and is not averse to the introduction of competition law in the country.
- *Challenges for The Gambia:* Lack of expertise and resources on the subject. Capacity building and human resource development support is required to ensure regulatory agencies are able to fulfil their mandate.

## **8. TECHNICAL SESSION IV – INTERFACE BETWEEN COMPETITION POLICY AND SECTORAL REGULATION**

### **8.1 Interface between Competition Policy and Sectoral Regulation in the UK by Nicola Mazzarotto, UK Competition Commission, United Kingdom**

8.1.1 In many countries sometimes problem arise as each sectoral regulator has his own turf to play in - be it electricity, ports, water or telecom. They also have a mandate to introduce competition to their sector. This could often create a state of conflict between the sectoral regulator and the competition authority.

8.1.2 Nicola started his presentation by asserting that it is extremely critical for a competition authority, whether in developed or developing countries to identify ‘what to regulate and how?’, something that is often governed by the provisions of the competition law with some flexibility to accommodate external changes. Hence, for a competition law of a country to be effective, it should unambiguously be able to address this question. Follows, is a brief representation of the issues raised in his presentation where he reviewed certain facets of this interface with particular emphasis on the situation in the United Kingdom:

- The regulatory framework should be based on market conditions. However, keeping in view the fact that the market is a dynamic entity, the regulatory framework (both in case of sectoral laws and competition legislations) should also be flexible enough to accommodate alterations in the market.
- It is critical for a competition authority to ascertain on ‘what to regulate and how’, based on current market conditions, new technologies, costs involved and accruing benefits.
- The process of collaboration between the competition authority and the sector regulator needs to be clearly set out and defined – as to who does what? This is something that the policy-makers need to especially be aware of while developing the legal/regulatory framework.
- On several issues the collaboration between competition authorities and sectoral regulators become inevitable, e.g., while undertaking merger investigations.
- There could be several aspects of this collaboration, especially in terms of – knowledge sharing, understanding the relationships, and feedback mechanisms.
- It’s desirable that the ultimate aim of such collaborations is to reach ‘consumer welfare goals’, an outcome on which both competition law and sectoral laws (and policies) converge.
- The UK Competition Commission sometimes has to carry out both regulatory and competition (promoting) functions – especially while undertaking (i) Market Inquiries (case: groceries inquiry, mobile phone termination charges in 2003); and (ii) Merger Review (case: merger between water companies).
- In order for both sectoral regulators and competition authorities to be able to do their job efficiently, it is crucial that a congenial relationship exists (or is developed) between these institutions; and that they are able to adapt to changing market conditions.

## **8.2 Competition and Telecom Sector Regulation in Namibia by Rehabeam Shilimela, NEPRU, Namibia**

8.2.1 Rehabeam Shilimela, Researcher representing the Namibian Economic Policy Research Unit (NEPRU) started his presentation by apprising the gathering that Namibia does not have a competition law, and hence regulation of the sector is done by a sector regulator (Namibia Communications Commission) established by the Act, which is also responsible for ensuring competition in the Namibian telecoms market. The presentation underscored the following points:

- Telecom market structure in Namibia comprises of: (i) Nampost – a statutory monopoly holding exclusive rights for standard mail services in the country; (ii) Telecom – a SOE, enjoying landline monopoly; (iii) 2 mobile phone operators with a majority share resting with the government, a third private operator (Cellone) has just initiated services.
- In case of Nampost and Telecom it could be concluded that both the companies have made substantial progress in terms of extending and improving their infrastructural facilities, but there has been a progressive increase in tariffs, which has hurt consumers.
- Consolidation of the telecom industry has been envisioned by the government through the process of creating the Communications Authority of Namibia (CAN, as contained in the Draft Communications Bill 2002) – which would bring within its purview the whole telecom sector.
- Introduction of a new operator in mobile telephony could intensify competition, but the landline remains devoid of competition and in the grasp of a total monopoly. In order to ensure that the dominant position is not abused and also to usher in competition the government needs to explore the possibility of additional landline operators in the sector.
- Communications Authority of Namibia (CAN) needs to be established soon, and efforts should be made by the government to open up the telecom (both landline and mobile telephony) to private players. Maintaining this sequence of regulation followed by privatisation would be crucial. CAN should be provided the mandate of regulating the sector (both technical and tariff) as long as the Namibia Competition Commission (NaCC) doesn't become operational. Once the NaCC becomes operational, it would assume the responsibility of tariff/price regulation while the mandate of regulating technical matters would rest with the CAN.

## **8.3 Competition and Electricity Regulation in Ethiopia by Seifu Ali, AHa Ethiopian Consumer Protection Association (AHaECoPA)**

8.3.1 Seifu provided a overview of the electricity sector in Ethiopia, and touched upon certain issues, which impinge upon the interface issues between sector regulation and competition in the electricity sector in Ethiopia:

- Ethiopia has a tremendous power production potential in order to meet the growing demand for electricity in the country. A Rural electrification Programme

- initiated by the government has a present coverage of 17%; efforts are being constantly made to enhance this coverage.
- The regulatory framework in electricity is developed under the Proclamation No. 86 of 1997, which establishes the Ethiopia Electrical Power Corporation – the sector regulator.
  - The regulatory agency has been established as an independence federal organ accountable to the Ministry of Mine and Energy.
  - The overall functions of the regulatory agency are – tariff setting, licensing, and technical and commercial services. The agency is also mandated to ensure protection of consumers’ interest and maintains a close association with the Ethiopia Trade Practices Investigation Commission.

**Floor Discussions:**

The following paragraph summarises the floor discussions that ensued:

- It is important for countries struggling to establish an appropriate competition framework to draw lessons from the institutional structure and functions relating the Office of Fair Trading and Competition Tribunal of the UK. And also to refer to the guidelines governing the cooperation between the Office of Fair Trading (UK) and the sector regulators.
- How to bring trading corporations and agricultural marketing boards within the purview of the competition law?
- Although Mauritius is still struggling to have a competition regime in place, but the country has some experience with sectoral regulators. Sectoral regulators are accountable to the respective ministers whereas the competition law stays within the ministry of commerce. It is therefore important to bring about inter-ministerial coordination in order to ensure that there is cooperation between the sector regulators and the competition authority (whenever it is established).
- The effectiveness of the cooperation between the sector regulators and the competition authority also often depends on the quality and vision of the officials heading the two institutions and their mutual relationships.
- 10 percent of owners of mobile phones in urban areas of The Gambia have to move around with two mobiles, one for each network. The reason for this is calling from one network using the other is a complete nightmare. It is essential therefore that the sector regulator ensures inter-connectivity.

**9. SESSION – V: EMERGING DIMENSIONS OF COMPETITION POLICY AND LAW IN EASTERN AND SOUTHERN AFRICA**

9.1 This session started with a presentation by Rijit Sengupta, Project Coordinator of the 7Up3 project, where he enumerated the following issues:

- *Institutional Issues:* some of the countries in the region don’t have a competition law at the moment, some are in the process of developing their competition laws,

- while the ones that have, possess little experience of implementing competition regimes.
- *Functional inadequacies:* the countries that possess a competition authority are some times caught up with an improper sequencing of competition administration functions; whereas lack of adequate capacity to implement competition laws is an inherent feature of all of them.
  - In addition, the lack of a competition culture among the other stakeholders makes the job of competition implementation a daunting challenge.
  - Given the above background, a considerable amount of positive development has been witnessed with the implementation of the 7up3 project, like – (i) civil society organisations have pioneered the work on competition policy in the project countries; (ii) national governments in the project countries have become interested to engage with dialogues (also with the civil society) on competition policy and law implementation; (iii) a ‘felt-need’ for capacity enhancement on competition policy has been realised within the top-level of the institutions/departments entrusted with competition administration; (iv) there has been a keen interest among all the regional authorities (COMESA, SADC, SACU) on competition policy.
  - Trends that would determine the future of competition policy and law in eastern and southern Africa could be treated under the three broad headings of – (i) Research; (ii) Advocacy and (iii) Networking.
  - *Research:* Certain areas of research have been highlighted in the country research reports to be taken up for further investigation at the national level in order to educate the wider stakeholder group and garner the support necessary for effective implementation of competition regimes in the region.
  - *Advocacy:* Various advocacy points to be taken note of have also emerged. These points would need further debate and discussion among the larger community in the region in order for competition to flourish.
  - *Networking:* It is critical that the momentum gained among both the state and the non-state actors through this project is maintained. And, one of the ways this could be achieved would be by developing and sustaining a network. CUTS has been the Secretariat of the International Network of Civil Society Organisations on Competition (INCSOC, [www.incsoc.net](http://www.incsoc.net)), and it was time to launch a ‘Pan African Network to Promote Competition’ (PANPROC) as a network of African organisations/individuals that are already members of INCSOC and others who have been engaged with the 7Up3 project, and are interested in competition issues.

### **Floor Interventions**

Follows, a brief summary of relevant points raised during the floor discussions:

- It is critical that competition policy and law issues are demystified into aspects that are easily understandable by the layperson, in order for the layperson to be able to relate to the ‘need for a competition policy and law’.
- ‘Capacity Building’ is an important issue for young/bussing competition authorities. It is in the interest of such authorities that a ‘needs assessment’ of the

- capacity building/training needs is undertaken, and future interventions based on the outcomes of such assessments.
- Need to link networks like PANPROC with other regional networks on socio-economic issues in order to expose scholars and practitioners on socio-economic issues to competition issues that are relevant for the region.
  - A way for convincing senior policy-makers of the need to have a functional competition regime in place would be to demonstrate the linkage between competition (policy) and development (policy), and how it works in the benefit of consumers.
  - The business community has to be convinced that competition works in business welfare, and that it is not an additional regulatory burden on business. Competition facilitates private sector development – this need to be illustrated to business associations and their members.
  - It would however be important for consumer organisations not to over-emphasise on competition policy and loose focus on their primary mandate of protection of consumer interests.
  - Competition policy is needed in the developing (and least developed) countries of Africa much as it is important for the developed countries.
  - PANPROC should be renamed to represent ‘Pan-African Network to Promote Competition and Consumer Protection’.
  - The ‘Eastern and Southern Africa Competition Forum’ is a relatively new initiative among competition authorities of the region, and it would need to be constantly informed of outcomes of initiatives undertaken in the region like the 7Up3 project research findings. It is in mutual interest.
  - Need to illustrate how competition policy and law could help the poor – through examples and case studies from the region. By showing how competition acts in (poor) consumers’ interest.
  - A ‘Competition Awareness Generation Programme’ could be developed for the region by targeting – Ministers, Judiciary and the Media as the beneficiaries.
  - PANPROC could facilitate the development of a *Pan African Newsletter on Competition and Consumer Protection Issues*.
  - It is difficult for governments to be involved in consumer protection as it is also involved in promotion of business. One way could be for the government to create an environment for civil society to be involved in consumer protection, and this bridge the gap.
  - Success of competition policy depends on the way civil societies handle more awareness raising. More outreach is required. Therefore the network suggested would be a good means of information sharing system. Need for training for various stakeholders is important.
  - Francophone countries of the continent are often overlooked in competition and consumer protection debates. Given that UEMOA has a regional competition policy which has not been implemented to a great extent and also that many of these countries have a functional competition law, there is a need for the international community and for organisations with experience on competition policy and consumer protection in other developing and least developed countries

- of Africa, like CUTS International to design interventions on competition policy and law for Francophone countries of Africa.
- CUTS is planning to take up such initiatives in Francophone countries, and is looking out for support from development partners. African Union could also be approached.

## **10. SESSION VI: ROUND-TABLE ON ‘WAY FORWARD FOR COMPETITION AND REGULATION IN SUB-SAHARAN AFRICA’**

10.1 This final session of the conference was chaired by Roger Nellist, DFID (UK) and he invited all the participants to provide their comments/suggestions on what needs to be done to promote competition policy and law in the Sub-Saharan Africa region. The following points were raised by the participants in this round-table session:

- Good competition policy is a driver for private sector development, growth and poverty reduction.
- Different countries have different levels of development and the challenge is how to imbibe best practices from competition policies worldwide and adopt the same to suit circumstances and realities of the country in question. The task becomes complex and tough especially in case of small economies.
- There is a need to build synergies between NGOs, consumer movements and trade unions.
- Rationalisation of competition regimes is very important, where one has to consider competition policy in line with the industrial policy and national development policy of a beneficiary country.
- The forthcoming training workshops in the seven project countries would help generate more awareness and understanding on competition policy and law and the stakeholders that need to be targeted among the non-state actors should be the media, academicians, legal fraternity and the private sector/business associations.
- CUTS has undertaken the mission of making the process of competition evolution and reforms in the region, inclusive by opening the doors to stakeholders that have historically been avoided in consultations on economic policymaking in the developing world. Others should contribute to this mission of CUTS by supporting the organisation in its endeavour.
- In the world of conflict, competition policy and law has great potential for conflict resolution, an aspect that needs further discussions and brainstorming.
- The idea of developing ‘Competition Tool-kit’s as resource guidebook to help practitioners implement competition regimes in beneficiary countries is an extremely important initiative taken up by CUTS. The Institute for Global Dialogue (IGD), South with the help of CUTS would like to develop the ‘Competition Tool-kit’ for South Africa.
- Need to study further the linkages between Competition Policy and Small and Medium Enterprise (SMEs) Policy and assess how it fits into the broader industrial policy in the project countries.

- Advocacy efforts only targeted towards civil societies will not suffice, similar advocacy strategies would have to be engineered for the private sector, businesses and government agencies.
  - The establishment of PANPROC could be a significant milestone in propagating the importance and need for competition policy and consumer protection in the continent. PANPROC would need to have synergies with other initiatives and institutions like – the Investment Climate Facility for Africa, Harmonisation of Business Laws in Africa (AU Commission), regional competition institutions (under COMESA, EAC, SADC).
-