

# Strengthening Constituencies for Effective Competition Regimes in Select West African Countries (7Up4 Project)



**Final Project Report**  
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## I. INTRODUCTION

The effectiveness of competition law depends on the extent to which the law has actually evolved in a country in tandem with socio-economic and historical developments in that country. It is necessary that there be some amount of acceptability and ownership of the law among the stakeholders, which is possible only if their expectations and concerns are taken into consideration while drafting, implementing and revising the law, and if their capacity is built up to the point where they can effectively participate in the enforcement process. This is essentially the inspiration to the bottom-up approach of the CUTS's 7Up Model (<http://www.cuts-ccier.org/7Up-model-en.htm>). CUTS has been effectively implementing such projects in Asia and Africa.

There has been an overall healthy progress across Sub-Saharan Africa in the recent past towards implementing domestic competition regimes with the exception of some countries in West Africa that have generally lagged behind. This was noticeable despite the fact that competition laws were adopted in some of these countries before those in other parts of Africa.

CUTS witnessed favourable movements among governments and regional authorities in West Africa, particularly in the Economic Community of Western African States (ECOWAS) and the Western African Economic and Monetary Union (WAEMU), in the mid-2000 onwards, for operationalising national and regional level competition laws. This motivated CUTS to develop a project on its 7Up Model to enhance the capacity of national stakeholders in select countries of West Africa on competition policy and law.

The countries selected were *Burkina Faso, The Gambia, Ghana, Mali, Nigeria, Senegal* and *Togo*. It was envisaged that empowered stakeholders would contribute toward developing an environment for domestic competition regimes to evolve and thrive. It was felt that in order to usher in healthy competition regimes, it was imperative for the state and non-state actors to complement each other's efforts.

A two-year project entitled 'Strengthening Constituencies for Effective Competition Regimes in Select West African Countries', popularly known as the 7Up4 project (being the 4<sup>th</sup> in the series of 7Up projects), was implemented in these seven countries from mid-2008 onwards with the support of the Department for International Development (DFID), UK; International Development Research Centre (IDRC) Canada and the Ministry of Foreign Affairs, Sweden.

The project was designed to meet the following *objectives*:

- Evaluate impediments to evolving national competition regimes and identify the best way for addressing such impediments through a participatory process involving multiple stakeholders.
- Develop the capacity of national stakeholders including policy makers, regulators, civil society organisations, particularly consumer groups, academia and media to understand and appreciate competition concerns from national, regional and international perspectives.

- Establish a channel of communication between civil society, business and the government in order to facilitate a dialogue on the best way forward for promoting competition and consumer protection measures at the national level.
- Provide inputs into the process of drafting new competition legislation or reforming existing competition legislation, drawing on best practice from other developing/least developed and developed countries.
- Disseminate information materials (pamphlets, briefings, monographs, etc.) that bring out clearly the linkage between competition and other public policy issues in order to mobilise public support for competition and regulatory reforms.
- Help build constituencies for promoting competition and consumer awareness by identifying a representative group of national stakeholders and transforming them into a core cadre (nationally) on competition policy, regulatory issues and consumer protection.
- Establish dynamic linkages between the national stakeholders (national reference groups) and global networks and coalitions on competition and regulatory issues to sustain the interest and continue activities for promoting a healthy competition culture.

It was anticipated that the implementation of the project would lead to the achievement of the following *outputs* and *outcomes*:

#### Outputs

- Enhanced knowledge on competition policy and consumer welfare issues across a cross section of national stakeholders.
- Countries helped to fast-track the process of evolution and implementation of national competition regimes – with substantial inputs from the civil society (thus establishing a process of partnership).
- Process of dialogue initiated between government, civil society and business community on economic and regulatory policy issues that will make it possible for the stakeholders to work together and shape the economic reforms agenda.
- Credibility of civil society organisations asserted as ‘actors’ in national competition reforms – thus motivating them to pursue the competition reforms agenda further in future.
- The international community made aware of the need to promote a healthy competition culture in the region, and thereby to contribute meaningfully to the process of strengthening the competition regimes therein and in the region.

#### Outcomes

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

## II. PROJECT IMPLEMENTATION

*Project Team:* A ‘Project Team’ at CUTS was entrusted with the responsibility to implement this project. It comprised of a Project Director, a Project Coordinator and 2 Project Associates. Further, a bi-lingual Project Adviser and a bi-lingual Research Adviser were also selected to be part of the extended project team.

*Project Advisory Committee (PAC):* A select group of international experts, scholars and representatives of international organisations were invited to be members of the ‘Project Advisory Committee’. Advice was sought from them from time to time by the project team on project implementation issues. Members of this PAC also provided inputs to develop contours of research outputs and reviewed research products and other documents.

*Operational Strategy Note (OSN):* An OSN was prepared (in both English and French languages) to help the process of project implementation by CUTS. This acted as the toolkit for implementing the project activities. (English version is available at [http://www.cuts-ccier.org/7up4/pdf/Operational\\_Strategy\\_Note.pdf](http://www.cuts-ccier.org/7up4/pdf/Operational_Strategy_Note.pdf) and French version at: [http://www.cuts-ccier.org/7up4/Fr/pdf/Notes\\_sur\\_la\\_strategie\\_operationnelle.pdf](http://www.cuts-ccier.org/7up4/Fr/pdf/Notes_sur_la_strategie_operationnelle.pdf)).

*Time Schedule:* The schedule of activities mentioned in the project proposal was used as a reference to undertake the various activities under the project. The project was initiated on 1<sup>st</sup> June 2008 and scheduled to be completed by May 2010. Subsequently, an independent evaluation of the project would be undertaken over a period of two months (refer: <http://www.cuts-ccier.org/7up4/pdf/7Up4Timeschedule.pdf> for the time schedule). The launch meeting which was scheduled (as per the project proposal) to be held in the third month of the project, was organised in the first month itself (held in June 2008 in Accra, Ghana). Some delays were caused over the process of implementing the project, especially in the second year in finalising the country-specific Country Research Reports, as a result the final conference had to be shifted to August 2010. Further, we had underestimated the time that was required to evaluate this project, as it took more time than our anticipation of two months. CUTS therefore formally sought ‘no-cost’ extension of the project from the donors, who agreed to this proposal and the project was extended till end-December 2010.

*Partnerships:* The *modus operandi* of implementing regional projects by CUTS is to select country-specific project partners<sup>1</sup> and guide them in the process of implementing the project. CUTS selected its (project) partners on the basis of a few criteria as elucidated below:

- *Institutional memory:* Some of the partners (Ghana, Nigeria, The Gambia, Mali) had been known to CUTS earlier, and had participated in meetings of CUTS of earlier 7Up projects. (meetings of 7Up3 project organised in Mauritius 2007 and Botswana 2008).
- *CUTS Scoping Mission (end-2007):* Discussions were undertaken during a ‘scoping mission’ by CUTS in end-2007 (before the initiation of the 7Up4

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<sup>1</sup> See Annexure for the list of project partners

project in mid-2008), when partners in Ghana, Nigeria, The Gambia and Senegal were contacted in their respective countries in order to assess their interest on the subject, contacts with other stakeholders, credibility/visibility in the country, interest of the nodal officer, etc.

- Confidence about delivery: Some of the partners in Ghana and Nigeria had contributed 'country essays' for the CUTS publication "Competition Regimes in the World - A Civil Society Report". CUTS was confident that they would be able to undertake the activities of this project well.
- Reference: Others (like in Burkina Faso) were suggested by donors (e.g., IDRC) as they had already been engaged by them on economic policy related research projects.

### III. ACTIVITIES

Broadly, the activities can be sub-divided into the following:

- Preparatory work: Included the development of a project team, project implementation guidelines (OSN), negotiating and finalising project partnerships, and preparing for the launch meeting (June 2008 in Accra, Ghana).
- Research: Research was done to assess the state of competition in each country. In addition to documenting prevalence of anti-competitive practices and their ill effects, efforts were made to identify factors behind anti-competitive practices (policies and practices) and ways to address them. The research itself involved various (multiple) national stakeholders (who were interviewed and also surveyed). This helped raise their awareness on competition policy and law issues and for stimulating discussions at various levels.
- Advocacy and national dialogues: Representative groups (of 20-25 relevant stakeholders<sup>2</sup>) were identified with the assistance of the partners and sensitised on the purpose and benefits from this project. This group met thrice over the project implementation period in each country to review the research activities and discuss how the research findings can be used as inputs for advocacy on national competition reforms.
- Capacity building: Country-specific training workshops were organised and offered a rare opportunity for representatives from academia, government, competition authorities, regulators, media and policymakers to get acquainted with the basic knowledge of competition policy and law issues (see details of the National Training Workshops at: <http://www.cuts-ccier.org/7up4/NTW.htm>). A regional training workshop (with a bit more advanced agenda) was held for each of the French speaking and English speaking countries in the region. Representatives from competition authorities and regulatory agencies mainly participated in these trainings. A few academicians and representatives of consumer organisations also participated in these trainings. (refer: [---

<sup>2</sup> Referred to as National Reference Group or NRG \(see the details of the NRG meetings at: <http://www.cuts-ccier.org/7up4/NRGMeetings.htm>\)](http://www.cuts-</a></li></ul></div><div data-bbox=)

[cuts-ccier.org/7up4/events-RTW-f.htm](http://www.cuts-ccier.org/7up4/events-RTW-f.htm), for details of Regional Training Workshop held in Lome, Togo and <http://www.cuts-ccier.org/7up4/event-RTW-anglophone.htm> for details of Regional Training Workshop held in Abuja, Nigeria)

- *International Conferences*: Three international conferences on competition policy and law were organised under this project. These were the launch meeting (June 2008, Accra); interim review meeting (July 2009, Banjul) and final meeting (August 2010, Dakar). In addition to providing an opportunity to review the project findings and outcomes, these events were occasions when the participants from the region were also oriented to wide ranging issues pertaining to competition policy and its linkage with development and were able to interact with some of the most well-known experts on competition policy, globally. (refer: <http://www.cuts-ccier.org/7up4/7Up4-events.htm> to see the agenda and presentations in these events)

#### IV. OUTPUTS & OUTCOMES<sup>3</sup>

The following table provides an overview of the outputs and outcomes achieved by undertaking the above-mentioned activities of the project.

Activities	Outputs	Outcomes	References
<b>Research</b> [Development of the Preliminary Country Papers <sup>4</sup> and Country Research Reports <sup>5</sup> by the partners]	CSOs (project partners) from West Africa were oriented on competition issues and trained how to undertake research on competition and its impact on socio-economic development	i. Some of the representatives of the partners are now recognised within the country and at the international level as experts on the subject	Omar Jobe from Pro- PAG, The Gambia was appointed as a Commissioner of the Gambia Competition Commission <sup>6</sup> . Subsequently he was selected as one of the 5 members of the ‘Steering Committee’ of the <u>Africa Competition Forum</u> floated by DFID and IDRC on the basis of a CUTS initiative to foster greater impetus towards competition reforms in Africa
		ii. Partner organisations are contemplating developing a dedicated research centre on	Mbissane Ngom, the researcher engaged by CRES, Senegal has decided to establish an organisation to work on the issue of competition policy and law in Senegal  CEDRES (Burkina Faso) and ISSER (Ghana) are interested to establish such Centres within

<sup>3</sup> It should be noted here that outputs, outcomes and impacts of the 7Up4 project indicated here (and in the subsequent sections) are based on CUTS assessment. An assessment of the outcomes and impact of the project would also be reflected in report of the ‘Project Evaluation’

<sup>4</sup> PCP: Preliminary Country Papers are available on the project webpage

<sup>5</sup> CRR: Country Research Reports are available on the project webpage

<sup>6</sup> see reference at: <http://thepoint.gm/africa/gambia/article/2008/10/30/competition-commission-kicks-off>

Activities	Outputs	Outcomes	References
		Competition Policy issues	their institutions
Advocacy and Dialogues	Stakeholders realise that greater awareness and understanding on competition issues is necessary	i. Greater push witnessed in some countries to take the competition reforms process forward	In Nigeria, the project partner has been involved in pushing for adoption of the Competition Law in Nigeria
		ii. University level course on Competition Policy is being considered in some countries	University of The Gambia is introducing a course on <i>Market Competition Practices &amp; Development</i> as part of the Marketing Management master-level course
International Conferences	Select stakeholders from the countries/region participated in these international events	i. A number of these participants made presentations on various aspects of the project	Details of these presentations are available on the project website
		ii. Many of the scholars/practitioners from the region got an opportunity to interact with international experts on competition and organisations	CEON (Nigeria) and ISSER (Ghana) have been enlisted among 25 partners of UNCTAD's Research Partnership Platform on Competition and Consumer issues
Trainings	<p>i. Over 150 people representing multiple stakeholder groups trained on basic aspects of competition policy and law</p> <p>ii. Over 50 practitioners (government departments, competition agencies, regulatory authorities, etc.) were trained on 'advanced issues' pertaining to competition law enforcement</p>	Enhanced clarity and greater confidence among competition agencies on competition enforcement	<p>Competition agency of Mali (DNCC, Mali) organised the National Training Workshop in Bamako – which enhanced its visibility in the country.</p> <p>Competition agencies of Togo and Benin demonstrated greater understanding of challenges faced by them during their official submissions at the 6<sup>th</sup> UN Conference on Competition in Geneva, November, 2010</p> <p>Representatives from Sierra Leone (Ministry of Trade and Industry) participated in the regional training workshop for the Anglophone region, and the Ministry was subsequently able to get support from the EU for a competition related project. They acknowledged CUTS contribution towards motivating them in this direction</p>
		Involvement and interest among regional authorities (ECOWAS and WAEMU) on capacity building prompted CUTS to explore possible partnerships with them	A partnership between CUTS and the WAEMU Commission is already being discussed (ToR of this partnership has been submitted to the WAMEU)

## V. IMPACTS

There has not been such discussion on the need for achieving ‘impacts on the ground’ in any of the earlier 7Up projects as happened in case of the 7Up4 project. However, it was felt by donors that ‘impacts on the ground’ should be assessed midway in the project implementation. However, such assessment was not part of the project design and hence posed some challenges. Besides, the work on research and advocacy on competition law and policy issues has a creeping impact rather than an overnight one.

The 7Up-model has been recognised by the international community as being effective in evolving a culture of competition<sup>7</sup>. It was felt by CUTS that the need for incorporating an aspect of achieving ‘impact on the ground’ could have been explored right at the beginning when the project design, research content, etc. had been discussed at great length with the donors.

As is indicated in the project proposal, the main aim of the 7Up4 project was to raise the capacity of national stakeholders on competition policy and law issues, so that they could contribute towards the process of competition reforms. If the outcomes enumerated in the above table are analysed, it can be concluded that the project was able to achieve the goals fairly well.

However, some efforts were made by CUTS to assess and record some impacts that could be registered. These are highlighted below:

- A monopoly in the mobile phone market in Togo (*Togocell*) was quashed as a result of public education efforts by the partner in Togo through the press and other means. Such activities built up public opinion and prompted the government to renew the license (to operate) of the second operator (*Moov*) that had been pending for a long time resulting in the emergence of *Togocell* as the only provider of mobile phone services in the country - a position they were also abusing.
- Fast-tracking the process of development of a Competition Law in Nigeria, which had been going forward and backwards for a long time.
- Development of a course on *Market Competition Practices & Development* as part of the Marketing Management master-level course at the University of The Gambia, would help prepare young professionals for possible recruitment by the Gambia Competition Commission.

## VI. FINANCIAL POSITION

Financial report of the project summarising the total expenditure (vis-à-vis allocated budget) has been prepared and would be separately submitted, along with the periodic financial statement. This would form part of the final project documents.

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<sup>7</sup> Refer: <http://www.oecd.org/dataoecd/24/45/36563626.pdf>

## VII. CHALLENGES & OPPORTUNITIES

Some of the ‘challenges’ encountered in the process of implementing this project are enumerated below:

- This was the first project that CUTS implemented in French speaking countries. Though, CUTS had 2 bi-lingual advisers (a Project Adviser and a Research Adviser) and a bi-lingual member of the project team to deal with this, but still this posed some challenges in the day-to-day running of the project.
- It was not an easy task to find partners (to start with) who had an interest on economic policy/consumer protection/competition policy issues. This was due to the low level of understanding on competition and consumer protection issues among civil society in the countries.
- CUTS did not have any experience of implementing a project in these countries. It proved to be a learning experience (in many ways) for the organisation.
- Low level of donor attention to support competition and consumer protection issues is an impediment that needs to be addressed by rallying support from donors and international organisations.
- Sometimes extracting information proved to be very difficult. In some of the Francophone countries, the government/agencies were not always ready to share information.

However, there are certain ‘opportunities’ that need to be taken cognizance of, especially by organisations with an interest in the region:

- The whole region has been exposed to discourse on international trade and trade policy issues relatively recently. There is a huge demand for work on the interface between trade liberalisation and competition policy
- The 7Up4 project has sparked interest among some of the project partners to work on competition policy and law issues in the future. Competition agency representatives in some of the countries are eager to engage with civil society to forward the agenda of competition reforms.
- ECOWAS Competition Authority is in the process of being operationalised, which would provide a stimulus for expediting the process of evolution of national competition regimes. WAEMU also has an agenda to develop capacity among member states, and are keen to continue the process of institutional reforms in as far the WAEMU regional competition regime is concerned.

## VIII. KEY MESSAGES & WAY FORWARD

The following 10 ‘key messages’ emerge from the experience of implementing the project and highlights the way forward for competition reforms in the countries/region:

- Governments need to provide ***greater attention/support to competition enforcement processes***. Competition reforms can help achieve specific development outcomes and make a difference in the life of a large number of people in the region
- Various policies and practices exist in the countries that lead to anti-competitive outcomes in key markets. Policymakers need to be convinced of the ***benefits from amending such policies/practices***
- Existing competition authorities need to prioritise their activities as: ***Awareness > Sensitisation & Dialogue > Enforcement Actions***
- Such ***sectors should be prioritised for enforcement actions*** that can provide competition authorities popularity and visibility among ordinary people, such as retail food sector, public transport, etc.
- ***Harmonisation of national and regional competition legislations*** is urgent – lot of confusion and conflict seems to prevail at the moment, especially between WAEMU and member states.
- ***Competition enforcement can stimulate entrepreneurship development***, as entry barriers and government control in key sectors affect/restrict private participation.
- ***No cooperation mechanism seems to have evolved between competition authorities and sectoral regulators***, which should be taken up as a priority
- ***Greater role by international donors and international organisations***/inter-governmental organisations to persuade government and competition authorities for competition reforms
- ***‘Champions’*** who can push the agenda forward for domestic competition reforms should be identified from among key stakeholders, and empowered
- ***Consumer movement*** in the region need to be better resourced and linked to the process of economic reforms and competition enforcement.

## Annexure: I

### List of Project Partners

Country	Partner Organisation	Contact Person
Burkina Faso	Centre d'Etudes, de Documentation, de Recherches Economiques et Sociales, (CEDRES) ( <a href="http://www.cedres.bf">www.cedres.bf</a> )	Taladidia Thiombiano Director, CEDRES
The Gambia	Pro Poor Advocacy Group (Pro-PAG)	John Njie Acting Director, Pro-PAG
Ghana	Institute of Statistical, Social and Economic Research (ISSER) ( <a href="http://www.issere.org">www.issere.org</a> )	Charles Ackah Research Fellow, ISSER
Mali	Department of Social Science, University of Bamako (FLASH) ( <a href="http://www.ml.refer.org/u-bamako">www.ml.refer.org/u-bamako</a> )	Isaie Dougnon Senior Researcher
Nigeria	Consumers Empowerment Organisation of Nigeria (CEON) ( <a href="http://www.ceon-camon.org">www.ceon-camon.org</a> )	Adedeji Babatunde Abiodun Coordinator General, CEON
Senegal	Consortium pour la Recherche Economique et Sociale (CRES)	Abdoulaye Diagne President, CRES
Togo	Association Togolaise des Consommateurs (ATC)	Aladjou Tamu Agouta Secretary General, ATC



**Pic:** Participants at the Final Project Conference in Dakar (August 2010)

## Annexure: II

### Publications

#### Research Reports

Separate Research reports for the Anglophone Countries and the Francophone countries were prepared



#### Synthesis Report

A bi-lingual report collating the findings from the seven countries was prepared and released formally on the sidelines of the UN 6<sup>th</sup> Review Conference on Competition Policy held in November 2010 in Geneva. It was also shared with the partners.



#### Briefing Papers

A briefing paper on ‘Cartel Prevalence in Africa’ was prepared. One more on ‘Possible Competition Concerns in the Agriculture Markets in Select West African countries’ was drafted and is being finalised. On the basis of the inputs in the reports, a briefing paper on ‘Challenges for Young/Developing Countries Competition Agencies in West Africa’ would also be prepared



#### Posters

A couple of posters (in both French and English) were prepared and shared within the countries and in various other platforms



#### Brochure

A (bi-lingual) project brochure was prepared and disseminated across the countries/region and outside with information about the project

