

Minutes of CUTS CCIER International Advisory Board (IAB) Meeting

New Delhi, 20 April 2011

1. Participants

1.1 IAB Members

Fred Jenny (FJ), Scott Jacobs (SJ), George K Lipimile (GKL), Cezley Sampson (CS)
Allan Asher (AA), Phillip Brusick (PB), Wang Xiaoye (WX), R S Khemani (RSK)
S Chakravarthy (SC), S L Rao (SLR)

1.2 Absentees

Simon J. Evenett, Mona Yassine, Allan Fels, Rob Anderson, David Lewis
Gesner Oliveira, Eleanor Fox, Taimoon Stewart (TS)

1.3 Special Invitee

Vivek Ghoshal (VG)

1.4 In attendance

Pradeep S Mehta (PSM), Rijit Sengupta (RSG), Udai S Mehta (USM)
Samson Awino (SA), Natasha Nayak (NN)

2.0 Report

2.1 This meeting was held on the side-lines of the *International Conference on Reviewing the Global Experience with Economic Regulation* organised by CUTS on 18-20 April, 2011 in New Delhi, India. The members of the IAB met at 7.30 am on 20th April 2011 to review and discuss the Action Taken Report (ATR) based on the deliberations which emanated from the last meeting held on 7th August 2010 in Dakar, Senegal. The ATR formed the main agenda of the meeting discussions. The following informs the summary of the meeting deliberations:

2.2 PSM welcomed all to this meeting, and indicated that this was the largest meeting yet (in terms of the number of IAB members present), and thanked everybody for their interest. Subsequently, he provided a brief overview of the on-going projects of CUTS (which had also been enumerated in the ATR). He then handed over the proceedings to Fred Jenny, Chairperson of the IAB to conduct the meeting.

2.3 **Review of the 7Ups Project:** It was suggested (by a number of the IAB members like TS¹, PB and RSK) that there is need to revisit and analyse the progress (towards

¹ Taimoon Stewart was not present in the meeting, but provided her inputs/comments by email to CUTS before the meeting

establishment of functional competition regimes, and well-equipped stakeholders to carry the agenda forward), made since the implementation of the 7Up projects (7Up1, 7Up2, 7Up3 and 7Up4) in the respective project countries. GKL indicated that the information/knowledge documented in the 7Up1, 7Up2 and 7Up3 projects are out-dated now, and there is a need now to assess the current scenario on competition in these countries. This would enable identifying reforms therein (also analyse if people were still interested in the competition agenda, after completion of the 7Up projects). CS asserted that such an exercise should also be able to highlight ‘factors’ that have restricted operationalisation of competition legislations in these countries. It is necessary to ascertain and record impacts of the 7Up projects, which would better equip CUTS to undertake competition projects in the future. It was also mentioned by VG that given CUTS experience, it might also be useful to devise a ‘light-touch’ method of assessing (if and) how the national competition reforms process was moving forward. At this point, RSK suggested that *Competition Index* could be thought about (deriving from the work already done by Michael Porter), if CUTS was interested.

2.4 Opportunity in West Africa: PB mentioned that there is a huge potential to implement competition policy related projects in francophone countries, and this is something that CUTS should capitalise on. FJ reiterated that both the ECOWAS and the WAEMU Commissions were reforming their regional competition regimes, and this was an opportunity for CUTS. Especially, the possibility to provide technical assistance and capacity building support, on the basis of the experience of having worked across Sub-Saharan Africa and South and South-East Asia. Both PB and FJ assured that they would be able to push Amadou Dieng (Officer in Charge of Competition at the WAEMU Commission), in case he is not responsive to CUTS efforts towards operationalising a project in the WAEMU region with support from the Commission.

2.5 Competition issues in Regional Integration: It was affirmed by GKL that COMESA and EAC regional trade agreements have full chapters on competition policy and consumer welfare. Hence there is need for greater assistance in the implementation of the existing competition policy and consumer protection provisions in these two regional authorities. SJ suggested that we should liaise with these regional agencies more often and seek partnerships. He particularly highlighted the fact that EAC’s regional legislation was weak with regards to Consumer Rights and Consumer Choice – and suggested this could be an ‘entry point’ for CUTS. RSK confirmed that the World Bank could be a good contact point for this, and its (World Bank’s) Directors based in Nairobi and Dar es Salaam² should be contacted.

2.6 WX proposed that CUTS should do some work on competition policy and law issues in China as well. PSM responded by informing that CUTS is planning to establish a research

² John McIntyre was the Country Director of World Bank in Tanzania

network for the BRICS countries, and one of the issues in the work programme of this network was indeed Competition Policy and Law.

2.7 Regulatory Impact Assessment (RIA) & Competition SLR was keen that CUTS developed a framework for ‘regulatory impact analysis’ that was more appropriate for developing countries. SJ suggested that the work that CUTS could carve out for itself in this area (RIA) could be to assess ‘*How use of RIA can stimulate regulators to focus on more competitive and consumer-friendly reform actions?*’ RSK indicated that such an amalgamated approach to RIA and Competition Assessment would be quite relevant. RSK also suggested that a reference to RIA should be inserted by CUTS in the report it is preparing for the Planning Commission of India (Working Group on Business Regulatory Framework) on business regulatory reforms in the country.

2.8 Consumer Protection AA suggested that CUTS should undertake some policy research and advocacy to identify how best to devise a method for Consumer Organisations to file complaints and create an obligation for the respective Regulator to respond. He pointed out that this would help address the ‘disconnect’ between the Consumer and the Market. It emerged that one possible way was to form a network where consumer groups can express their concerns on various market failures, which can act as a criterion to assess the performance of a Regulator.

2.9 Competition and Corruption GKL suggested that the title should be revised as ‘Competition and Public Procurement’. This is an area where CUTS has done some research (especially while undertaking a study on cartelisation in India) and more could be done. Bid-rigging has been encountered in public procurement both in India and in other developing countries. Investigation of such practices (bid rigging) would have to be done simultaneously with public procurement reforms so that benefits can accrue to national governments in developing countries (who are, often resource constrained).

2.10 Competition Policy and Private sector Development Many IAB members felt it was a fairly broad topic and should be dropped. However, CUTS should be conscious of issues at the interface. RSG affirmed that efforts were underway for undertaking projects in Kenya on competition policy and private sector development, in association with the business community. CUTS Nairobi has developed some ideas and was pursuing the same with donors.

This marked the conclusion of this meeting. FJ thanked everyone for their active participation in the meeting. PSM indicated that in the future, CUTS would try to devise ways to engage more closely (on specific issues) with the IAB members.