

Minutes of the CUTS CCIER International Advisory Board Meeting
Paris, February 17, 2012

PRESENT: ALLAN FELS, MONA YASSEIN, ROBERT ANDERSON, GEORGE LIPIMILE, PRADEEP MEHTA

SPECIAL INVITEES: BIBEK DEBROY, DISTINGUISHED FELLOW, CUTS; JOSEPH WILSON, COMMISSIONER, COMPETITION COMMISSION OF PAKISTAN; ARJAN DE HAANS, TEAM LEADER, IDRC; RAMAMURTHI BADRINATH, DIRECTOR, CUTS, GENEVA

In the absence of Frederic Jenny (he had to attend another important meeting at this time), Allan Fels was requested to chair the meeting, who welcomed all the participants. Adding to Allan's welcome, Pradeep mentioned that IAB meetings are usually held on the fringes of big events, whenever a number of members are present, and special invitees are also invited to share their views. He read out the minutes of the last meeting held in New Delhi on 19th April, 2011 and kicked off by reporting on the actions taken on the same. There were no comments on the minutes and the same were confirmed.

I. ISSUES DISCUSSED in the ATR:

1. Interface between competition and regulation: The Government of India has commissioned a research to CUTS to look at how conflicts have arisen and been interpreted by courts in four countries plus India to see how they were resolved. The report will be different than such existing reports as it will review the historical basis of resolving overlaps. The report will be ready within a month and it will be available for wider dissemination.
2. Regulatory Impact Assessment: Recommended by the Planning Commission that it should be done in India following a policy advice on taking manufacturing from the existing 15% to 25% by 2025. CUTS was part of the group which prepared the policy advice for the 12th Five Year Plan. A proposal will be submitted to them soon after the policy advice is turned into a plan of action.
3. Government and Regulation: Already done some work on "Quality of Regulation" which looks at the energy regulators in Brazil, India and Kenya. The report will be out very soon. It has some good learnings on how developing countries have approached the issues.
4. Some other issues were discussed such as the appointment of David Ongolo as the chairman of the new Kenya Competition Authority. Pradeep mentioned that this was another success of the 7Up programme.
5. ICRR, 2011, the 3rd biennial report on the State of Competition & Regulation in India will be published soon. Like the two editions before, it looks at both cross cutting issues

and some select sectors. The chapters in this edition were discussed at the biennial conference held in April, 2011 at Delhi, where many of the advisory board members were present.

6. The book on the Second Laws Project published by Routledge, covering 9 countries, was launched on 16th February at the OECD. A sequel with another nine countries is on the anvil. These could include Kenya, Australia, Pakistan among others. Joseph Wilson offered to write the paper on Pakistan.
7. An empirical report on the 7Up programme: “Did we make a difference?” also released on 16th February at the OECD. The report was done internally on the basis of questionnaires sent out to people who were involved with the four 7Up projects in the 27 countries where it was implemented over 2000-2010.
8. Currently, implementing a project on economic regulation on the demand side management in renewable energy in India.
9. Currently working on publishing a book on consumer protection regimes in 40 countries.
10. Work being done on investment climate and corporate conduct in India, being supported by Norway.

II. MANAGERIAL ISSUES

11. Rijit Sengupta has moved on as the Regional Director of Africa at CUTS working out of Jaipur. He will continue to be involved with competition related projects in Africa.
12. Udai Mehta has been promoted to be the centre coordinator of CCIER.
13. Bill Kovacic has joined the IAB. Members were delighted and welcomed Bill to the Board.

III. REGULATORY REFORM AGENDA-COMMENTS

Rob Anderson introduced the issue of competition in public procurement which needs to be added to the CUTS agenda of work in the near future. He said that much of the work on procurement is focused on bid rigging etc but not much attention is paid to how opening markets for procurement can help competition.

Bibek Debroy said that in India, the central and state level procurement systems need to be studied where discretion is heavily abused.

Pradeep informed all that CUTS is already working on 3 projects dealing with procurement in India: one is a project supported by British High Commission to take a closer look at public procurement in India, and other two at national levels such as competition distortions in

procurement and the draft public procurement bills for which we are heavily engaged in the process of commentary.

Rob Anderson said that CUTS, CCI and the anticorruption bodies in India should organize a conference on public procurement for which they would have the support of WTO.

Pradeep said that due to problems of political economy and huge rent seeking, public procurement issues are very challenging to deal with.

George Lipimile said that there are many procurement programmes in Africa and the government is the largest spender of money. They have been keen on organizing seminars on this issue amongst ECOWAS, COMESA etc.

Mona Yassein said that countries can have meetings for which they can do research and then share their experiences with one another once they meet at such meetings.

Pradeep said that this is a very tough issue for Asia and Africa because of high levels of corruption and it is not clear how much a seminar would help. There is need to share actual experiences in the process, which may not always be easy to garner. He said that Transparency International may be willing to support such a project to look at the competition law perspective, regulatory reform perspective as well as the governance reform perspective in public procurement.

Rob Anderson suggested that such a project could be along the lines of the 7Up approach with focus on procurement.

George said that funding such a project in COMESA is challenging although they would be able to get the key players together. Pradeep said that the funding support could be obtained for such an initiative, because of the critical nature of such issues.

Joseph Wilson said that the focus of public procurement issues should not just be Africa but also the South Asia region.

On the draft regulatory reform agenda prepared by CUTS, there was some discussion on the independence of regulators which is a challenge especially in the utility sectors. Joseph had some comments that he said he would send to CUTS which will be incorporated to this discussion as well.

Bibek observed that independence needs to not be just from budgetary considerations but also in selection, appointment and removal of regulators etc.

Allan Fels noted that it is very challenging to get such independence and in Australia, the government would prefer that such an independent body be attached to the Prime Minister's Office so that they are fairly protected from the political stresses. He recommended studying a paper by Mark Thatcher on this.

Pradeep said that especially in developing countries independence depends a lot on the people that constitute the bodies as governance is very personality drive,

Mona Yassein suggested that the entire concept of competition should be pushed a bit within the constitutional setting of countries so that people are better aware about these issues. Allan Fels endorsed this view. Mona also said that they would like to work on this but have budgetary constraints and need the help of CUTS as well in this initiative.

Rob Anderson congratulated CUTS for the wonderful work that they have been doing and said that he was hopeful to see them work on public procurement matters very soon.

In conclusion, Pradeep requested all Members, including those who were not at this meeting to send their comments on the draft agenda on regulatory reforms. Joseph promised to do so as soon as he returns to Islamabad.