

## Minutes of the CUTS CCIER International Advisory Board Meeting

**Date:** 1<sup>st</sup> March 2013, Paris (France)

**Present:** Allan Fels (AF), George K Lipimile (GKL), David Lewis (DL), Eleanor Fox (EF), Rob Anderson (RA) and Pradeep S Mehta (PSM).

**Special Invitees:** David Ong'olo (DO), Phil Evans (PE), Joseph Wilson (JW) and Anna Miller (AM)

**In attendance:** Rijit Sengupta (RSG)



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### 1. INTRODUCTION

1.1 This meeting was organised over breakfast at the café L'Expresso in the OECD Conference Centre on the sidelines of the OECD Global Forum on Competition that was held on 28<sup>th</sup> February and 1<sup>st</sup> March, 2013 in Paris, France. Some other special invitees were requested to attend the meeting (viz., Hassan Qaqaya and Ashok Chawla) – but they were unable to make it.

1.2 In the absence of Fred Jenny (Chair of the CUTS CCIER International Advisory Board), who was busy with some other side meetings, being the Chair of the OECD Competition Committee, Allan Fels Chaired this meeting of the CUTS CCIER IAB. An Action Taken Report (ATR) was prepared by CUTS CCIER and circulated to the IAB members in advance. This ATR formed the basis of the discussions, etc.

## 2. PROCEEDINGS

2.1 PSM briefed the IAB members using the ATR, and informed them of the various on-going projects of the Centre, both funded and non-funded initiatives. A number of comments were received from the IAB members on some of these projects and have been captured here under. Further, they also provided inputs on some future areas that CUTS CCIER should look into.

### ONGOING PROJECTS

#### ICRR:

- PSM gave a brief of the ICRR, 2011 report and elaborated on the ICRR, 2013 report, work on which will be launched soon. As usual there will be five product sectors and few cross cutting issues, such as sinecures affecting regulatory performance.
- AF: Responding to the issue of appointing 'sinecures' in some regulatory agencies in India, often leading to regulatory failures, he wanted to know if CUTS had done some work on the recent telecom (spectrum) scandal in the country. PSM reported that we did by undertaking public education/information through the press – analysing the incidence and highlighting political-economy issues involved in the auction of the telecom spectrum in the country. And that the recommendations of the telecom regulator on the heroic reserved auction price of the spectrum and its failure will be analysed in the context of the ICRR, 2013 report.
- PE: He said that it would be interesting to analyse if India is the only country where the auction of the telecom spectrum has failed? If yes, then it would be useful to analyse the reasons thereof. If, on the other hand, it is not the only country where such auction has failed, it would be good to take lessons from the others.

#### BRCC:

- DO: The BRCC project was quite interesting, especially the idea of working closely with the sectoral associations and developing their capacity on promotion of responsible business.

### **COMPEG:**

- PSM spoke about the COMPEG project which is looking at competition distortions in three sectors with an assessment of welfare gains/losses, so as to make a case for pushing the National Competition Policy agenda in India. This project is supported by the British High Commission, New Delhi.

### **CREW:**

- EF: The CREW project is extremely interesting and timely, as there is renewed interest on assessing the impact/benefits of competition on consumers and producers. It would be good if the ‘background paper’ being developed under the CREW project can also be circulated to the IAB members. Also, the IAB members would be keen to understand the methodology that would be used to develop the framework for measuring benefits of competition.
- PSM: Wanted to record that 2 members of the IAB (Fred Jenny and R S Khemani) were being paid honorarium to be part of the project team as Advisers. DFID (UK) and GIZ (Germany) are supporting this project.
- AF: Fred Jenny and R S Khemani are good choices as Advisers for such a project.
- RA: The project is an extremely important one, and CUTS should be congratulated for taking up this challenge. However, it is not easy – and the methodology adopted should be able to resist future scrutiny, etc.
- PE: It has posed difficulties to various competition agencies to measure the benefits of their enforcement actions, including USFTC, UKCC, Oft, etc.
- PSM: The project is not going to be restricted to measuring benefits of competition enforcement only, but would be much broader in the sense – measuring how actions (or the lack of it) by government and or sectoral regulatory agencies have led to the promotion of competition in key markets.

### **UTPs Project (in India):**

- EF: She was very interested to look at the report and sought a copy of the same to be sent to her, when it is ready.

## FUTURE PROJECTS

### Competition & Business Welfare

- PSM: Following the paper on “Why consumers should be interested in competition law”, a future paper on the anvil would be ‘Why business should be interested in competition law’? EF: Singapore would offer a good case study, if CUTS decided to do this project.

### Competition & Informal sector

- DO: Prof Colestus Juma has done work on informal sector in Kenya, which would be worth looking at.
- DL: Some of the other countries where a project on competition and informal sector could be explored are Zambia, India, Central Asian countries.
- PE: Some of the competition issues would be (i) Entry Barriers and associated high costs of formalisation, (ii) Coercive contracting, (iii) Regulatory challenges for informal sector
- EF: Some studies have been undertaken in Peru, following up on the work of Hernando de Soto.
- DO: World Bank has recently published a report on Informal sector in West Africa – which can also be a good reference document
- AF: OECD has also done a fair bit of work on informality.
- PE: One possible line of enquiry would be impact of M&As on Informality in sectors where large informal sectors are part of the supply chain.

### Competition Concerns in Public Procurement

- RA: Advocated strongly the need for CUTS to do much more work on competition concerns in public procurement, especially in developing countries.
- EF & DL: They are involved in developing a paper on ‘Competition and Corruption’ – and that could be used by CUTS to explore the possibility to develop a multi-country project on competition and corruption (7Up-model of evidence based advocacy and capacity building).
- PSM: DL & EF should also look at PSM’s paper (written in 2011 for Transparency International) and that would provide a lot of inputs, etc. Once the paper (EF & DL) is ready, CUTS would use that (and other useful references) to develop a full-scale proposal and try to fund raise from World Bank. In order to initiate the process, CUTS should

establish contacts with Leonard McCarthy, Vice President Integrity, World Bank HQ in Washington DC.

### **3. SOME OTHER CURRENT & FUTURE PROJECTS**

Due to the lack of time, the IAB members could not be briefed about some of the following projects, hence a brief update is provided here.

#### **CURRENT**

##### **Competition Problems in three sectors in Rwanda**

- CUTS Nairobi office was involved in undertaking this project for the Ministry of Commerce of Rwanda and anti-competitive concerns/tendencies were highlighted in three sectors – beer, insurance and banking. The Rwandese government has just recently passed a competition law and is using the research undertaken by CUTS to investigate further.

##### **Sensitisation of Trade Unions on Competition in Zambia**

- This is an area that CUTS Lusaka office has been working on with cooperation of the Competition and Consumer Protection Commission, Zambia. The main goal of initiatives in this area is to develop some sort of a formal/semi-formal mechanism of cooperation between the Trade Unions and CCPC, Zambia – especially during M&A reviews.

##### **UTPs project in South East Asian countries**

- PSM informed the IAB that CUTS Hanoi has been implementing a project on unfair trade practices (UTPs) in few ASEAN member states with support from IDRC (Canada). IDRC has also expressed interest in subsequent support on this issue – and CUTS Hanoi is currently exploring possible issues to look at.
- PSM also provided a brief update of some of the non-funded initiatives of CUTS CCIER, as under:
  - (i) Second Laws Project (Why Do Countries Adopt a New Competition Law) – A second version of this book was being developed;

- (ii) Consumer Protection Regimes in the world – a first volume is planned to be released at the UNCTAD IGE containing essays on the state of consumer protection from 40 odd countries;
- (iii) Competition regimes in the world – This would contain updated chapters of the countries contained in the earlier version (2008) and a few other new chapters;
- (iv) World Competition Day – Many competition agencies have supported this initiative and it is likely to be included in the agenda of the UNCTAD IGE 2013.

## **FUTURE**

### **Trade and Competition in Primary Products Markets**

- This is a project idea that CUTS has developed and is trying to raise funding currently. The main idea is to highlight trade-related competition distortions and their effects on developing countries, so that discussions on the possibility of inserting a chapter on competition in the WTO rulebook can be initiated; or at least developing country trade negotiators and competition agencies would be sensitised on this issue to raise the above demand.

### **Fast-tracking the Regional Competition Regime in the East African Community**

- This is a project that CUTS Nairobi is hoping to secure funding soon. The main goal of this project is to sensitise national stakeholders (state and non-state), in the 5 member countries of the East African Community (EAC) so that the process of implementation of the EAC competition regime is fast-tracked.
- AF suggested that CUTS could look at compliance issues as well.

There being no other issues, the meeting was closed by the Chair.

**-Ends-**