

# **CAPACITY BUILDING ON COMPETITION POLICY IN SELECT COUNTRIES OF EASTERN AND SOUTHERN AFRICA**

**(7Up3 Project)**

## **OPERATIONAL STRATEGY NOTE**

### **MISSION**

*Promoting effective markets through competition policy and law*

### **VISION**

*Towards a competition culture for economic development*

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## **I. Introduction**

### ***1.1 Background***

- 1.1.1* The last two decades have seen most developing economies in the world, including those once committed to central economic planning, taking great efforts in their progression toward the market economy. In this agenda for reform of most of these countries, comprehensive development of the legal and regulatory framework has been a focus, with competition law and policy an integral part, especially now that the need for, and the role of, such a law and policy in the development process is broadly accepted in principle.
- 1.1.2* An effective competition law and policy prohibits various restraints of trade and creates public or private rights of actions to enforce such prohibitions. By keeping a check on concentration of economic power, outlawing and penalising rent-seeking behaviours, preventing anti-competitive practices by dominant firms, eliminating artificial restrictions on entry, exit and pricing in industries where they exist; competition law and policy ensures the competitive operation of the market, thereby providing individual entrepreneurs, small and medium sized business with opportunities for participation in the economy, and providing the consumer with reduced prices, better quality and wider choices by firms; all toward the ultimate goal of economic efficiency, growth and equity. A country with an effective competition legislation is also equipped with the legal instrument to either individually or through cooperation with foreign counterparts, challenge firms' cross-border anti-competitive market behaviour, which is becoming predominant in the current liberalisation and globalisation context.
- 1.1.3* From an integrated perspective, as regulatory reforms stimulate structural changes, effective enforcement of competition law and policy is needed to prevent private market abuses from reversing the benefits of reforms, especially in developing countries where the low level of policy effectiveness and economic management capacity could easily facilitate economic and political turmoil on the way to market systems. Furthermore, one of the most important contributions of a competition policy regime, especially in the context of the reform processes and in addition to antitrust law enforcement, is to serve as an advocate for reliance on market processes

and business rivalry to organise economic activity. A competition authority can supply an institutional counterweight within the government to promote liberalisation measures and resist overt or subtle efforts to sabotage market-oriented reforms. Through a variety of advocacy and education activities, the competition agency can provide valuable support for policy measures - ensuring an appropriate role for the government in the economy and the correct choice of strategies for promoting growth. For example by participating in developing privatisation programme, advising legislators on drafting economic reform legislations, and participating in regulatory proceedings conducted by other government institutions to determine competition policy in specific economic sectors.

- 1.1.4 It is well-recognised, nonetheless, that in order to achieve all the aforementioned policy objectives and contribute most to the reform cause, competition laws and policies in developing countries must be well-adapted to their national development circumstances, taking into account all the local economic, social, and cultural dimensions, *etc* and should by no means be a copy or a derivative of ‘developed-country style’ laws. They are also to be supported and promoted by efficient institutions, which are well equipped with sufficient capacity and skills. Toward such policies and concomitant institutions, in our view, it is necessary for developing countries to foster public acceptance and facilitate widespread participation and contribution of various national stakeholders in the policy-making process; build up the capacities and skills of the (established or future) competition authorities and complementary institutions. In the whole process, it is important for them to learn from their own experiences. Externally, sharing and comparing the learnings with other country’s experience would also help them overcome the impediments to having an effective competition regime.
- 1.1.5 Competition policy and law have been a little known area in most developing countries. However, the 7-Up Project involving a comparative analysis of the competition regimes in seven developing countries of the Commonwealth, implemented by CUTS in 2000-2002 has made a significant change, especially in the selected countries. The countries selected for the project were: India, Kenya, Pakistan, South Africa, Sri Lanka, Tanzania and Zambia.
- 1.1.6 Responding to the need for developing the capacity of stakeholders, especially civil society organisations to advocate for the advancement of a competition regime CUTS

C-CIER initiated a project ‘Advocacy and Capacity Building on Competition Policy and Law in Asia’ involving: Bangladesh, Cambodia, India, Lao PDR, Nepal and Vietnam, with support from the State Secretariat for Economic Affairs (SECO), Switzerland, the Swiss Competition Authority (COMCO), Switzerland and the Department for International Development (DFID), U.K.

- 1.1.7* Since the early 1970s, many of the countries in Eastern and Southern Africa adopted new policies of trade liberalisation, deregulation and privatisation. While these processes are still taking place and developing countries are remodelling their state-dominated economies into market economies, new challenges are emerging from these processes. One of them is to strengthen the functioning of market forces in an appropriate manner. In this context, the need for an effective competition policy and law, to achieve the maximum benefits from the process of liberalisation, has been emphasised in several quarters.
- 1.1.8* National markets in the region have been integrating through three regional bodies, viz., COMESA (Common Market for Eastern and Southern Africa), SADC (Southern Africa Development Community) and EAC (East African Community), with considerable geographical overlap. All these bodies have recognized the ill effects of anti-competitive practices in the context of regional integration.
- 1.1.9* To highlight these issues including the need for an effective competition regime, CUTS has undertaken a project with the prime objective of developing the capacity of national stakeholders in each of the project countries including the policy makers, regulators, civil society organisations, especially consumer associations and groups, academicians and the media through a participatory process to understand and appreciate prevailing competition concerns from the national, regional and international perspectives.
- 1.1.10* The purpose of the present project entitled ‘Capacity Building on Competition Policy in Select Countries of Eastern and Southern Africa’ (popularly referred to as 7Up3 Project) is to build capacity in the project countries: Botswana, Ethiopia, Malawi, Mauritius, Mozambique, Namibia and Uganda, and assist them in formulating, implementing and/or enforcing competition policy and law at the national and regional levels, through engagement of multiple stakeholders.

## **1.2 Goals**

*1.2.1* The project would be implemented to accomplish the following goals:

- To evaluate the national competition scenario and identify national and regional competition concerns;
- To assess the nature and extent of regional competition concerns, and their implications for the project countries;
- To provide inputs for drafting new legislation or reforming existent legislation, drawing on good practices from other developing countries of similar socio-economic and political context;
- To identify the key stakeholders with a view to forming and institutionalising a national reference group<sup>1</sup> in each project country and organise meetings/trainings; and
- To develop the capacity of all stakeholders including the policymakers, regulators, civil organisations, particularly consumer groups, academics and media to understand and appreciate competition concerns from national, regional and international perspectives;
- To prepare and distribute materials on competition policy & law widely to raise national awareness
- To help build constituencies for promoting competition and consumer awareness by actively involving and building capacity of policymakers, civil organisations, academics and media.
- To create and link the country stakeholders with networks, such as International Competition Network (ICN) and International Network of Civil Society Organisations on Competition (INCSOC), to sustain interest and activities in promoting a healthy competition culture.

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<sup>1</sup> National Reference Group (NRG): The National Reference Group is an informal group of national stakeholders in each of the project countries comprising of key people who would help in spreading awareness among various quarters in each of th project countries about the overall objectives of the 7Up3 Project. It is absolutely essential to remember that the NRG is a ‘target list’ of important people, and the project partners do not require to formally invite them or seek permission from them to be a member. It is only required that the project partner(s) keep the NRG members informed of the progress of the project, so that they can contribute during the national consultations, or otherwise.

1.2.2 In order to accomplish its goals, the activities in the project would be oriented, in order to:

- prepare an economic mapping and inventory of laws in each of the project countries, from the perspective of their market-oriented reform efforts, progresses, problems, *etc* and the development of an economic regulatory framework and institutions;
- conduct a survey of the existing policy framework for competition in each of the project countries covering competition-specific provisions embodied in various legislations, competition rules in sectoral regulation, organisation and division of responsibilities between law enforcement institutions (including courts, dispute settlement mechanisms, etc); with special attention on the competition aspects of the reform process in these countries, for example in liberalisation, privatisation, regional and international integration, *etc*;
- collect information on the nature of market/competition and the prevailing anti-competitive practices in project countries, as well as the effects of cross-border competition issues on their economies;
- assess the effectiveness of the policy regime as well as institutions in place in the project countries in preventing, handling or remedying domestic and cross-border restrictive business practices;
- identify problems in the economic regulatory framework of each country and, henceforth the need for and potential role of a competition legislation in the country;
- analyse the competition legislations wherever existent, highlight problems and recommend solutions
- identify the impediments to the implementation of competition legislation, wherever existent.
- initiate policy debates and promote contributions from the civil society and the private sector to the legislation and hence advocate for its promulgation and enforcement from the bottom;

- generate policy recommendations relevant to other developing countries and LDCs paying due regard to national economic, social and cultural differences;
- build capacity in understanding competition issues and policies with all stakeholders, especially civil society, as well as promote respect and social responsibility toward the effective implementation of the legislation;
- help build domestic constituencies for policies which promote ‘reliance on market processes and business rivalry to organise economic activity’, with competition law as the core regulatory instrument;
- carry out training and capacity building for government officials, civil society representatives at national and regional levels through workshops, courses and distribution of reader-friendly materials, etc;
- help the project countries, as well as other developing countries with similar contexts, to establish their interests and develop capacity to articulate their positions and views when dealing with issues related to competition in different international fora; and
- coordinate with relevant institutions working in the same field to synergise and link the outputs in the form of appropriate ‘developing country-style’ competition policy, for optimum utilisation of the resources available for policy formulation.

### ***1.3 Outcomes***

#### *1.3.1. Substantive outputs*

Project outputs would include:

#### **Research reports/documents:**

The following research reports and documents would be produced over the course of the implementation of the Stage I of the project.

- A Preliminary Country Paper to be prepared by each project (research) partner depicting the general competition scenario for each of the selected project countries, which would be presented by the project (research) partner at the Project Launch Meeting (See below) and utilised to develop the methodology for subsequent in-depth analysis.
- A Country Report to be prepared by each project (research) partner involving a ‘need assessment’ in each of the selected countries, including:

- a mapping of various aspects of the macro-economy, broad policy environment, and overall trends of economic development, as the context of competition;
- a survey of the legal and institutional framework which has a direct impact on competition, for example, relevant economic laws and regulations, sectoral regulatory system, the law enforcement and dispute settlement system, especially those competition provisions in the current legal economic framework;
- an analysis of the state of play of competition and market structure in the country, prevalence of anti-competitive practices and particular concerns and issues that arise out of them; hence the need for, and the potential role of a competition legislation (to inform subsequent advocacy);
- deliberations on competition legislations (wherever) in place; and
- an institutional review of three entities where possible (*viz.* public organisations, civil society and consumer organisations; academia), which will assess their capacities to deal with competition issues and identify their capacity building needs (to inform subsequent capacity building activities).

The Reports would be produced on the basis of field research, which range from empirical/case studies, field surveys and scanning of media reports or analysis of any relevant cases, etc. Where necessary, literature surveys of preceding [as well as parallel] activities in the same field would be undertaken to get a comprehensive view of the situation in the project countries.

➤ Country Advocacy Plan: To be prepared on the basis of the preceding analysis, and incorporating inputs provided by both the research and the advocacy partners in each of the project countries sensitising various stakeholders on the need to implement an effective competition regime. The ‘Advocacy Plan’ would be based on the recommendations received over the national dialogues, and take into account the findings from the intensive research and field research. The overall purpose of the ‘Advocacy Plan’ would be to address concerns and needs in each of the project country; with a view to compare with ‘good practices’ elsewhere in developing countries with similar context and problems; for example:

- changes in draft competition law and/or enforcement guidelines;
- recommendations on the establishment and organisation of the competition authority; and

- recommended changes in other economic policies which also constitute parts of the broad national competition policy besides competition law, to ensure consistency and complementarity for economic development; etc.

The ‘Advocacy Plan’ would also highlight Country Action Programmes for advocacy and capacity building to be carried out within and beyond the project’s framework, on the basis of recommendations from the respective National Reference Groups. Among others, one of the key agenda of the Country Action Programme would be to chalk out specific ‘training’ activities.

All these research reports/documents will be outlined and commented by the Project Coordination & Management Unit (PCMU - *Details given under “Project Coordination & Management Unit” below*) and other experts at CUTS as well as be peer-reviewed by the Project Advisory Committee (PAC) and other renowned experts to ensure their quality before dissemination as materials for advocacy and capacity building activities in Stage II of the project.

- A Comparative Study under the format of a Synthesis Report to be prepared by the Core Researcher (See below details on “Core Researcher”) at CUTS, depicting commonalities, differences as well as levels of development and any local peculiarities between the project countries. The said report would also incorporate appropriate recommendations toward a regional advocacy network on competition.

### **Newsletters**

- A bimonthly electronic newsletter: would be prepared by the PCMU at CUTS, on the basis of project progresses and inputs (stories/news clippings/ articles) provided by partners.
- A quarterly hard-copy newsletter: covering news, information and short analysis on various aspects of competition and economic regulation, as well as project progresses, would be developed in continuation with CUTS C-CIER’s newsletter ‘ReguLetter’, which is of high credit and demand.

### **Occasional publications**

Over the course of implementation of the project, briefing papers/monographs etc. would be produced

- The exact topics for the briefing papers and other occasional publications would be decided over the course of the project by the PCMU/PAC /CUTS’s experts and other relevant authors.

### 1.3.2 Project Launch Meeting:

A two-day Project Launch Meeting is being organised in Entebbe, Uganda on March 22-23 2005. The project partners representing all the seven project countries: Botswana, Ethiopia, Malawi, Mauritius, Mozambique, Namibia and Uganda would participate in the Launch Meeting. Experts on Competition policy and law, both within the region and outside would share their views and insights on the necessity for adopting a competition policy for economic development, especially for developing countries (focussing on the region in particular). Apart from experts, the meeting would also draw officials from competition authorities, representatives from regional authorities, intergovernmental organisations and development partners.

The Project Launch Meeting would consist of a ‘Seminar’ on the first day in order to discuss generic issues and relevant topics: competition policy and economic development; regional perspectives on competition and their implication; interface between competition and sectoral regulation. On the second day, the Seminar would continue, with the presentation of the Preliminary Country Paper (PCP)s by each of the project (research) partners. The 7Up3 project implementation strategy would be discussed in a Workshop on the second day with participation of the members of the project coordination and management unit, the project partners, members of the project advisory committee and the development partners.

1.3.3 Regional Conference: This conference would be held (tentatively) around March 2006, in a centralised location of the region (eastern and southern Africa). One of the purpose of the meeting would be to carry forward the findings of the research accomplished by the project (research) partners, and to share them with a wide group of stakeholders from the region. Views and experiences would be shared through this conference to incorporate regional competition policy perspective, and address cross-border competition concerns. International experts from intergovernmental organisations like UNCTAD, OECD, WTO are expected to participate in the discourse, and discuss current and impending issues with officials from the regional agencies: SADC, COMESA, EAC etc.

1.3.4 Project Final Meeting: The final meeting of the project would be held in December 2006, to conclude and evaluate the project implementation; disseminate the results, expand and consolidate the lessons and experiences learnt during and after the project to other countries and relevant organisations and individuals with a view to opening up new opportunities for future activities in the same line and area especially for the project partners, and to evoke interest among other donors on the issue, and igniting new

initiatives for other developing countries also in need of technical assistance on the same lines.

- 1.3.5 National Reference Group Meetings: are to be held in each project country, during which the project outputs will be deliberated upon to get a practical check by those who are directly involved with the legislation and enforcement of the competition law and policy; and awareness will be raised and capacity will be enhanced to understand and appreciate the ‘need’ to advocate for an effective competition regime.

Note: The NRG meetings would be scheduled such that PCMU (Project Coordination and Management Unit, PCMU, CUTS) representatives are able to attend all or some of the meetings as observers. Further they should be so scheduled as to be in close proximity of one another so that the PCMU representatives can attend them in one extended trip.

### 1.3.6 **Operational documents**

This Operational Strategy Note (OSN), prepared by CUTS prior to the launching of the project, depicts the overall roadmap for project implementation. It will be finalised and formally adopted at the Project Launch meeting as a guideline to carry out the project activities. During and after the Project Interim Meeting, the OSN will be revised to incorporate guidelines and a detailed programme of activities. The revision will draw upon the progress of the project, taking into account problems encountered so far as well as the emerging situation, needs and concerns in project countries to ensure flexibility toward better performance.

- The PCMU at CUTS will prepare a Mid-term Review Report, which would be based on the results of the discussions in the Regional Conference, and a Project Terminal Report after the Final Meeting, which will cover achievements of the project, problems encountered and solutions found and activities to take forward the project’s achievements; both to be circulated among the project partners, advisory committee members and development partners.
- Besides, the PCMU will be responsible for preparing all the event proceedings for records as well as for informing any subsequent analysis.

- Specific advocacy and capacity building activities to be carried out in Phase II of the project will be programmed in detail after the Regional Conference, and incorporate the suggestions emerging from the discussions in the national dialogues (National Reference Group meetings). The advocacy activities would be outlined in the ‘Advocacy Plan’ for each of the project countries.

#### 1.4 Risk Management

Risk	Risk minimisation measures/ responsibility
<i>1.4.1. Risk of outputs not being produced or events failing to attract targeted audience</i>	
Project partners’ non-adherence to the agreed time frames	PCMU staff at CUTS would do systematic and regular follow up. Release of funds to partners would also be pegged with timely deliveries.
Relevant stakeholders, especially high-level government officials, are not convinced to cooperate with and participate in the project events and activities	Stakeholders, especially high-level government officials, too busy for full participation in the project, can be approached and briefed in persons by partners/any other volunteers on the core issues and provided with publications for their consideration. Whenever possible, they can also be approached on the fringes of other events, a practice which has been successfully carried out by CUTS.

<p>Lack of expertise and facilities in country partners to carry out the research and produce outputs; and to hold planned events</p>	<p>CUTS and specifically the PCMU and the PAC will be providing and helping them with needed expertise on a close coordination basis. Difficulties with facilities have already been taken into account and enough space and time flexibility have been provided to ensure the timeframe and quality of outputs.</p> <p>Any output delivered by country partners found to be of unsatisfactory quality by CUTS and/or the PAC would be commented on and sent back to the respective partners for re-working. Moreover, the release of requisite funds would be done only if the output is found to be satisfactory. The second alternative to overcome such a problem would be to have standby technical advisor(s)/consultant(s) to help deliver the desired quality of output, in which case the partner(s) will be responsible for payment of fees, <i>etc</i> to the advisor(s)/consultant(s).</p>
<p>Breach of contract by partners, for example withdrawal from the project for any reason in the middle of the implementation process</p>	<p>For this purpose a list of standby partners (both research institution and NGOs) would be maintained and would be kept informed about the project-progress through newsletters and otherwise. They would also be invited to join the National Reference Group. Thus they will be <i>au fait</i> with the broad movement of the project all the time.</p>

<u>1.4.2. Risk of outputs failing to realise into outcomes</u>	
The recommendations resulting from the Country Advocacy Documents do not feed into policy-making and policy-implementation process	While the decisions on enactment, modification and implementation of competition legislations are taken by high-level policy-makers, the substantive contents of the document/modification, the methodologies for implementation are all prepared mainly by middle-level officials. Moreover, the experts, academia, the business, the media and civil society organisations also play an important role in shaping them. The project focuses on empowering these groups and on that basis, leveraging into policy-makers' decision. Getting attention of the middle-level officials and other stakeholders should not be a problem.
Project output documents fail to convey the needed messages to and build the capacity of targeted audience groups.	The project will build on knowledge and information dissemination by means of publications, events, media coverage, etc. and try to involve widespread participation of various actors. Taking into account the economic reforms now in progress in the project countries, these efforts will have high potential of gaining a ground and translate into heightened awareness and built capacity.
Sustainability is threatened mostly through lack of resources (financial and technical)	Other donors, international bodies and interested individuals will be approached during and after the project by capitalising on the large network CUTS possesses to provide additional resources. Local partners will be given adequate exposure so that they can undertake project planning and fundraising for competition/regulation related activities and continue with such activities after the project is over.
Competition culture fails to shape up in project countries	The NRGs in project countries will be the core for all advocacy and capacity building activities. Despite the low stage of development in these countries, once the awareness of the NRGs has been raised, and capacity built, they will constitute the basis for the full-fledged development of a competition culture in project countries.

<i>1.4.3. Others</i>	
Sudden change of government policies, political disturbance etc.	The solution would depend upon the situation prevailing at that moment of time; and its application will be suitably tailored.
Cost increases due to hyperinflation, economic crisis etc.	CUTS may request the donors to enhance the budget through proper justification. If that is not agreeable, then some of the activities could be redesigned in order to cope with the situation, without compromising on the quality or the desired goals.
Turnover of employees	To meet with this exigency, staff planning is done as a regular exercise, with division of tasks as primary and secondary responsibilities. Secondly, a strong system of filing and reporting is maintained, which does not create reliance on a particular person. Furthermore, institutional memory is maintained in a systematic manner through mandatory minuting and reporting of all the meetings (internal as well external), preparation of operational strategy note, events calendar etc.

## II. Project Management

Activities	Responsibilities
<p><b>2.1. Project Coordination &amp; Management Unit</b></p> <p>2.1.1. Mr. Rijit Sengupta would be responsible for the overall coordination of the 7Up3 Project. As the Project Coordinator, Rijit Sengupta shall be responsible for the overall project management, including liaising with the PAC, helping out in deliverables and publications, organising seminars and meetings etc. He will also assemble all the project inputs and feed to the Core Researcher, assist the Core Researcher in his research activities; collect inputs for the two newsletters, write them and put them out periodically. In turn, he will be assisted by an administrative assistant and other suitably qualified staff/interns from CUTS.</p>	<p><b>CUTS/Project Coordinator</b></p>

<p>2.1.2. Mr. K Sajeev Nair, CUTS - CITEE, and based in Lusaka, Zambia would be responsible for the local coordination of the project, including correspondences with the project partners, project advisory committee members, and other key persons in the region.</p> <p>2.1.3 Mr. John Ochola, Director CUTS CITEE based in Nairobi, Kenya would monitor the progress of the activities in each of the project countries, and update the project coordination and management in CUTS, Jaipur with the activities happening in the region, having direct implications for the project.</p> <p>2.1.4. A Project Assistant at CUTS would assist the Project Coordinator, Administrator and Core Researcher on management, research, website, newsletters, database, organising of events and providing administrative assistance for travel etc.</p>	<p><b>CUTS</b></p> <p><b>CUTS</b></p> <p><b>CUTS</b></p>
<p><b>2.2. Core Researcher</b></p> <p>Mr. Nitya Nanda, Policy Analyst, at the CUTS Centre for Competition, Investment &amp; Economic Regulation (CUTS-C-CIER), Jaipur, India, has been appointed as the <u>Core Researcher</u> for the Project. His responsibility in this project will be to comment upon, collate and compile the research outcomes from each country. He will also need to give research advice to the country Coordinators and prepare the Comparative Study with substantive assistance from partners.</p>	<p><b>CUTS/Core Researcher</b></p>
<p><b>2.3. Project Advisory Committee</b></p> <p>2.3.1. An international advisory group, the ‘Project Advisory Committee’ (PAC) is being constituted to guide the 7up3 project implementation process. The PAC would constitute experts (economists, lawyers, representatives of competition authorities from some countries in the region, development partners, and practitioners) in the field of ‘competition’. The PCMU at CUTS will keep PAC members informed about the progress of the project on a regular basis.</p> <p>2.3.2. The PAC plays the following roles, in an honorary capacity:</p> <p>i) Contributing to the design of the project: PAC members will participate in discussions in person and by email/telephone/fax etc on both the process and content of the project. Their</p>	<p><b>PAC/PCMU</b></p> <p><b>PAC</b></p>

<p>contributions will be duly noted and will be incorporated suitably into project design documents;</p> <ul style="list-style-type: none"> <li>ii) Commenting on project outputs (country reports, advocacy documents, briefing papers, newsletters, etc) as requested;</li> <li>iii) Assisting CUTS and project partners as necessary in identifying and gaining access to sources of information relevant to the project;</li> <li>iv) Participating in project events, meetings and capacity building activities as resource persons whenever possible;</li> <li>v) Approving major process decisions during the course of the project.</li> </ul> <p>2.3.3. Some of the experts invited to join the Project Advisory Committee (PAC) of the 7up3 project have already agreed, while some others are being approached to join the Committee. The institutionalisation of the PAC would be completed as soon as possible, and the final list of the members would be available on the project web page.</p> <p>2.3.4. In addition to the PAC, CUTS C-CIER International Advisory Board, which comprises of prominent experts in the competition field, will also be invited to attend project events, activities as resource persons and provide advice and comments to the project.</p> <p>2.3.5. The partners in each of the project country may also form a group of advisors, who could advise and assist them at the country level studies, field work etc.</p>	<p><b>CUTS/PAC</b></p> <p><b>CUTS-C-CIER International Advisory Board</b></p> <p><b>Partners</b></p>
<p><b>2.4. Project partners</b></p> <p>2.4.1. The project partners have been identified from the lists gathered from various suggestions, internal files, networking etc. Partners were finalised only after assessment of their capacity and inclination. (refer the webpage of the 7Up3 project at <a href="http://www.cuts-international.org/7up3.htm">www.cuts-international.org/7up3.htm</a> for a list of partners)</p> <p>2.4.2. In five (Botswana, Malawi, Mauritius, Mozambique, Namibia) project countries, a leading research/academic institution has been chosen for the purpose of undertaking the research activities, while a consumer</p>	<p><b>CUTS</b></p> <p><b>CUTS/Partners</b></p>

<p>association/NGO for executing the advocacy activities. Accordingly, the partners are identified respectively as; research partner &amp; advocacy partner. Both in case of Ethiopia and Uganda, an organisation has been selected to carry out both the research and advocacy activities.</p>	
<p>2.4.3 On the sidelines of an international conference ‘Moving the Competition Policy Agenda in India’ organised by CUTS over 31 January – 1 February 2005 in New Delhi, India some partners from the project countries: Botswana, Ethiopia, Mauritius, Mozambique and Uganda participated in a fringe meeting to discuss in brief the overall implementation structure of the project. In the discussion, members of the project advisory committee including representatives from one of the development partner or the project - DFID, stressed on the necessity to abide by the overall time schedule of the project, and called for cooperation from the partners in order to ensure the successful coordination of this multi-country and multiple partnership project.</p>	<p><b>CUTS/Partners</b></p>
<p>2.4.4. CUTS has drafted ‘Partnership Agreements’ for each of the project partner (for executing the research and advocacy activities in each of the project countries). Agreements lay out the responsibility of the respective partners, consideration and the method of payment, as well as the time schedule and conditions for the release of funds.</p>	<p><b>CUTS/Partners</b></p>
<p>2.4.5. One person in each of the country partner organisations shall be appointed, who would be responsible for the coordination of specific project activities for each of the project partner in the respective country. It is expected that the research partner in each of the project country would undertake the research activities, including the preparation of the PCP (and its subsequent presentation in the Project launch Meeting) and the Country Research Document. However, it is also envisaged that the partner institutions may have to engage a researcher from outside due to either lack of appropriate capacity or availability of time for the said activity. In such an event, the research coordinator will still be a staff person of the main party and fully responsible for the delegated activities.</p>	<p><b>Partners</b></p>

<p><b>2.5. Internal resource management</b></p> <p>2.5.1. Simultaneous to the above task, identification of other needs and their sources would go on. This would mainly be done by internal brainstorming and through recalling our own and others' experiences in implementation of similar projects.</p> <p>2.5.2. To begin with, orientation of the existing staff has been done for the purpose of the project. The primary and secondary responsibility of the staff has been spelt out for better coordination and avoidance of duplication. This again has been done through a process of identification, counselling and internal brainstorming.</p> <p>2.5.3. Also at this stage itself, it has been identified during internal meetings as to what type of advisory team we need, based on the kind of advice the project requires; the frequency of such consultations etc. The members of the team have, therefore been chosen from CUTS's contacts. <i>(See 'Project Advisory Committee' below)</i></p> <p>2.5.4. For better and smooth project implementation, an Activity Time Chart has been prepared [and will be constantly revised] for handy reference for the project partners, advisory committee members and project overseers. This Operational Strategy Note would serve as the basic manual for successful execution of the project.</p>	<p><b>CUTS</b></p> <p><b>CUTS</b></p> <p><b>CUTS</b></p> <p><b>CUTS</b></p>
<p><b>2.6. Networking</b></p> <p>2.6.1. One of the strengths of CUTS has been its networking capacity and outreach. This has been demonstrated in numerous multi-country projects including the 7-Up1 and the IFD projects. International networking as required in the project will be assisted by CUTS's well-established relations with key IGOs, notably UNCTAD, WTO and the World Bank who will be involved in the project; as well as by CUTS's active role and participation in international fora and networks such as the International Competition Network (ICN), Consumers International (CI) and International Network of Civil Society Organisation on Competition (INCSOC).</p>	<p><b>CUTS</b></p>

<p>2.6.2 CUTS has two resource centres in Africa: one in Lusaka, Zambia and the other in Nairobi, Kenya. With the assistance of these two resource centres, CUTS would reach out to a wide network of key persons, and organisations with the outcomes of the research and advocacy activities.</p> <p>2.6.3. CUTS has used its network of contacts to identify suitable project partners (and other key organisations) in each of the selected countries to ensure smooth and participative project implementation.</p>	<p><b>CUTS</b></p> <p><b>CUTS</b></p>
<p>2.7 Donor (Development Partner)</p> <p>2.7.1 The Norwegian Agency for Development Cooperation (NORAD), Oslo, Norway and the Department for International Development (DFID), UK are supporting the project.</p> <p>2.7.2 The project is segregated into two Stages:  Stage I - Research and National Dialogue spanning over 18 months; &amp;  Stage II – Advocacy and capacity building (including training) spanning over 6 months.</p> <p>2.7.3 NORAD has agreed to support 65% of the activities of the Stage I and would be in a position to consider extending the Grant for the Stage II, after an evaluation of the progress made through the activities in the Stage I (to be made at the end of one year of the project). DFID is supporting the rest 35% of the Stage I of the project, and 35% of the activities in the Stage II.</p> <p>2.7.4 Representatives from both the development partners (donors) would be members of the Project Advisory Committee (PAC) of the project, and therefore offer guidance and advise on the implementation process, and keep receiving updates regarding the project progress.</p>	

### III. Partnering

Activities	Responsibility
<p><b>3.1. Partnering in project countries</b></p> <p>‘Partnership Agreements’ have been drafted for the Project partners in all of the seven countries for the 7up3 project. A detailed ToR with specific activities to be undertaken by the project partners, consideration and the allocation is clarified and forms a part and parcel of the agreement. The ‘Partnership Agreement’, and specifically the ToRs would be discussed at the Project Launch Meeting in Entebbe. Following this, the ‘Partnership Agreements’ would be signed and subsequently formally adopted.</p>	<p><b>CUTS/Partners</b></p>
<p><b>3.2. Dispute settlement mechanism</b></p> <p>In case of any dispute between the partners and CUTS relating to the agreement efforts would be made to resolve the problem amicably. In the event that such efforts fail, arbitration will be sought in accordance with international guidelines.</p>	<p><b>CUTS/Partners</b></p>
<p><b>3.3. Monitoring</b></p> <p>Furthermore, a database of all the partners will be created, and a suitable monitoring and review mechanism will be devised and implemented.</p>	<p><b>CUTS/Partners</b></p>
<p><b>3.4. Institutionalisation of National Reference Group (NRG)</b></p> <p>3.4.1. A National Reference Group (NRG) will be formed in all of the project countries. The project partners would be required to engage the following category of organisations/persons as members of the NRG.</p> <ul style="list-style-type: none"> <li>• Consumer organisation, where existing and having the capacity</li> <li>• Other civil society organisations with demonstrated interest in economic issues</li> <li>• Research institutions, academia, experts (economists and lawyers)</li> <li>• Chambers of commerce</li> </ul>	<p><b>Partners</b></p>

<ul style="list-style-type: none"> <li>• Media</li> <li>• Competition Authority (wherever existing)</li> <li>• External Trade Department</li> <li>• Internal Trade and/or Consumer Affairs Departments</li> <li>• Politicians and/or Parliamentarians</li> <li>• Sectoral Regulatory Authorities</li> <li>• Local Representatives of Donor Agencies</li> </ul> <p>3.4.2. The findings of the field work/research done by the local partners/research institutions in the project countries, will be deliberated and debated at the NRG meetings, which will also be attended by the PCMU representatives. On the basis of the inputs and suggestions given by the NRG, the results of these NRG meetings would then be duly and appropriately incorporated into project outputs.</p> <p>3.4.3. Members of the NRGs will also be the core for any advocacy and capacity building activities to be carried out in the Stage II of the project.</p>	PCMU/Donor Partners
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**IV. Studies and Events**

***4.1 Preliminary Country Paper***

4.1.1. As the first output, the country partners are to prepare a Preliminary Country Paper (PCP) on the respective competition scenario on a set format. The outline of the PCP has been sent to them by CUTS in the form of an Annotated Agenda.

4.1.2. The draft PCPs are to be presented at the Launch Meeting by the respective country (research) partners. A plenary discussion would take place on the presentation of all the draft country papers. This would be necessary to get the partners adequately tuned in order to work collectively and systematically.

4.1.3. Subsequently, the papers would be finalised by the partners on the basis of comments received at the Launch Meeting; then collated and compiled by the PCMU/Core Researcher at CUTS; to be uploaded onto the project website for information dissemination and further reference.

#### ***4.2 Questionnaire Design***

4.2.1. As per the project proposal, Stage I of the project would require interviews with key informants in each country. For the purpose of such interview, questionnaires would be appropriately developed.

4.2.2. The informants would constitute relevant government officials (including members of competition authority, if any, or members of the competition law drafting committee), business or industry, civil society representatives both from academia and consumer groups, and media. The selection of interviewees will be on the basis of purposive sampling. The results of the interviews along with the Country Reports will need to be discussed in the national dialogue (NRG meeting), so that it gives a sense of ownership.

4.2.3. A draft questionnaire for the said interviews would be prepared and discussed during and finalised after the Launch Meeting after obtaining comments and suggestions from the PAC members and other participants including project partners.

4.2.4. The finalised questionnaire would also be uploaded onto the project and partner's website and sent to relevant contacts in form of a survey to maximise the number of respondents, in addition to the interview results.

#### ***4.3 Project Launch Meeting***

4.3.1 The Project Launch Meeting is being organised on 22-23 March 2005 in Entebbe, Uganda. The two-day meeting would consist of a seminar on the first day on generic issues: competition and development; regional perspective on competition and interaction between competition and regulation.

4.3.2 The half of the second day would be spend on presentations from representatives of the project (partner) o the PCPs prepared by them.

4.3.3 The rest of the second day would be spent to discuss the modalities of carrying out the 7Up3 project activities effectively. It would further:

- mark the adoption of the project plan of action;
- discuss the terms of reference with partners;
- present the questionnaire for the interview;
- adopt the methodology for interviews, subsequent field work and research;
- adopt the programme schedule and methodology thereof for the whole project; and
- plan for the NRG meeting (opening)

4.3.4 The Project Launch Meeting would also provide an opportunity for the partner organisations to know each other, and other actors associated with the project. The other actors would include the PCMU, PAC members and CUTS C-CIER International Advisory Board members.

#### **4.4 Stage I activities: Research and national dialogues**

4.4.1 Soon after the launch Meeting, the project (research) partners are expected to incorporate the comments suggestion etc. received over the course of the Launch Meeting in the Preliminary Country Papers. On the other hand, the project (advocacy) partners would be finalizing the list of the National Reference Group (NRG) in each of the project countries, and share them with the CUTS PCMU. Subsequently, the advocacy partners would organise an ‘Opening Meeting’ (involving brainstorming) with the national reference group, in order to give a broad-base to the project, and to evoke interest in NRG members, for the project.

4.4.2 The activities of the research and advocacy partners in each of the project countries have been spelt out clearly in the individual ToRs.

4.4.3 The project research partner would undertake intensive literature surveys, collect relevant information and prepare to undertake interviews for the developing the first draft of the detailed Country Report.

4.4.4 Following the preparation of the first draft of the 'Country Report', it would be shared with the PAC members, PCMU at CUTS before sharing with the National Reference Group for comments and suggestion through the 'Second National Reference Group' meetings in each of the project countries to be tentatively organised in December 2005-January 2006.

4.4.5 The comments received from the PAC, PCMU and the recommendations emerging from the discussions at the National Reference group meetings would be appropriately incorporated by the research partners into the 'finalised' version of the Country Report.

4.4.6 The 'finalised' Country Report, along with the duly filled in questionnaires and other inputs (like the proceedings of the NRG meeting) would then be sent to CUTS for compilation, collation.

4.4.7 A comparative analysis (Synthesis report) would be prepared in the form of a report with inputs from the country research documents, and the feedback from the national dialogues.

4.4.8 The Country Report and the (Draft) Synthesis Report would then be shared through a Regional Conference to be held in a centralised location in the region tentatively in March 2006. The regional conference would be the platform where the findings and the emerging recommendations would be shared with the representatives of intergovernmental organisations like UNCTAD, OECD, WTO and regional agencies like SADC, COMESA and EAC.

4.4.9 The outcomes of the discourse in the Regional Conference, along with the final Country Report would be discussed with the members of the National Reference Group in each of the project countries through the Third National Reference Group meeting to be held sometimes in April- May 2006.

4.4. 10 One of the purposes of the discussions in the third NRG meeting would be to identify specific ‘Advocacy Plans’ in each of the project countries that had emerged from the various national dialogues and the findings of the research and the field surveys. The discussions will also be useful in realising the needs and concerns for advocacy and capacity building, and discuss and frame ‘country action programmes’.

#### **4.5 Comparative Study (Synthesis Report)**

4.5.1 A synthesis report that would compile and analyse the research outcomes of the individual country reports would be prepared by CUTS/Core Researcher.

4.5.2 The synthesis report will draw learnings and experiences not only from the seven country reports under the project but also from the country reports of four African countries as well as the synthesis reports and other publications that came out of the 7-Up1 Project. The draft of this report is planned to be ready for discussion at the Regional Conference.

4.5.3 The synthesis report would also try to capture and put into a perspective the various feedback received during the NRG meetings, relevant data/information culled out during the literature survey, and learnings from other initiatives in the region having similarities with the 7up3 project.

## **4.6 Advocacy and Capacity Building Activities**

4.6.1 Activities in the Stage II are to be programmed to maintain the demand-driven and needs-based approach of the project. Ultimately, these activities should deliver abstract outcomes as follows:

- Provision of information and analysis that would allow policymakers and the broader audiences in project countries to make informed choices and actions on national competition policy regimes suited to their conditions, and on competition policy aspects of international trade agreements currently being negotiated by them.
- Building of national and regional constituencies for promoting competition culture (informal and beyond project activities).
- Development of strategies for building expertise and actual implementation of activities among government officials (which may include future competition authority officials, dispute settlement agency official, arbitration agency officials, sectoral regulatory body officials, etc), practitioners and various members of the civil society.
- Promote and encourage the creation of and give assistance to competition and consumer protection agencies in the project countries.
- The end result would be to implement specific programmes, which would help in removing the prescribed deficiencies in the systems, ensuring a competition and consumer protection friendly environment, and utilizing efficient reallocation of resources. This in turn could result in overall growth and development of the economy leading to poverty alleviation. (*Beyond project activities*)

## **4.7 Final Project Meeting**

4.7.1 The Final Meeting of the project is tentatively planned to be held in December 2006 with a two-pronged purpose:

- Concluding and evaluating the implementation of the 7Up3 project
- Outreach:
  - disseminating the results;
  - expanding and consolidating the lessons and experiences learnt during and after the project to other countries and relevant organisations and individuals;
  - opening up new opportunities for future activities on the same lines and area for project countries with other donors and interested international bodies; and

- igniting new initiatives for other developing countries also in need of technical assistance in the same area.

4.7.2. For this purpose, the Meeting will assume the form of an international symposium on competition law and policy, with the participation of project partners, donor agencies, IGOs, NGOs and various regional stakeholders. The Meeting will release the outputs and findings of the project and draw a plan of action for the ‘Beyond Project’ activities.

## 4.8 Reporting and evaluation

<p><u>4.8.1. Monitoring and reporting</u></p> <p>4.8.1.1. During the time span of the project, monitoring and reporting will be done on a frequent basis.</p> <p>4.8.1.2. The partners are required to report by writing (quarterly progress reports) on a quarterly basis for monitoring purpose by the PCMU, and the reports will be fed into synthesised Progress Reports, highlighting main achievements as well as difficulties to be submitted to NORAD, DFID and the PAC.</p> <p>4.8.1.3. The progress of the project would be evaluated in January 2006, after the completion of a year of the project activities.</p> <p>4.8.1.4. A Project Terminal Report will be prepared at the end of the project, which will assess the project’s overall performance, the outputs/outcomes produced against its initial targets, the impact it has brought about or would likely bring about, its relevance to the national/project-wide context and management efficiency.</p>	<p><b>Partners PCMU</b></p> <p><b>PCMU/NORAD /DFID/ PAC</b></p> <p><b>PCMU/NORAD /DFID/ PAC</b></p>
<p><u>4.8.2. Evaluation and reporting</u></p> <p>4.8.2.1. Evaluation of the achievements of the project in terms of raising awareness and building capacity will be on qualitative basis. In addition to the quality of publications and records of events held:</p> <ul style="list-style-type: none"> <li>• After all project meetings (Launch, NRGs, Interim and Final), there will be a consistent programme to accumulate evaluation feedback, which will then be compiled to provide an insight into the achievements of the events, as well as the effects on the audience.</li> <li>• The questionnaire survey will be carried out to measure the awareness and capacity of targeted beneficiaries.</li> </ul>	<p><b>PCMU Partners</b></p> <p><b>PCMU Partners</b></p>



<ul style="list-style-type: none"> <li>• corporate issues;</li> <li>• investment and privatisation; and</li> <li>• letters etc.</li> </ul> <p>5.1.2.3. The mailing lists used for sending “ReguLetter” would be used for the outreach of this newsletter, plus project-specific contacts (country-wide and region-wide).</p> <p><i>5.1.3. Information dissemination on local media</i></p> <p>5.1.3.1. Cooperation of the project partners is imprtaive to disseminate information pertaining to the 7Up3 project in local media, in order for awareness raising and sensitisation. The partners will release a briefing on the project progress, and achievements to the local media and will furnish the PCMU with the same for records and as inputs into the “ReguLetter”. If the news releases are in local language, English translation of the same by partners will be advisable.</p>	<p><b>PCMU/CUTS</b></p> <p><b>Partners PCMU</b></p>
<p><b><i>5.2. Country Reports, Documents and Papers</i></b></p> <p>5.2.1. There would be Preliminary Country Papers based on the outline provided by CUTS to be presented at the Launch Meeting, which may also be circulated to a select group and uploaded onto the project website for information dissemination and further debate.</p> <p>5.2.2. Whereas the Stage I field research are done by project partners, the PCMU at CUTS will take on the task of editing, publishing and releasing as well as uploading project documents on the CUTS website for a wider reference. Meanwhile, project partners would also need to widely circulate these publications as well as and upload them on their own websites for advocacy and capacity building purpose.</p> <p>5.2.3. Translations of project output documents into local languages of project countries if be required will be done by project partners at their own costs as contribution to the project. Due acknowledgement of CUTS/NORAD/DFID of the translations for records is advisable.</p> <p>5.2.4. The Comparative Study in the form of a Synthesis Report will be prepared, published and released directly at CUTS, with pro-active contributions from project partners.</p>	<p><b>Partners PCMU</b></p> <p><b>PCMU/ Partners</b></p> <p><b>Partners</b></p> <p><b>PCMU/Core Researcher PAC/Partners</b></p>

## VI. Webpage

A webpage for the project has been created at [www.cuts-international.org/7up3.htm](http://www.cuts-international.org/7up3.htm) for the purpose of familiarising the audience with the project concept, target and activities. The webpage would carry all the publications, related information and announcements; which would be linked with the most used search engines and other relevant sites.

## VII. Publicity

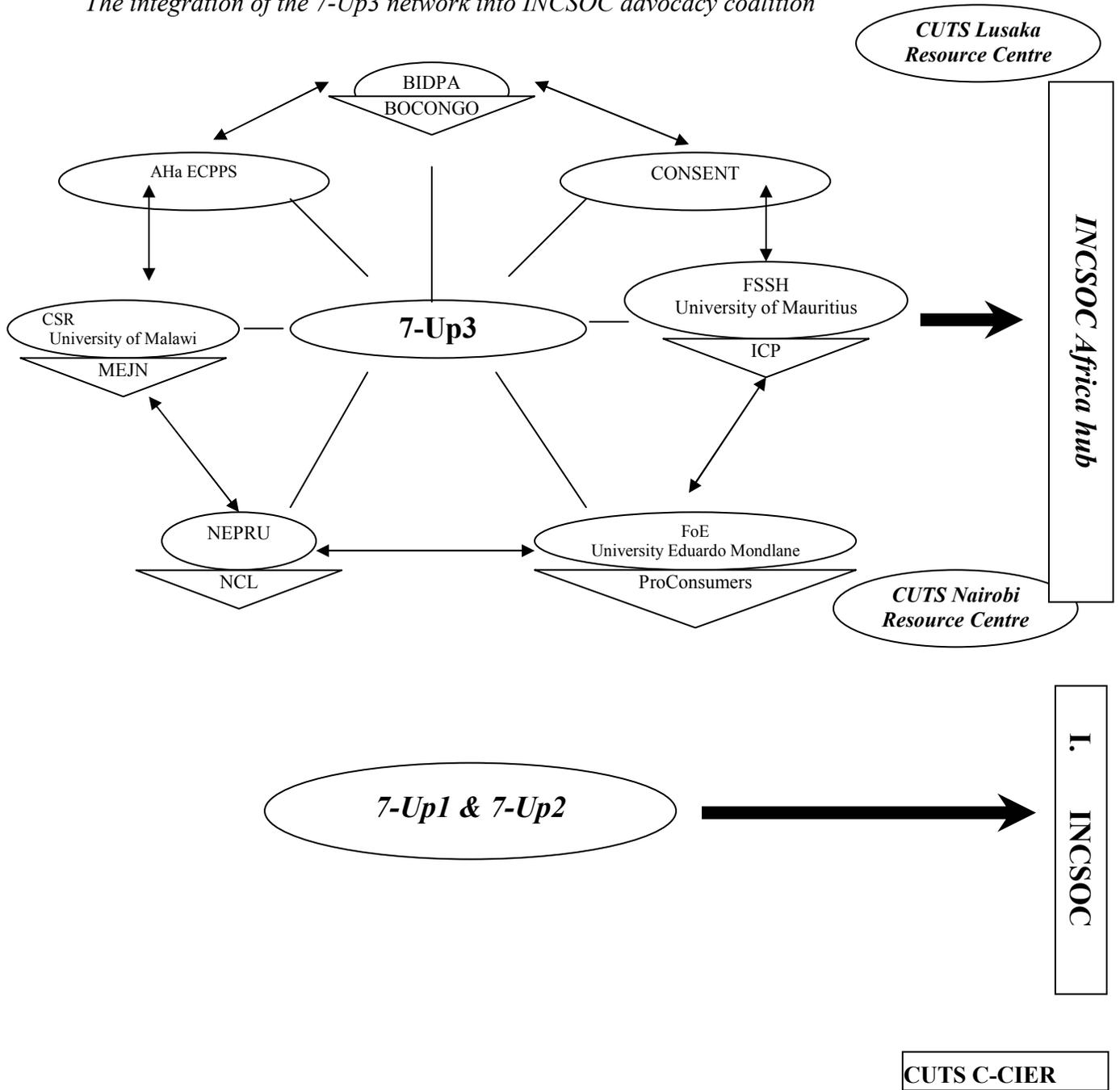
Activities	Responsibility
<p>7.1. The project announcement and other related announcements regarding project-events would be carried out in various newsletters, journals, e-circulations etc, especially to the local media in project countries to generate awareness and interests.</p> <p>7.2. Posters, brochures, leaflets are also expected to be distributed during relevant national as well as project-wide events and activities.</p>	<p><b>PCMU, Partners</b></p> <p><b>PCMU, Partners</b></p>

## VIII. Beyond Project

<p>8.1. A separate session “what next” would be included at the Final Meeting/International Symposium on Competition to identify the areas and devise the mechanism to follow-up the project outcome.</p> <p>8.2 In order to strike synergies with similar initiatives, the following would be useful:</p> <ul style="list-style-type: none"> <li>• The bottom-up approach of multi-stakeholder involvement of CUTS is unique and would <i>complement initiatives taken by other organisations</i> (especially inter-governmental organisations) to sensitise the policy-makers on the subject.</li> <li>• CUTS already possess a fair amount of experience of working in Eastern and Southern Africa, and would utilise its previous experiences and learnings to harmonise its efforts with <i>national policies and regional agreements</i>.</li> <li>• CUTS has been actively involving its Africa Resource Centres (Zambia and Kenya) in planning the implementation strategy of the project. Needless to say that these centres have been assisting CUTS with feedback about similar initiatives in the region, helping correspond with prospective partners and establishing relationships with key people in</li> </ul>	<p><b>PCMU/PAC Partners</b></p> <p><b>CUTS/PAC</b></p>
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<p>the region.</p> <ul style="list-style-type: none"> <li>• Through the <i>participation of researchers in conferences</i> organised by other intergovernmental organisations working on CPL in the region, CUTS hopes to keep abreast of the efforts therein.</li> <li>• CUTS has also been <i>inviting representatives</i> from various intergovernmental organisations, experts on competition and other renowned researchers to its events. CUTS believes that such exchanges would provide the appropriate opportunities for experience sharing and mutual learning.</li> <li>• The International Advisory Board of CUTS Centre for Competition, Investment and Economic Regulation (CUTS C-CIER) comprises of experts on the topic representing various intergovernmental organisations like WTO, UNCTAD and the World Bank. Therefore, there is a continuous exchange of information between CUTS and these organisations about each other’s activities on ‘competition policy and law’.</li> </ul> <p>8.3 The project would lay down a ‘specific’ <i>plan of future action</i>, with key responsibilities for partners and ways of achieving the set targets. This plan would include the following elements:</p> <ul style="list-style-type: none"> <li>• Proposed activities and select target groups for each country</li> <li>• Methodology and time scales</li> <li>• Stock of similar activities by other organisations and linking up</li> <li>• Course material availability</li> <li>• Funding sources and names of contacts</li> </ul> <p>8.4 A key instrument for maintaining the sustainability of the project, which needs to be re-emphasised, is the integration of this project’s research findings and advocacy network into the International Network of Civil Society Organisations on Competition (INCSOC)</p> <p>8.4. The INCSOC network and the network developed during the project can be a good channel for information dissemination even after the culmination of the project (see the Diagram below)</p> <p>8.5 INCSOC will remain the main framework within which the 7Up3 local networks are expected to thrive, being supported and coordinated by CUTS. It is planned that in the near future, with inputs from project like 7-Up1,2 &amp; 3, INCSOC will get decentralised into various regional hubs</p> <p>8.5. Continuous circulation of the project-publications, and sharing project-outcomes and recommendations at various national as well as international fora would also contribute to sustain the impetus gained in the region (and especially in the project countries) for future activities.</p>	
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*The integration of the 7-Up3 network into INCSOC advocacy coalition*



- The way ahead...**
- *INCSOC Annual Conferences*
  - *Citizens' Report on the state of Competition Law in the World*
  - *World Competition Report*