

**Capacity Building on Competition Policy in Select Countries  
of Eastern and Southern Africa  
(7Up3 project)**



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**Proceedings of 'Inception Meeting'  
Stage-II**

*Nairobi, 25<sup>th</sup> November 2006*

## Executive Summary

A meeting of the 7Up3 project partners and members of the project management unit (comprising of CUTS representatives from the Headquarter in India; and Resource Centres in Lusaka and Nairobi) was organised on 25<sup>th</sup> November 2006 at the Hotel Boulevard in Nairobi.

The purpose of the meeting was to flag-off Stage-II (comprising of Advocacy and Training) of the project, while taking note of achievements and non-achievements of the Stage-I (Research and Capacity Building). One of the main objectives of the discussions in the meeting was to develop a common understanding about the Stage-II activities – with regard to their focus, purpose and schedule.

Over the course of the discussions, the following **outcomes** were achieved:

- Finalisation of the topics and schedule of the 3<sup>rd</sup> and 4<sup>th</sup> rounds of the National Reference Group (NRG) meetings;
- Discussions on the format and content of the National Training Workshops (on competition policy and law);
- Identifying topics/issues for developing Briefings;
- Deciding tentatively on the Regional Training Workshop;
- Views on the Final Project Meeting (participation, location, agenda, etc.) to be held in March 2007.
- Consensus on the need to obey the tight activity schedule of the Stage-II.

Moreover, some discussions were also held on **means to carry forward** the advocacy aspect of the 7Up3 project (for a healthy competition culture at the national/regional levels) beyond the duration of the project by:

- Developing Strategic Collaborations with Parliamentary Committees, Business Chambers, Manufacturer's Associations, etc. for cross-fertilisation of ideas (especially, sensitising these groups for the need to have a functional competition policy/law in place)
- Explore possibilities of incorporating the research done on the domestic competition regime into the curriculum of University courses.
- Identify issues to work at the national level on competition and start the process of brainstorming as to how to initiate such projects after the completion of the 7Up3 project;
- Develop regional/pan African networks of CSOs and Competition Authorities to discuss impending topics of Competition Policy and Law evolution and enforcement.

There was consensus among the participants that the 7Up3 project has indeed raised the level of understanding of the partner organisations and the staff members (associated with the project) on competition policy and law issues that was earlier absent. Partners have also begun to appreciate the need to do further work on competition policy and law issues in their countries. Over the period of implementation of the project the partners have gained substantial credibility as pioneering civil society organisations working on competition policy and law issues in their countries and some of them have even been approached by the government for advise and collaboration.

All present in the meeting felt that it was an immensely productive meeting as the agenda was precise and the discussions outcome-oriented.

## **1. Background**

1.1 CUTS Centre for Competition, Investment & Economic Regulation (CUTS CCIER) has been implementing a project entitled, 'Capacity Building on Competition Policy in Select Countries of Eastern and Southern Africa' (referred to as the 7Up3 project [www.cuts-international.org/7up3.htm](http://www.cuts-international.org/7up3.htm)) from January 2005 onwards in seven countries of the region, viz. Botswana, Ethiopia, Malawi, Mauritius, Mozambique, Namibia and Uganda with support from the DFID (UK) and NORAD (Norway).

1.2 The 7Up3 Project is divided into 2 stages:

i. Stage-I: Research and Dialogues;

ii. Stage-II: Advocacy and Training

1.3 While DFID, UK is supporting both the Stage-I and the Stage-II of the project, NORAD, Norway's support of the Stage-II of the project was conditional on the successful accomplishment of the activities of the Stage-I of the project.

1.4 The Stage-I of the project had come to an end in July 2006 with the finalisation of the 7 Country Research Reports. However, pending NORAD's decision to support the activities of the Stage-II of the project, the activities in this stage could not be initiated. After a long drawn process of appointing an external consultant; developing the ToR for the evaluation; undertaking the evaluation and assessing the evaluation report, NORAD has recently agreed to support the Stage-II of the project.

1.5 It was felt on account of the delay that the involvement of the partners from the project might get diluted, and therefore there was a need for getting them back on track to focus on the activities of the project. This would enable them to appreciate their roles and responsibilities in executing the activities of the Stage-II of the project. The Inception Meeting of the Stage-II of the 7Up3 project held on 25<sup>th</sup> November at Nairobi to achieve this outcome.

1.6 Sixteen participants attended the meeting: ten (10) representatives from partner countries in Botswana, Ethiopia, Malawi, Mauritius, Mozambique, Namibia and Uganda, plus six (6) from CUTS [four from CUTS Nairobi Resource Centre and one each from CUTS Africa Resource Centre (CUTS NRC) and CUTS Centre for Competition, Investment & Economic Regulation (CUTS CCIER)]. The list of participants is attached as *Annex 1*, herewith. The representative from the research partner organisation from Botswana (from BIDPA) – Monane M Monnane could not attend the meeting due to some pre-scheduled fieldwork for which his presence was required in Botswana (Gaborone). However the other participant from Botswana (B. Mogotsi, representing the advocacy partner organisation, viz. BOCONGO) assured that he would communicate the highlights of the meeting including (and especially) activities that need to be undertaken in the Stage-II in Botswana.

## **2. Agenda**

2.1 Agenda of the Meeting is attached as *Annex 2*.

### 3. Opening Session

*Opening Remarks by Clement Victor Onyango, Administrative Officer, CUTS NRC*

**3.1** Clement Victor Onyango (hereinafter CVO) delivered the opening remarks. He explained the purpose of the meeting and welcomed all the participants to Nairobi. CVO mainly emphasised the following issues:

- a. African population continue to grow at about 5% annually but the distributive policies are yet to be put in place. ‘Under these circumstances, consumers continue suffering and thus the need for a competition policy’.
- b. Political economy issues often serve as impediments to effective implementation of competition and regulatory regimes in the continent – a fact that has been reverberated in the findings of the 7Up3 project research.
- c. CUTS Africa Resource Centre (CUTS ARC, based in Lusaka, Zambia) and CUTS Nairobi Resource Centre (CUTS NRC) have been engaged in the regional coordination of the 7Up3 project and have therefore established sound working relationship with all the partner organisations, which lays the foundation for further collaboration on issues of mutual interest in the future.

*Expectations from the ‘Inception Meeting’ by Rijit Sengupta, Programme Officer and Coordinator of the 7Up3 Project, CUTS CCIER, CUTS International, India*

**3.2** Rijit Sengupta (RSG) started by thanking all the participants for taking time out from their busy schedule to be present at the meeting. He took the opportunity to apprise the participants of certain recent happenings with regards the 7Up3 project, to put the meeting into a better perspective.

- a. RSG briefed the meeting that the ‘Synthesis Report’ of the 7Up3 project was prepared; reviewed internally (at CUTS) and by external reviewers; revised and finalised. He further informed that the Research Report – comprising the ‘Synthesis Report’ and the individual Country Chapters would be published in December 2006.
- b. He added that an external evaluator (Scanteam Analysts and Advisers) appointed by NORAD had evaluated the 7Up3 project and submitted its evaluation report to NORAD, where it recommended supporting the activities of the Stage-II of the project. Recently, NORAD has communicated to CUTS that they would support the Stage-II of the 7Up3 project.
- c. In view of considerable amount of delays with regard to initiating the activities of the Stage-II of the 7Up3 project, RSG informed that some activities of the Stage-II would now extend beyond March 2007 (more precisely, these would be the 4<sup>th</sup> round of the National Reference Group meetings and the National Training Workshops). Accordingly, the Country Advocacy Plan (Stage-II) of the project has been revised and the same is available on the 7Up3 webpage at [http://www.cuts-international.org/7up3/Country\\_Advocacy\\_Plan7Up3-Stage-II.doc](http://www.cuts-international.org/7up3/Country_Advocacy_Plan7Up3-Stage-II.doc).
- d. He went on to report that there have been some changes in the activities to be undertaken in the Stage-II of the 7Up3 project, which was in consonance with the recommendations received from the external evaluators. It has been decided to have more national level activities – and therefore, instead of having three regional training workshops on competition policy and law, there would be one regional training workshop and seven national training workshops on competition policy and law issues.

**3.3** RSG conveyed the expectations from the ‘Inception Meeting’ to the participants, which were as follows:

- a. Finalisation of the ‘topics’ and the dates/period for the 3<sup>rd</sup> and 4<sup>th</sup> round of the National Reference Group (NRG) meetings in the project countries;

- b. Discussions on the framework of the National Training Workshops and deciding the topic for the same. Further, deliberations on the structure of the Regional Training Workshop.
- c. Identifying Issues/Topics for developing 'Policy Briefs'/'Briefing Papers' (occasional publications to be produced in the Stage-II of the project)
- d. Selection of some ideas/topics on which the partners would like to do further work in their own countries through national projects, after completion of the 7Up3 project.
- e. Some ideas about the recent developments with respect to competition regime in the partner countries and the opportunities for advocacy and campaigning keeping in view the 7Up3 country research on competition.

#### **4. Achievements and Shortcomings**

*David Ong'olo (DO) is a member of the 7Up3 Project Advisory Committee and has been very closely associated with the 7Up3 project. Since he is based in Nairobi, he was requested by CUTS to participate in the Inception Meeting of the Stage-II of the 7Up3 project and make a presentation on the 'Achievements and Shortcomings' of the 7Up3 project. The key points of his presentation are captured below.*

##### **4.1 Achievements**

- 4.1.1** So far, the project partners from Ethiopia, Malawi and Namibia, have achieved good working-relationships with their national Competition Authorities. This should be strengthened and maintained. Further, in countries like Botswana, Mauritius, Mozambique and Uganda the partners have established connections with key-policy makers responsible for competition (in the relevant Ministries) – on account of the fact that competition agencies don't exist in these countries.
- 4.1.2** One issue that had been raised in the Regional Conference of the 7Up3 project held earlier this year (March 2006, Addis Ababa) – was the fact that the project has not been able to attract the attention of regional authorities like – COMESA, SADC, EAC, etc. This concern has now been addressed as follows:
  - a. SADC - expressed interest to liaise with CUTS to develop a framework on capacity building in the area of competition policy in member states;
  - b. COMESA - Continuous exchange of views with officials dealing with competition issues;
  - c. EAC - EAC has taken cognisance of the 'advocacy points' emerging from the research phase of the 7Up3 project
- 4.1.3** A big achievement of the project was that it has raised the capacity of Civil Society Organisations in the project countries to the extent that the 7Up3 project partners have become pioneers on competition policy and law issues in their countries (testified by the fact that the government is looking up to these CSOs to associate with for further work to strengthen the competition regime in the countries).
- 4.1.4** One of the major shortcomings that needed to be addressed was the fact that in some of the project countries, there has been quite limited interaction with the media (of course the exceptions were Mauritius and Uganda, where the partners have very regularly written on competition and consumer protection issues in the national media). It was reiterated that, notwithstanding the fact that in some countries it is extremely hard to get a public opinion (from the civil society) across for dissemination, efforts should be continuously made by the project partners to achieve this.
- 4.1.5** Another issue that was highlighted was that it was very difficult to get news from the project countries on competition policy, regulatory issues and consumer affairs for writing the e-newsletter (which gets delayed due to the non-availability of news on the internet), so the partner organisations would have to make it a

habit to share news on these issues with CUTS so that the e-newsletters could be prepared on time and disseminated.

**4.1.6** Research in the Stage-I of the project has raised several issues to target for advocacy in the project countries, which were:

- Need for hybrid agencies and laws in small economies for competition and consumer protection;
- Political economy issues play a vital role in matters related to competition policy and law administration;
- Need for a National Competition Policy, as in Botswana, for promoting competitive outcomes in the market;
- Building greater public awareness and support for enforcement of competition and regulatory legislation;
- Explore the possibility to establish a ‘Competition Fund’ under a Competition Law to support consumer awareness activities on competition issues;
- Develop the capacity of civil society to complement the efforts of the competition authority;
- Competition Authorities should develop elaborate Public Relations/Communications Strategy;
- A process of dialogue has to be maintained between ‘government – civil society – business’ for developing a healthy competition culture at the national level;
- Engagement on competition issues would strengthen the Consumer Movement in Eastern and Southern Africa;
- Promote independence and accountability of Regulators.

**4.1.7** DO identified what he thought were important issue for the project in the future, which are presented hereunder and he invited comments/suggestion on these from the floor:

- Partners need to identify issues/topics for developing policy briefs, briefing papers (CUTS would help finalise these publications);
- Media needs to be engaged;
- Channels of communication with key policy-makers have to be identified, established and maintained;
- Project Ideas – research projects on competition policy to be identified by partners and developed with assistance from CUTS, into initiatives that could be taken up at the national level by the partners, after the completion of the 7Up3 project.

## **4.2** *Floor Discussions*

**4.2.1** Mauritius has not been able to get the private sector involved in the project. Seemingly this is an issue with all other countries. Private sector does not like getting involved on things they perceive as a threat – and unfortunately that is how they approach ‘Competition Policy and Law’. It was mentioned that there was a need to sensitise the business community of the fact that an effective competition legislation could lead to business welfare also. Some suggested ways of getting the business community engaged could be as follows:

- Develop a briefing paper on ‘Competition and Business Welfare’ and use that to sensitise the business community of the benefits to business from a functional competition regime;
- Approach Business Chambers/Association to be partners for organising NRG meetings in some of the project countries (countries suggested were Namibia and Mozambique), and see how they react.

- 4.2.2 Need to simplify and translate competition into day-to-day issue agendas. This will enable easier understanding about competition especially among consumers and private sector members (most of whom do not have quality formal education in the project countries) – a challenge!
- 4.2.3 Awareness on competition issues in almost all partner countries is low. There is urgent need to strike rapport with the media to get regular columns published on competition issues, especially those in consumer interest.
- 4.2.4 Difference on opinion has been witnessed on whether to include ‘Competition Issues’ as an item under the Economic Partnership Agreements (EPAs) being negotiated by the African countries with the European Union.
- 4.2.5 African CSOs could approach the European Development Fund for Africa to develop initiatives on competition issues in their countries.
- 4.2.6 Partners need to start identifying relevant people to be trained from various national stakeholder groups. Need to identify relevant issues/topics for trainings. Resource persons who command authority in the field of competition issues also need to be identified.

## 5. Country Presentations

*In this session, partner organisations made submissions on the major findings from the research on competition issues (done as a part of the 7Up3 project) in their countries and tried to identify means of advocating for a healthy competition culture. Most of the participants chose to segregate their presentation into – research findings, achievements, challenges and opportunities. Reactions from the floor were invited after each presentation.*

### 5.1 Botswana

#### Achievements

- a. Just before the Addis Ababa Regional Conference (March 2006) the country had adopted a Competition Policy; however, CSOs had very little opportunity to provide inputs into this process. In the wake of the fact that a Competition Law is being developed for Botswana, the partner organisations (BIDPA and BOCONGO) have engaged with the Ministry of Trade and Industry (MTI), thus ensuring a continuous engagement on competition issues.
- b. BOCONGO has become (since, September 2006) a member of the ‘National Trade Committee’ of Botswana and has and would continue to highlight Competition issues in meetings of this Committee.
- c. Botswana CSOs are now starting to show interest to associate on competition policy and law (and more generally on other trade-related matters).

#### Challenges

- a. The country faces high unemployment rates ever. The currency has, in this year alone, been deregulated twice –first at 3% then at 12%. The reason is to try and tie it up to the levels of South African currency. There was advantage of having a stronger currency in the SACU bloc (through getting imports cheaply).
- b. There could be an assessment of the impact of devaluation of currency on competition in the local market (in Botswana).

#### Opportunities

- a. BOCONGO sits in the National Trade Committee (as of September 2006). Good rapport with the government provides the opportunity to initiate dialogue on competition issues with government, private sector and Parliamentarians etc.

- b. The government is expected to table the ‘Competition Bill’ in the present session of the Parliament (mid-November till mid-December, 2006). The time is ripe for engaging public opinion on the features of the ‘Competition Bill’.
- c. An avenue exists for engaging and utilising the media - as media organisations are members of BOCONGO.
- d. Need to take advantage of the growing interest among the CSOs in Competition issues in strengthening the upcoming advocacy activities.
- e. The fact that headquarters of SADC Council of NGOs is in Botswana presents a great opportunity in reaching out to the right people with much ease.

*Points from the floor*

- a. The Minister is to table the Bill on Competition Law. There seem to be pressure from the SADC bloc and business community for the country to enact the Law.
- b. Once the Bill is out – a ‘Bill Blow-Up’<sup>1</sup> could be prepared pointing out the salient features of the Bill (highlights, lowlights, contentious issues, etc.) in a manner, which is easily comprehensible to Parliamentarians to enable them to have an informed discussion on it.
- c. Partners should try and bring out ways in which competition issues impact on different sectors such as public works, education, health, agriculture, etc. This way, people including the government and its agencies will be able appreciate the role of competition on livelihoods.

## 5.2 Ethiopia

*Realisations*

- a. Anti-competitive practices (ACPs) exist in abundance and their effects on consumers are significant. The top four prevalent ACPs are unfair trade practices, collective price fixing, entry barriers and bid rigging in that order.
- b. The sectors most affected by these ACPs are services, industry, agriculture and trade in that order.
- c. Only a handful of respondents are aware of the existing rules, regulations and laws to check the ACPs. This supports the need for developing the capacity and understanding of stakeholders on competition policy and law issues in Ethiopia.
- d. There is also a need to explore the possibility of strengthening the existing competition legislation in Ethiopia (Trade Practices Proclamation) – especially in terms of ‘merger review’ provisions.

*Achievements*

- a. AHa Ethiopian Consumer Protection Association (AHaECoPA) as a competition advocacy partner conducted a research on the Competition Policy and Law where a total of 200 questionnaires were distributed to seven Regional Administrative towns: Adama, Awassa, Bahir Dar, Gondar, Gambella, Harar and Mekale, and two chartered towns of Addis Ababa and Diredawa. This led to two outcomes: one, it helped getting on board the views of consumers from across the country and two, that in the process it led to dissemination of information about the objectives of the project and the need for a country like Ethiopia to focus on a market instrument like competition policy to achieve better economic

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<sup>1</sup> **Bill Blow-Up:** This is a regular activity of CUTS International to raise awareness of the Members of Parliament in India on legislations relating to economic policy issues. Salient features of Bills that are tabled in the Parliament for discussions are quickly prepared in a format easily comprehensible for the MPs, and disseminated. A similar effort was also done for the Vietnam draft Competition Law in Vitenamese language and it was appreciated highly by parliamentarians. (Refer <http://www.cuts-international.org/pdf/Bill-Blow-up2-2006.pdf>, for the Bill Blow-Up of the Competition Amendment Act 2006 of India)



development and consumer welfare (the outcomes of the survey is presented in the Ethiopia Country Research Report, as in the case of other Country Research Reports, available on [www.cuts-international.org/7up3.htm](http://www.cuts-international.org/7up3.htm))

- b. AHaECoPA would pursue the following advocacy points that has emerged from the implementation of the project in the country:
  - Collaboration between government and consumer associations to tackle anti-competitive practices at the micro-level;
  - Awareness creation (especially among government and business community) on the notion of free market verses competition policy and law;
  - Urge the government to take measures towards developing an enabling environment for private sector development;
  - Enforcement of consumer protection law; and
  - Avoid parastatal and government involvement in business.

#### *Challenges*

- a. The economy is characterised by small domestic markets; non-diversified production bases; underdeveloped infrastructure; inadequately skilled human capital; financial constraints; etc. and under these circumstances, there is only little chance of competing regionally and globally.
- b. There is a need for capacity building assistance, technical and financial support and co-operation.
- c. Need to formulate and promulgate appropriate policy and law. Need to create enabling and equal level playing ground/environment for the business community to benefit the people and the country.
- d. A Member of Parliament chairs the Competition Agency (Trade Practice Investigation Commission). Ideally an expert selected by a panel should be heading such a specialised agency.

#### *Opportunities*

- a. AHaECoPA recently signed a MoU with the Trade Practices Investigation Commission (competition agency of Ethiopia) to campaign against ACPs. Complaints will be channelled through the Chamber of Commerce in the country.
- b. Donors are approaching consumer associations to work on consumer issues.
- c. The AHaECoPA has been pressurising the government to formulate a vibrant competition policy and law, which needs to be consistent with the level of economic growth and institutional structures in the country.
- d. The association is also interested in promoting the proper implementation of Trade Practices Proclamation (TPP of 239/2003) through representation and delegation at all level of the government.
- e. Opportunities have arisen for cooperating with business associations and manufacturers associations on competition advocacy.

#### *Floor Reactions*

- a. Need for autonomy of the Investigation Commission. Furthermore, the Chair needs to be an expert on relevant issues.
- b. It is clear that “one-size fits-all” approach to competition policy and law is a fallacy. One also needs to consider the level of economic development, socio-cultural and political realities and the government has to be committed to formulate and design an effective competition policy and law.
- c. Considering the importance of consumers’ right to equity, social justice, and economic advantage, the government has to seriously work on the area of

competition law with enthusiasm to protect consumers from anti-competitive practices.

- d. Moreover, government should incorporate consumer views and interests especially, those of women and children at all levels of policy formulation and decision making process, through specific channels and mechanisms.

### 5.3 Malawi

#### *Research findings*

- a. Research reveals that a Competition law has been in place, however its implementation has been extremely weak.
- b. The Competition Commission exists but has only one individual in its temporary Secretariat; the individual is in fact the Secretariat.
- c. Privatisation Commission, instead of promoting privatisation, has ended up in encouraging transformation of public monopolies to private monopolies.
- d. The Malawian market is highly concentrated (in sectors like Tobacco, Tea and Oil).
- e. Need to strengthen work of CSOs across the country.
- f. CSOs have no sense about how to perceive competition domestically.

#### *Proposed advocacy activities*

- a. A good topic for further research is 'Impact of Privatisation on Competition'
- b. Need to look at how competition affects (benefits of competition law) various sectors of the economy – especially from the perspective of eradication of poverty.
- c. A 'needs assessment' for national level training would be scientifically undertaken.

#### *Challenges*

- a. Power of advocacy in the country is basically reliant on how much money an organisation possess. A quarter of a page advertisement in a daily newspaper costs \$240.
- b. MPs pass various laws but do not remember having passed them to be able to follow up on their implementation and/or effectiveness.
- c. Enactment of laws has not been followed up with institutional development to enforce those laws.
- d. There is an urgent need to harmonise the work of the 'sector regulators'.
- e. CSOs have been kept away from the process of formulation of the competition law.

#### *Opportunities*

- a. The government has given the Malawian Economic Justice Network (MEJN) space and mandate to look at various trade-related issues in the country. Competition would be incorporated in the bouquet of trade-related issues that MEJN would be advocating on.
- b. MEJN is a member of the 'National Committee on Trade'.
- c. The Malawian President is making a lot of noise about anti-competitive practices to be purged from the economy. So the time is ripe for embarking on advocacy activities as has been envisaged in the Stage-II of the 7Up3 project.

#### *Reactions from the floor*

- a. The partners need to identify 'training needs' for designing the national level training workshops. There was a suggestion that for national training workshops

- (3-day events) – each day could be designed specifically for training a particular stakeholder group.
- b. Look at competition vis-à-vis specific sectors of the Malawian economy, especially from the perspective of poverty eradication.

#### 5.4 Mauritius

##### *Research findings*

- a. The survey reveals that the country's economy is plagued with anti-competitive practices at various levels with consumers being victims of such practices.
- b. Responses from consumers indicate that the main market affected by these practices is the consumer goods sector; government sees the most affected sector to be service followed by manufacturing sector and finally the agriculture sector.
- c. Majority (from private and public sector and consumers) respondents supported the introduction of a comprehensive law.

##### *Achievement*

- a. Between June-October, ICP through its contacts in the press, especially the independent newspaper and the private radio stations, exposed anticompetitive practices. Example the World breast-feeding week in August was used to expose practices like bid rigging and below cost price tendering to win tenders for supply of infant formulas to hospitals by importers.
- b. For the past eight months the partner has been writing articles on consumer and competition issues in the most widely read weekly newspaper.

##### *Opportunities*

- a. The new government that came into power enacted a new Competition Bill 2006. This opened the opportunity for ICP to voice their comments on the bill, especially from the perspective of the 7Up3 research that had been undertaken in Mauritius.
- b. In June 2006, the Government called upon two Commonwealth Secretariat consultants to review the Bill. The experts rejected the Bill outright, as it was seen that the new Bill would only weaken the competition agency.
- c. There is a possibility that that the Department of Consumer Protection would be shifted to the Ministry of Industry and Commerce from the Ministry of Women's Rights, Child Development, Family Welfare and Consumer Protection, where it is currently based. Mauritius is preparing two draft bills on Competition, and depending on the location of the Department for Consumer Protection (which is to be decided soon), the appropriate Competition Bill would be tabled. (It was felt that a policy brief on 'Political Economy issues impeding Competition Administration' could be prepared culling the ground realities witnessed in countries like Mauritius, Uganda, etc.)
- d. ICP was invited to attend the 7<sup>th</sup> Intergovernmental Group Experts meeting on Competition Policy and Laws organised by UNCTAD in October 2006. The Mauritian government counterparts used the opportunity to invite an UNCTAD delegation to Mauritius in January 2007 to advise on Competition issues.
- e. Partners proposed to organise three training sessions, one for media actors, second for Trade Unions activists and third for women activists. The aims of the training sessions will be:
  - i. To sensitize the respective target groups on consumer protection and competition policies

- ii. To sensitize the respective target groups on CSO involvement in policy formulation
  - iii. To provide the respective target groups with an appropriate platform to discuss competition and consumer issues.
- f. Getting stories published in the local press or broadcasted by audio and visual support. This will extend partners' contact with the media and also help raise public awareness and support on competition issues in the country.
- g. ICP is trying to organise the visit of an expert from the French Competition Council to deliver lectures on the topic in the country. Attempts are being made to coincide this visit with the NRG-III.

#### 5.4.1 **Mozambique**

##### *Project Progress*

- a. The Country Research Report (Competition Regime in Mozambique) was finalised in August (2006). For this, a CUTS representative spent 15 days in Maputo working hand-in-hand with the researcher to finalise the report.
- b. There were some problems with the earlier advocacy partner (Viriato Tamele, representing the Economic Justice Coalition of Mozambique). Therefore, the agreement with EJCM (Mozambique) was terminated by CUTS and a new partner (Mauzinho Nicol's representing DECOM, i.e, Consumer Association of Mozambique) was selected after several consultations.
- c. Mauzinho Nicol's (MN) is a member of the 'Working Group on Competition Policy' established by the Ministry of Trade and Industry of Mozambique, and his association with the project would add value to the project on one hand and also help transfer the learnings from the project to the 'Working Group on Competition Policy'.
- d. The NRG-II would be organised on December 7, 2006 in Maputo.

##### *Opportunities*

- a. The Government is preparing a Competition Policy, which would be tabled very soon (expectedly in December 2006) – so there is a lot of scope for advocacy on the issue, the ground for which would be created by the NRG-II (and subsequent activities);
- b. A process of cross fertilisation between the 7Up3 project and the activities of the Working Group on Competition Policy can be established;
- c. Research done under the 7Up3 project on competition policy and law is the first of its kind in the country and has been disseminated to various key policymakers already.

#### 5.4.2 **Namibia**

##### *Research findings*

- a. Finalized the Country Research Report in August 2006.
- b. ACPs are significantly prevalent in Namibian markets (as most of the respondent, ie, 55% agreed).
- c. Of the most prevalent ACPs - market sharing, price fixing and entry barriers top the list.
- d.** In terms of awareness of rules, competition issues feature much less in public policy discussions.

### *Challenges*

- a. Namibian Competition Commission (NaCC) has been appointed but has not yet started undertaking investigations, etc. Presently, the regulations are being drafted.
- b. NRG-II – timing is a challenge as from early December the holiday season starts in the country and nothing works. So, the most realistic period would be middle to late January 2007 for organising the NRG meeting.
- c. Chair of NaCC is from the private sector – so it would be a challenge to convince the NaCC of the need for a competition policy (the benefits to local business would have to be highlighted).

### *Opportunities*

- a. Some members of NaCC have showed interest in the project and have participated in the National Reference Group Meeting. They have also expressed the need for providing training to their staff, something that NEPRU would need to discuss with the NaCC (training needs assessment).
- b. The benefits to local business from a functional competition policy would have to be elucidated (this supports the need to develop a briefing paper on the subject)
- c. It would have to be demonstrated how competition policy and/or law could be used as an instrument to regulate the behaviour of MNCs (many local business houses have been complaining of the operations of MNCs especially from South Africa) in the country.
- d. A new consumer organisation, Namibian Consumer Association (NCA) has been launched. No consumer organisation existed in Namibia and NCA will endeavour to plug that gap.

## **5.4.3 Uganda**

### *Progress*

- a. CONSENT has gained the recognition of a CSO with expertise on competition policy and law issues and government officials/academicians have often approached the organisation for advice/consultations.
- b. Surveys reveal not very different results from rest of the countries, as prevalence of ACPs is huge; and there is a low level of awareness on competition policy and law issues in the country.
- c. CONSENT has so far involved strategic stakeholder groups like lawyers and economists as well as academicians, media and few consumers in the country with the project. Government agencies like the Law Reform Commission and Public Procurement and Asset Disposal Authority have also been engaged.
- d. Has succeeded in engaging the private sector also.
- e. The partner is developing strategic membership and collaboration (with, e.g. Parliamentary Committees, Sectoral Regulators, etc.) for pushing advocacy activities.

### *Opportunities*

- a. Discussions are ongoing with the Makerere Business School (Kampala, Uganda) to start monthly dialogue with students on ‘competition policy and consumer protection’ issues from the next academic session.
- b. CONSENT has been engaged in discussions with the US Embassy on exploring a possibility of developing a programme for the Uganda Government on Competition Policy and Law issues with technical assistance from the US Fair Trade Commission. There is a high possibility that this programme would be

- initiated soon and CONSENT's engagement in it would help translate the findings from the 7Up3 project into this programme.
- c. There is an emerging need to link competition issues with other sectors like – agriculture, works, education – in order to make the wider public and policy-makers understand and appreciate the linkages between competition and development.
  - d. The fact that anti-competitive practices hurt the poor the most would need to be demonstrated to policy-makers, in order for them to accord greater attention and importance to operationalising the competition legislation in the country.
  - e. CONSENT proposed analyses of the critical issues in the present Competition Bill (which has gone back to the Ministry of Tourism, Trade & Industry from the Cabinet Committee for amendments) and present it in a brief and simple form to enable MPs to understand the issues at stake through a Bill Blow-Up.

*Points from the floor*

- a. The Addis Ababa University runs a M.A. Course on Competition Policy. The Ethiopian partner was asked to get in touch with the In-Charge of this course and pursue for including a chapter on 'Competition Regime in Ethiopia' incorporating the findings of the research undertaken on competition under the 7Up3 project.
- b. Similarly, the research partner in Mauritius (representing the University of Mauritius) expressed that they are trying to introduce some lectures on Competition Policy and Law (generic and specifically on the 'Competition Regime in Mauritius') in the course on Industrial Economics.
- c. Strategic collaboration/engagement in Uganda could help establish both backward and forward linkages (a process of information exchange on issues of mutual interest) – other partners should look at similar opportunities.
- d. The discussions have brought to the fore various topics/issues for developing briefing papers/policy brief (which have been captured below in para 6.6) Now the partners would need to cooperate in order that these publications are prepared and disseminated extensively.

## **6. Plan of Action for Stage II – Activities**

*The Plan of Action for Stage-II identified activities that need to be undertaken in the Stage-II of the project.*

- 6.1 Rijit Sengupta (RSG) made the presentation, which was aimed at discussing some details of the scheduled activities, like:
  - a. Finalisation of the topics for the Third and Fourth round of NRG meetings
  - b. Dates/Period of the NRG-II and III meetings
  - c. Identification of issues/topics for developing Policy Briefs and Briefing Papers
  - d. Framework and Topics for the National Training Workshop
  - e. Regional Training Workshop
  - f. Ideas for initiating projects in the partner countries outside the 7Up3 project
- 6.2 RSG explained that in order for the activities of this Stage-II to be accomplished on time, the role that the partner organisations play would be extremely critical. He summarized the following points as *responsibilities of the partners*:
  - Disseminate the Research Report of the project among national policymakers
  - Organise National Reference Group meetings
  - Provide inputs for developing 'Competition Toolkits'

- Information on recent development in national competition regimes
- Identify issues for developing briefing papers/policy briefs
- Develop briefing papers/policy briefs
- Identify ‘training needs’ and constituents (stakeholders) for national trainings
- Issues for national level research/advocacy project

6.3 After discussions with the partners, the following topics and tentative date/period was fixed for the NRG meetings

Sl. No.	Country	NRG-III		NRG-IV	
		Date/Period	Suggested Topic	Date/Period	Suggested Topic
1	Botswana	13.12.06	Benefits from a Competition Policy & Law	April/May 2007	Elements of a Competition Law for Botswana
2	Ethiopia	16.12.06	Competition Policy and Consumer Protection	April/May 2007	Need for a Competition Policy and Law for Ethiopia
3	Malawi	January, 2007	Benefits from a Competition Policy & Law	April/May 2007	Strengthening Competition Culture in Malawi
4	Mauritius	January, 2007	Competition Policy and Consumer Protection / Democratisation of Economy	April/May 2007	Competition Policy and Sectoral Regulation
5	Mozambique <sup>2</sup>	mid-Feb, 2007	Features of the Mozambican Competition Policy	April/May, 2007	Competition Policy and Law
6	Namibia <sup>3</sup>	mid-March, 2007	Business Perspectives on Competition Policy & Law	April/May, 2007	Benefits from a Competition Policy & Law
7	Uganda	19.12.06	Why is a Competition law necessary in Uganda?	April/May, 2007	Bringing Competition Issues out in public interest

6.4 Participants welcomed the fact that the *Regional Training Workshop* of the 7Up3 project would be held in February 2007. It was also communicated to the partners that the workshop could be organised in Jo’burg/Pretoria with assistance from Institute for Global Dialogue (IGD), South Africa (a partner in the first 7Up project). It was suggested that the workshop should be focussed on providing training in competition policy and law implementation issues

6.5 With regard to the *National Training Workshop*, the partners welcomed the idea that it would be done in conjunction with the NRG-IV. They suggested to have the NRG-IV in the first half of day one, and then to have the Training Workshop for the rest of the two and a half days. The overall agenda should be kept consistent across the partner countries, with some detailing done by incorporating issues of relevance to partner countries for which the partners would provide inputs. The possibility of having foreign resource persons for the

<sup>2</sup> Mozambique NRG-II: Date – 07.12.06; & Topic – Competition Policy and Consumer Protection

<sup>3</sup> Namibia NRG-II: Period – mid-January, 2007; & Topic – Findings of research and planning Advocacy activities

national workshop was raised, and it was assured that CUTS would make efforts towards this end.

- 6.6 Topics/Issues for preparing *Policy Briefs/Briefing Papers* were also identified. The following is a list of them:
- i. Business Welfare aspect of Competition Policy (proposed by Reshma Peerun, Mauritius)
  - ii. Impact of privatisation on competition (proposed by Temwa Gondwe and Maxton Tsoka, Malawi)
  - iii. Competition Policy and Law and the Impact on the Poor (proposed by Henry Kimera, Uganda)
  - iv. Political Will and Competition Administration (showcasing experience from Mauritius and Uganda)
  - v. Competition as means of regulating TNC behaviour (especially useful for countries like Namibia and Botswana, facing onslaught of South African companies)
- 6.7 Certain 'Ideas for further research' had emerged over the period of undertaking research in the project countries and also over the course of the meeting. These were:
- **Botswana**
    - Competition Policy and MDGs
    - Competition Policy and Poverty Reduction
  - **Ethiopia**
    - State of Competition in the Agriculture Sector (Grain market)
  - **Malawi**
    - Effect of privatisation on competition (sector-studies)
    - Competition and impact on specific sectors
    - Competition and poverty eradication
  - **Mauritius**
    - Effect of Competition on Consumer welfare in Select sectors
    - Informal Sector's impact on competition
    - Competition and Enhancing Competitiveness
  - **Mozambique**
    - Competition in the Informal Sector
  - **Namibia**
    - Implementing Competition Law for Regulating TNC behaviour
  - **Uganda**
    - Competition Policy and Pro-Poor growth
- 6.8 Time Schedule of the proposed activities has been attached in *Annex 3*
- 6.9 A useful output of the Stage-II that was discussed was the '*Competition Tool-kit*'. This is a tool that would serve as a practical set of resources and frameworks which all relevant stakeholders could leverage in promoting a healthy competition culture in their own country, or simply, to protect their own legitimate rights and interests. In the next session, there was a detailed presentation on the competition tool-kit.

## 7. Competition Tool-Kit

*Sajeew Nair (SN) representing CUTS Africa Resources Centre (based in Lusaka, Zambia) made a presentation on the 'Competition Tool-Kit', a tool for practitioners that has been developed by CUTS*



*through an exercise undertaken for Vietnam, and would be replicated in other countries where CUTS has been engaged with research based advocacy on competition.*

7.1 A Competition Tool-Kit is an attempt by CUTS to translate complex, technical knowledge about competition related issues into simple-reader friendly resource book for the third world competition practitioners (and other interested stakeholders). It is developed from the information accumulated from the country research – in terms of current happenings in the market and how such affairs have been dealt with in other developing/developed countries (with successes and failures). Efforts at analysing legislative provisions and institutional structures would also be made in the course of developing this tool-kit.

7.2 The Component chapters of this tool kit would be as follows:

1. Introduction
2. Market and Competition
3. Restrictive Business Practices (RBPs)
  - Market power
  - Horizontal RBPs
  - Vertical RBPs
  - Abuse of dominance position
4. Mergers and Acquisitions
5. Unfair Trade Practices (UTPs): Competition & Consumer Protection
6. Cross-Border Issues
7. Competition & Intellectual Property Rights
8. Major Elements of a Competition Regime
9. The Desired Framework

7.3 Participants (especially partners) expressed willingness to have more information on the Competition Tool-kit and it was assured that the ‘Competition Tool-kit for Vietnam’ would be forwarded to them once it has been finalised.

7.4 There was however some doubt among some of the participants as to what would be the focus of this tool-kit in countries, which don’t have a Competition Law in place. It was clarified that the purpose of having a tool-kit in those countries would be to catalyse a functional competition regime, with the illustrations on anti-competitive practices as thrown up in the research.

## **8. Conclusions**

The concluding session was conducted as a round-table where the participants were asked what they were taking home from the meeting. The following important issues need to be flagged here:

- 6.1 There is a need for enhancing the research capacity of competition issues in the project countries – to achieve which CUTS and the partners need to work together.
- 6.2 The 7Up3 project has enhanced the capacity of the partner organisations (especially the researchers who have been engaged with the research and the advocacy work). E.g., the representative from MEJN, Malawi said that when the project started there was little knowledge in MEJN on competition policy and

law issues. And today, thanks to the project MEJN has become a strong voice on competition in the country. A feeling, which was echoed in the submission of the other partners (from Botswana, Ethiopia, Uganda) as well.

- 6.3 7Up3 project has helped set the platform for more work on competition issues at the national level in all the partner countries – and the momentum needs to be sustained.
  - 6.4 The partner from Mauritius said that the 7Up3 project has helped both him and the organisation he represents (ICP) to learn a lot on domestic issues pertaining to competition and how they affect the consumers.
  - 6.5 A need exists to develop networks among civil society organisations working on competition and also to engage willing competition authorities to be part of such networks. An idea of exploring the possibility of establishing a ‘African Competition Network’ (ACN) was also expressed. CUTS would need to discuss this with some of the partners to take this initiative forward under the banner of the International Network of Civil Society Organisations on Competition (INCSOC).
  - 6.6 Competition Policy and Consumer Protection legislations have become a need for developing and least developed countries of Africa, especially in the present era of globalisation (characterised by liberalisation, privatisation and deregulation)
  - 6.7 Need to link competition policy with socio-economic issues for better comprehension by the layperson, in order to gain public support for the implementation of the competition laws in E&S Africa.
  - 6.8 Media needs to be engaged and channels of communications with key policy-makers have to be identified, established and maintained.
  - 6.9 Last but not the least there was a consensus that the meeting was extremely useful as it was brief, brisk and output oriented and coordinated in a frank and interactive manner.
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**Annex 1**

Sr. No	Name	Coordinates and Organisation &	Country
1.	Barulaganye Mogotsi	Programmes Manager BOCONGO <a href="mailto:bocongo@bocongo.org.bw">bocongo@bocongo.org.bw</a>	Botswana
2.	Seifu Ali	Director AHa Ethiopian Consumer Protection Association (AHaECoPA) E-mail: <a href="mailto:ahaecpps@ethionet.et">ahaecpps@ethionet.et</a>	Ethiopia
3.	Maxton Tsoka	Senior Research Fellow Centre for Social Research University of Malawi Email: <a href="mailto:mghtsoka@yahoo.com">mghtsoka@yahoo.com</a> , <a href="mailto:csrbasis@malawi.net">csrbasis@malawi.net</a>	Malawi
4.	Temwa Gondwe	Programme Officer Malawi Economic Justice Network (MEJN) Email: <a href="mailto:tgondwe@mejn.mw">tgondwe@mejn.mw</a>	Malawi
5.	Reshma Peerun-Fatehmamode	Lecturer Department of Economics & Statistics University of Mauritius Email: <a href="mailto:r.peerun@uom.ac.mu">r.peerun@uom.ac.mu</a>	Mauritius
6.	Mosadeq Sahebodin	National Coordinator Institute for Consumer Protection (ICP) <a href="mailto:mosadeq53@intnet.mu">mosadeq53@intnet.mu</a>	Mauritius
7.	Alberto Bila	Research Associate Faculty of Economics, University Eduardo Mondlane E-Mail: <a href="mailto:Abilla54@yahoo.com">Abilla54@yahoo.com</a>	Mozambique
8.	Mauzinho Nicol's	Executive Director Consumer Association of Mozambique (DECOM) <a href="mailto:n.mouzinho@voila.fr">n.mouzinho@voila.fr</a>	Mozambique
9.	Rehabeam Shilimela	Research Associate Namibian Economic Policy Research Unit (NEPRU) Email: <a href="mailto:rehabeams@nepru.org.na">rehabeams@nepru.org.na</a>	Namibia
10.	Richard Henry Kimera	Chief Executive Consumer Education Trust of Uganda Email: <a href="mailto:heriki@hotmail.com">heriki@hotmail.com</a> , <a href="mailto:consentug@yahoo.com">consentug@yahoo.com</a>	Uganda
11.	Rijit Sengupta	Programme Officer CUTS International <a href="mailto:rsg@cuts.org">rsg@cuts.org</a> , <a href="mailto:c-cier@cuts.org">c-cier@cuts.org</a>	India
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14.	Victor Ogalo	CUTS NRC CUTS International <a href="mailto:nairobi@cuts.org">nairobi@cuts.org</a> , <a href="mailto:cvo@cuts.org">cvo@cuts.org</a>	Kenya
15.	Sajeev Nair	Regional Adviser (Africa) CUTS Africa Resource Center, Zambia E-Mail: <a href="mailto:Lusaka@cuts.org">Lusaka@cuts.org</a> , <a href="mailto:cutsarc@zamnet.org">cutsarc@zamnet.org</a>	Zambia
16.	David Ong'olo	Spellman & Walker <a href="mailto:davidongolo@yahoo.com">davidongolo@yahoo.com</a>	Kenya

## Annex 2

### Meeting Agenda

**1000 hrs – 1030 hrs**

Opening Remarks

**Clement Onyango**

Administrative Officer

CUTS Nairobi Resource Centre

**Rijit Sengupta**

CUTS International

**1030 hrs – 1115 hrs**

Achievement and Shortcomings

Stage-I, 7Up3 Project

**David Ong'olo**

Spellman & Walker, Kenya

Project Advisory Committee

7Up3 Project

**1115 hrs – 1230 hrs**

Progress in project countries

*Working Tea*

**Presentations by Country Partners**

- Botswana, Ethiopia, Malawi, Mauritius
- Mozambique, Namibia and Uganda

**1230 hrs – 1300 hrs**

Floor Discussions

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**1300 hrs – 1400 hrs**

*Lunch*

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**1400 hrs – 1430 hrs**

Plan of Action for Stage-II

Rijit Sengupta

CUTS International

**1430 hrs – 1530 hrs**

Floor Discussions

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**1530 hrs – 1600 hrs**

*Tea/Coffee Break*

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**1600 - 1630**

Presentation on 'Competition Tool-kit'

K S Sajeev

Regional Adviser, Africa

CUTS International

**1630 hrs – 1730 hrs**

Roundtable

(Conclusions and Way Forward)

*Moderator*

David Ong'olo

### Annex 3

#### Time Schedule of Upcoming Activities

	Months						
	December 2006	January 2007	February 2007	March 2007	April 2007	May 2007	June 2007
2 <sup>nd</sup> round NRG Meetings (Namibia and Mozambique)	✓	✓					
3 <sup>rd</sup> round NRG Meetings (except Namibia & Mozambique)	✓	✓					
3 <sup>rd</sup> round NRG Meetings (Namibia and Mozambique)		✓					
Competition Tool-kit	✓	✓	✓	✓	✓	✓	
Regional Training Workshop			✓				
Final Project Meeting				✓			
4 <sup>th</sup> round NRG Meetings					✓	✓	
National Training Workshops					✓	✓	
Final Report						✓	✓