

CUTS CCIER ACTIVITIES REPORT



Ongoing Projects

Political Economy Constraints in Regulatory Regimes in Developing Countries



“There is no perfect competition and markets cannot be left alone for determining better market access. There is a need to develop market-friendly systems for the benefit of all the stakeholders. In most developing countries, laws are drafted or applied in a business-friendly manner, which does not help economic development”. These were the views expressed by Dr Supachai Panitchpakdi, Secretary General, United Nations Conference on Trade and Development (UNCTAD), while speaking at the inaugural session of a Research Symposium entitled, “Political Economy Constraints in Regulatory Regimes in Developing Countries”, jointly organised by CUTS Institute of Regulation and Competition (CIRC) and CUTS Centre for Competition, Investment and Economic Regulation (CUTS CCIER).

The Symposium was organised as part of a research programme entitled, “Competition, Regulation and Development Research Forum (CDRF)”, to stimulate research and deliberations on competition and regulatory implementation issues in developing countries.

Dr Supachai acknowledged the contribution of CUTS in raising consumer voice at the international level. He hoped that the key learnings of this Symposium would enhance the already fruitful cooperation between UNCTAD and CUTS.

Dignitaries from around the globe included Dr C Rangarajan, Chairman, Economic Advisory Council to the Prime Minister of India; Dr Frederic Jenny, Judge French Supreme Court; Dr Nitin Desai, Former Under Secretary-General of UN, India; Dr Bimal Jalan, Ex-Governor, Reserve Bank of India (RBI) and Pradeep S Mehta, Secretary General, CUTS International, who spoke at the opening session and expressed their views on economic development and competition issues in developing countries. The Symposium

discussed the objectives of enacting Competition Law and Policy, highlighting the potential conflicts between promoting efficiency and public interest objectives. The debate also focused on whether in a developing country, competition law and policy can be used as a measure to achieve poverty reduction. The opinion on a direct link was divided, although a suggestion was made that a consistent application of competition law can lead to greater access to the previously disenfranchised people. Besides, critical issues like regulatory capture and public interest were also discussed at the Symposium.

The Symposium further emphasised the role of consumer advocacy in an attempt to bring consumer interest to the forefront. Another theme that cut across all the different sessions of the Symposium was ‘political will’.

Experts highlighted that despite all good intentions in framing competition policies, their implementation was dependent upon the will of the government to take the process forward. India’s example, where the fiercely independent media play a major positive role during the transformation, was cited as a lesson for other developing countries. Local conditions or the institutional context was another theme that reverberated across the sessions during the Symposium.

To make the regulatory regime of developing countries more effective, experts proposed technical assistance as an instrument. While technical assistance is needed, a word of caution was sounded in that ‘airlifting’ developed country experience and superimposing that on to the developing country context is neither desirable nor optimal. Besides, country-based studies voiced concern on independence (autonomy), expertise and accountability of competition and regulatory authorities in developing countries.

For more, please visit:

www.cuts-ccier.org/ccier-prMar07.htm#pr4



Dr Supachai Panitchpakdi addressing the Inaugural Session of the Symposium

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



Competition Policy, Private Sector Development and Poverty Reduction in Africa

- An International Conference

CUTS International organised a two-day conference on 'Competition Policy, Private Sector Development and Poverty Reduction in Africa', as the culmination of a two-year research based advocacy project, popularly referred to as the 7Up3 Project, that CUTS has been engaged with implementing in seven countries of Eastern and Southern Africa: Botswana, Ethiopia, Malawi, Mauritius, Mozambique, Namibia and Uganda, in Mauritius, on March 29-30, 2007.

The conference was co-hosted by the Ministry of Industry, Small and Medium-sized Enterprises (SMEs), Commerce & Cooperatives, Government of Mauritius and with original support from Department for International Development (DFID), UK and the Norwegian Agency for Development Cooperation (NORAD), Norway.

Participants from over a dozen countries of sub-Saharan Africa (SSA) agreed to launch the "Pan-African Network for Promoting Competition and Consumer Welfare (PANPROC)" at the conference. Speaking at the formal opening of the conference, Rajeshwar Jeetah, Minister of Industry, SMEs, Commerce & Cooperatives, Mauritius conveyed that the Mauritian Government was committed towards the adoption of the country's new Competition Law in 2007.

"Promoting democracy is at the heart of the government's policy, and the government strongly believes that the competition law would promote economic democracy in the country", he affirmed. He reiterated the keen interest that the Mauritian Prime Minister has, for the law to be in place at the earliest.

Pradeep S Mehta underscored that research findings of the 7Up3 project strongly suggest that project countries, and indeed others from the developing world should tailor their competition laws in accordance with prevailing socio-economic-political realities, rather than blindly following industrialised country models of competition regime evolution and administration.

During the ensuing discussions, a consensus emerged that for small economies like Mauritius, Malawi, etc., there was a need to explore the possibility of a hybrid law integrating competition, consumer protection and utility regulation.

"There is a strong correlation between the efficiency of competition enforcement and growth and therefore reduction

"Promoting democracy is at the heart of the government's policy, and the government strongly believes that the competition law would promote economic democracy in the country"

Rajeshwar Jeetah
Minister, Government of Mauritius

to develop a network of individuals and organisations interested to pursue the cause of competition reforms and consumer welfare in Africa.

As a result, the "Pan-African Network for Promoting Competition and Consumer Welfare (PANPROC)" was launched, with International Network of civil society organisations on Competition (INCSOC) being its Secretariat.

PANPROC, as this network was referred to would be a platform to share knowledge and understanding on competition matters and to demonstrate the benefits of a healthy competition regime to the wider public and policy-makers in the region. A Steering Committee of this network would be developed, along with a five-year work-plan for members to take forward.

The momentum gained through the implementation of the 7Up3 project and demonstrating the benefits of competition to multiple stakeholders in the region would be sustained through national-level workshops to be held in each of the 7Up3 project countries on competition policy and law over a period of the next nine months.

'Competition Toolkits' individually tailored for competition administrators and other stakeholders in each country will be prepared to move forward in the right direction to implement competition regimes.

in poverty", observed Roger Nellist, representing DFID, UK. He brought to fore evidences that showed how economies have benefited through an efficient process of competition enforcement.

Practitioners like Peter M Njoroge, Chairman of the Monopolies & Prices Commission, Kenya; Douglas Reissner, Member, Competition Commission of Namibia and experts like S Chakravarthy, former Member of India's Monopolies & Restrictive Trade Practices Commission (MRTPC) of India stressed the imperative of adopting and implementing effective competition regimes in the region to reap the benefits of privatisation and liberalisation and curb their negative effects.

PANPROC

A need was felt to garner wider support and motivation for pushing national governments to adopt and effectively implement competition regimes in the region. In response, there was a consensus

For more, please visit:
www.cuts-international.org/7Up3.htm

India Competition and Regulation Report

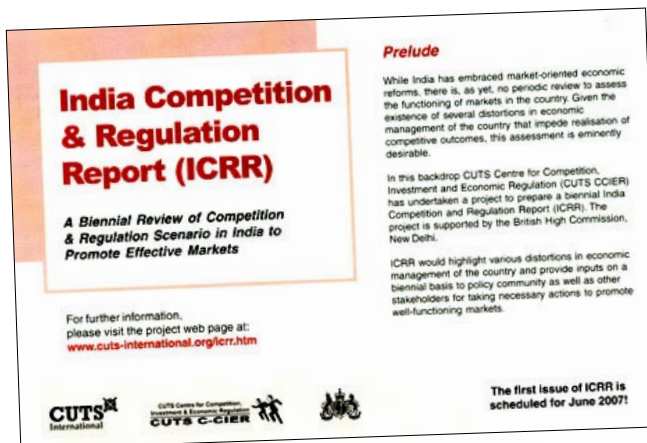


India embarked on the path of economic reforms in early 1990s by shifting to market-driven economic policies. The thrust of economic reforms has been to allow for more competition resulting in the best possible choice of quality, lowest prices and adequate supplies to consumers and business. Both central and state governments have been striving to provide conducive environment for industries to enable them to work smoothly and remain cost competitive.

Now that the country is following a policy of market-oriented economic reforms for the past one and a half decade, there is a need to assess perception of stakeholders on competition and regulation prevailing in the country. Given the existence of several distortions in economic management of the country that impede realisation of competitive outcomes, this assessment is eminently desirable. In this backdrop, CUTS CCIER undertook a project to prepare a biennial India Competition and Regulation Report (ICRR). The project is supported by the British High Commission, New Delhi. The Report would highlight various distortions in the economic management of the country and provide inputs on a biennial basis to policy makers as well as other stakeholders for taking necessary actions to promote well-

functioning markets. The first issue of ICRR is scheduled for June 2007.

As part of the research project, a National Reference Group (NRG) comprising of eminent experts and economists in the country was constituted to guide the implementation of the project. Former Under-Secretary General of UN, Nitin Desai is the chairman of the NRG. The group meets on regular intervals to ensure that the final outcome (project report) is right, fits in the purpose well, and that the project is being implemented properly and in a timely manner.



3rd NRG Meeting, March 17, 2007, New Delhi

The Third Meeting of the National Reference Group (NRG) was organised in New Delhi, on March 17, 2007 wherein writers of the report made a brief presentation on their respective papers followed by discussions. The purpose of the meeting was to review drafts of various sections of the project report. Following sections of the report were discussed in the meeting:

- Competition Issues in Pharmaceuticals
- Competition Regime and Business Welfare
- Theme Section: Competition Regime and Enhancing Access

For more, please visit: www.cuts-international.org/icrr.htm

Advocacy

Norway Strengthens its Ties with CUTS International



After successful implementation of the first stage of the project entitled, 'Capacity Building on Competition Policy in Select Countries of Eastern and Southern Africa'

(also referred to as the 7Up3 project) by CUTS, the stage for the second phase is all set.

In this context, an agreement was signed between Norwegian Agency for Development Cooperation (NORAD) and CUTS International in Jaipur (India) on March 14, 2007 to consolidate the project in seven countries of Eastern and Southern Africa.

Earlier, an independent evaluation had recommended NORAD to support activities of the second stage of the project. A delegation of 15 Parliamentarians headed by Mr. Thorbjorn Jagland, President of the Norwegian Parliament (Stortinget), which was touring India, witnessed the signing of the agreement.

The visiting delegation had an exclusive discussion with CUTS' researchers and staff, taking stock of the organisation's work on international trade and competition policy and law activities in various parts of the world.

For more, please visit: www.cuts-ccier.org/ccier-prMar07.htm#pr1



Representation

Pradeep S Mehta and Udai S Mehta of CUTS attended the conference on 'India Infrastructure Investment Forum 2007', jointly organised by the Confederation of Indian Industry (CII) and the Commonwealth Business Council (CBC), in New Delhi, on January 15, 2007. The conference coincided with the parallel sectoral workshops that addressed current policies and business opportunities in India, including various strategies that could be adopted to accelerate infrastructure development.

Rahul Ranjan of CIRC attended a consultative meeting on 'Contracting Mechanism for Public Private Partnership (PPP) in Health System of Rajasthan', in Jaipur, on February 06, 2007. The objective of the meeting was to share the draft contracts developed with key stakeholders in order to understand their views and

receive feedback on the mechanism to ensure smooth functioning of PPPs.

Pradeep S Mehta and Udai S Mehta of CUTS participated in a two-day International Conference on 'Meeting India's Infrastructure Needs with Public Private Partnerships: International Experience and Perspective', jointly organised by the Government of India, the World Bank, and the International Finance Corporation (IFCI), in collaboration with Public Private Infrastructure Advisory Facility (PPIAF), and Infrastructure Development Finance Corporation (IDFC), in New Delhi, on February 05-06, 2007.

Sajeev Nair of CUTS CCIER attended a two-day National Conference on State of Competition in the Indian Economy organised by the Competition Commission of India (CCI), in New Delhi, on March 14-15, 2007.

Media Outreach

Where in the world are the watchdogs?

Financial Express, March 17, 2007

By Pradeep S Mehta

So called 'independent' regulation, or re-regulation, is the flavour of the day in India and many other developing countries. India has some experience in the telecom sector, electricity, insurance and ports, but that has been not too promising. On the anvil are regulators for petroleum, oil and gas; civil aviation; pension funds, posts and what have you. Not only that, but now and then we hear about super regulators for cognate sectors, such as energy: covering oil, gas, coal and electricity; finance to cover both primary and secondary markets, and banking and non-banking financing institutions; and transport to cover air, road, rail and water transport. Alas, we do not have much expertise in any single sector, and imagine the chaos if there are multi-sector super regulators.

Rumblings in the telecom sector

Economic Times, January 18, 2007

By Pradeep S Mehta

Telecom Sector in India is one such area, which is currently witnessing billion dollar conversations, with the news that UK's Vodaphone will take over Li Ka Shing's 67 percent stake in Hutchison-Essar for around US\$14bn, or more.

The emerging scenario in the telecom sector requires both policy as well as regulatory actions. The government on its part should revisit some of the pending issues, and Telecom Regulatory Authority of India (TRAI) should be geared to keep a constant vigil on the behaviour of such big players.

Needed, a water policy that taps private sector

Business Line, February 21, 2007

By Udai S Mehta

The mere talk of privatisation of water raises waves of protests as if it should forever remain a free public good. It is high time the country's water situation was assessed, especially as the Government has declared 2007 the Year of Water.

Surely, the private sector can play an important role in supplying water, supplementing government efforts and investments. However, the success of PPP projects would depend largely on the capability of governments to negotiate deals that take care of the interests of disadvantaged consumers.

When politics trumps economics

Business Line, March 22, 2007

By Pradeep S Mehta & Manish Agarwal

In most developing countries, competition and regulatory laws are entirely new concepts, often being adopted under external pressure (for instance, in Zambia). Consequently, few officials in the public service appear to have understood what the new regime means and what it takes to have a well functioning regulator.

A host of political, economic and governance constraints frustrate the implementation of regulatory laws in developing countries.

Despite this, most developing countries have gone beyond contemplating whether they want a competition or regulatory law or not, and are debating how to structure their laws and how best to implement an effective enforcement regime within the constraints.