

CUTS CCIER ACTIVITIES REPORT



Ongoing Projects

Political Economy Constraints in Regulatory Regimes in Developing Countries

As part of a research programme entitled “Competition, Regulation and Development Research Forum (CDRF)”, initiated by CUTS Centre for Competition, Investment & Economic Regulation (CUTS CCIER), to stimulate research and deliberations on competition and regulatory regime implementation in developing countries, a Research Symposium entitled “Political Economy Constraints in Regulatory Regimes in Developing Countries” is being organised in New Delhi, on March 22-24, 2007.

The Symposium is being organised to deliberate on research findings that emerged from the first cycle of the CDRF project. Research papers scheduled for discussion would focus on political economy and governance constraints that developing countries face in implementing their competition and regulatory regimes.

The Symposium is spread over two and half days, which includes the Inaugural on the evening of March 22, 2007 (Day One). Among the noted dignitaries, Dr Supachai Panitchpakdi (Secretary General, UNCTAD), Kamal Nath (Minister of Commerce & Industry, India) and Dr C Rangarajan (Chairman, Economic Advisory Council to the Prime Minister of India) would be speaking at the inaugural session. This voltaic and rejuvenating evening would serve

A Symposium

as the curtain raiser for the brainstorming sessions that would be sequenced for the next two days.

The second and third day of the symposium (i.e. March 23 and 24, 2007), there would be discussions on substantive issues in a focused manner. The sessions are structured in

the format of panel discussions for the research papers, whereby authors would make presentations on key findings of their papers. This will be followed by comments from panellists and participants, thus making each session very interactive. Parallel sessions, corresponding

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THE SYMPOSIUM IS PART OF A CUTS RESEARCH PROJECT “COMPETITION, REGULATION AND DEVELOPMENT RESEARCH FORUM” (CDRF)

to the three sectors: electricity, telecom and financial services, would be organised on the third day.

About 20 Research Papers would be presented, in the Symposium which would cover experiences of wide-range of developing countries and transitional economies like South Africa, Namibia, Kenya, Zambia, India, Pakistan, Sri Lanka, Bangladesh, Bhutan, Argentina, Brazil, Chile, Mexico, CARICOM Countries, Fiji, Turkey, Serbia, Malta, etc.

Eminent experts from across the globe including political-economists, policy makers, government officials, representatives of competition and regulatory authorities, would participate in the Symposium.

For details, please visit: <http://www.circ.in/cdrfsymp.html>

India Competition and Regulation Report (ICRR)



A project entitled ‘India Competition and Regulation Report (ICRR)’ was undertaken by CUTS, supported by the British High Commission, New Delhi, against the background that while India has embraced market-oriented economic reforms for the past 15 years, there is, as yet, no periodic review to assess competition and regulation scenario in the country. ICRR attempts to fill this vacuum.

The Report would be prepared on a biennial basis and provide inputs to policy making community and other stakeholders to take necessary actions to promote well-functioning markets.

As part of the research project, a National Reference Group (NRG) comprising of eminent experts and economists in the country had been constituted to guide in the implementation of this project. Former Under-Secretary General of UN, Shri Nitin Desai is the chairman of the NRG.

The group meets on regular intervals to ensure that the final product is right and fits in the purpose well, and that the project is being implemented properly. The second NRG meeting was organised on December 09, 2006 in New Delhi 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:

- Introduction Chapter: Role and Tasks of Competition Policy and Law in India;
- Regulatory Issues in Transportation;
- Competition Regime and Consumer Welfare; and
- India Competition Perception Index.

For details, please visit: <http://www.cuts-international.org/icrr.htm>

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



Stage II Inception Meeting



Project Partners in discussion at the meeting

A meeting of the 7Up3 project partners and members of the project management unit (comprising of CUTS representatives from its Headquarter in India and Resource Centres in Lusaka and Nairobi) was organised in Nairobi, on November 25, 2006. The purpose of organising this one-day ‘Inception Meeting’ was to flag-off Stage-II Activities (comprising of Advocacy and Training) of the project, while taking note of achievements and non-achievements of the Stage-I Activities (comprising of Research and Capacity Building). One of the main objectives of the discussions in the meeting was to develop a common understanding on the Stage-II activities – with regard to their focus, purpose and schedule.

The participants unanimously agreed upon the fact that the 7Up3 Project has indeed raised the level of understanding among the partner organisations and other stakeholders associated with the project on competition policy and law

issues that was earlier missing. Over the course of the project implementation, the partners have gained substantial credibility as pioneering civil society organisations (CSOs) working on competition policy and law issues in their countries. Project partners have begun to realise the need to do further work on competition policy and law issues in their countries.

Deliberations served to act as a 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: The prominent action points identified included the following:

- 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);
- exploring possibilities of incorporating the research done on the domestic competition regime into the curriculum of university courses;
- identifying issues to work at the national level on competition;
- brainstorming as to how to initiate such projects after the completion of the 7Up3 project; and
- developing regional/pan African networks of CSOs and Competition Authorities to discuss impending topics of Competition Policy and Law evolution and enforcement.

For more details, please visit:
www.cuts-international.org/pdf/ProceedingsInceptionMeeting7Up3.pdf

Africa Regional Training Workshop on Competition Policy and Law Implementation

Pursuing the training and capacity development mandate of the 7Up3 Project, CUTS organised a regional training workshop on competition policy and law in Pretoria, on February 15-17, 2007, in partnership with Institute for Global Dialogue, South Africa, and supported by the Department for International Development (DFID), UK and Norwegian Agency for Development Cooperation (NORAD), Norway.

The training targeted at developing the understanding and skills of officials from young competition authorities and line Ministries of countries from Africa. Over 30 participants from Botswana, Ghana, Kenya, Malawi, Mauritius, Mozambique, Namibia, Uganda, South Africa, Swaziland and Zambia participated in this three day training workshop.

The training dealt with both the basic and advanced themes on competition policy and law implementation. Specific areas for training included introduction to competition law, competition analysis, vertical and horizontal restraints, mergers and acquisition (M&As), abuse of dominance and regional competition issues. Case Studies and role-play intrinsically constituted the training programme. Resource persons included academicians and practitioners from within the region and outside, who shared their experience and expertise with the participants. Participants strongly felt that continuous capacity development through such trainings was imperative for effective implementation of competition regimes in sub-Saharan Africa (SSA).



“Effective implementation of competition law and regulatory policies are pre-requisites for evolving a level playing field for private sector growth and ensuring public welfare in the present liberal economic order of the developing world”.

Garth le Pere
 Institute for Global Dialogue
 At the opening of Training Workshop, Pretoria

CUTS Branches Out in Vietnam

CUTS has opened its fourth overseas centre in Hanoi, Vietnam in January 2007. Among its other overseas centre, the first one was established in Lusaka, Zambia in the year 2000, followed by Nairobi, Kenya in 2002 and London, UK in the year 2003. Reportedly, CUTS is a rare Indian non-governmental organisation (NGO), which has overseas centres.

The purpose of these overseas offices is to promote trilateral development cooperation on a range of trade and economic policy issues, considering the fact that India has excellent diplomatic and commercial relations with these countries and the regions. In fact, these offices also network with many NGOs in the region other than government agencies.

CUTS Hanoi Resource Centre (CUTS HRC) will be campaigning to build consumer awareness in the Mekong Region countries of Vietnam, Cambodia and Laos. The DFID office in Vietnam is negotiating a project on Making Markets Work for the Poor in Vietnam and is likely to associate CUTS in this endeavour. CUTS Hanoi would also be providing technical assistance to the Vietnamese Competition Authority during 2007-09, with support from the Government of Switzerland.

CUTS' decision to open a full-time office in Vietnam was in response to a realisation while implementing capacity building projects in the Greater Mekong Sub-region since 2004. It was noted that more intensive and effective assistance was required in the region.

To begin with, there will be four people working in the office, including one lawyer and one economist. It envisages a staff of 10 in total in near future, eventually of whom six

would be professionals. The staff will also be balanced between Vietnamese and foreigners, preferably from around the region.

First Assignment

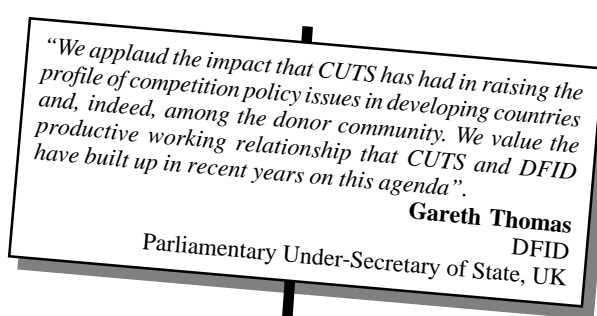


The first assignment that the Centre undertook was to prepare an assessment of Vietnam's Investment Climate Policies Against the Organisation for Economic Co-operation & Development (OECD's) Policy Framework for Investment. This study was supported by the OECD, and would form a blueprint for developing understanding on the investment regime in Vietnam.

The study would provide a "first hand" assessment of the most distinctive regulatory features and recent policy developments in Vietnam in the investment policy area using the questions of the 'Policy Framework for Investment' as indicative benchmark. Besides, the study would identify the main areas of progress, the major shortcomings of Vietnam investment policies and possible areas of improvement.

For more details, please visit:

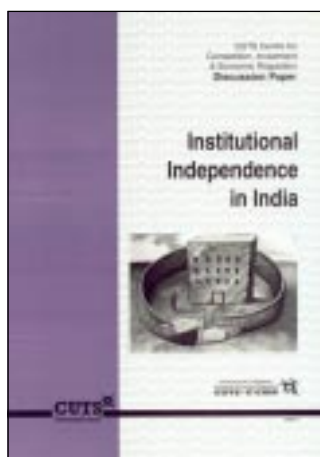
www.cuts-ccier.org/ccier-pr.Jan07.htm#pr1



New Release

Institutional Independence in India

In India, several institutions have been mandated with institutional independence. Most of such institutions were established to perform the challenging task of maintaining a judicious balance between conflicting interests and overhauling the governance system, by enforcing accountability. The state has not been so successful in ensuring a right balance between these two. Institutional Independence has an inverse relationship with external influences over the authorities. The lesser the influence, the higher will be the scope for functional autonomy.



Institutions are necessary for the healthy functioning of political and economic democracy, but they come into conflict while exercising their independence to make social welfare meaningful. In India, the problem has been compounded, because the Parliament also wants to exercise some control over the way the institutions function.

In this discussion paper, a comprehensive analysis of institutional independence in India is carried out, which would help facilitate cross-disciplinary learning and identification of good and bad practices. Further, the functioning of various independent institutions – Tier one and Tier two – have been examined in detail. Several instances of confrontations between the institutions and the Parliament have been cited over the jurisdiction as well as independence of action. Various obstacles in the way of the effective functioning of the independent institutions have been examined in this paper. The paper suggests that institutional independence should not be mistaken as an objective in itself; it should rather be seen as an important requisite for achieving desired effectiveness, economy, and efficiency in the system.

The same can be accessed at:

www.cuts-ccier.org/pdf/Institutional_Independence_in_India.pdf

Foster Competition via Law & Policy

Economic Times, December 23, 2006

By Pradeep S Mehta

Is India moving into uncharted territory, when the new Competition Commission comes into life, to be able to order a split in a large firm indulging in abuse of dominance (ET edit: Power to split monopolies, November 25, 2006) Not exactly. When the erstwhile Monopolies and Restrictive Trade Practices Act, 1969 was amended in 1991, it has done away with powers to regulate mergers and combinations. But it had retained the powers to order a de-merger. That this provision has never been used is another story.

The edit also quotes the famous case of AT&T in the US, which was ordered to be split into seven companies (mini-Bells). But the wheel is now turning full circle. Some of them are reemerging into AT&T and it will revert to its glorious days of being a big player in the telecom market of the US.

In India, the new Competition Act, 2002, does have provisions on de-mergers. Therefore, what will be more important is for the new Commission to check mergers for danger signals. One problem with the new law is that intellectual property rights (IPRs) have not been covered adequately. This means that firms holding patent rights will be able to charge the price that they want.

Most importantly, the government is now considering adopting a national competition policy, which will guide all branches of the government to ensure that competition principles are embedded in all policies. The policy will address systemic issues in governance where policy-induced anticompetitive outcomes happen, and which the competition law cannot address. If we, in India, wish to accelerate our growth rate to 10 percent, we need to not only speed up the establishment of the Competition Commission but also have a pro-active competition policy.

Read the Full Article at:

www.cuts-ccier.org/ccier-arDec06.htm#ar2

Technical Assistance on Trade and Regulatory Policies

The Green Cross Optimist,
Autumn 2006 Issue

By Pradeep S Mehta

The global market is more open today. However, many developing countries are not able to take advantage of that due to supply-side constraints prevailing in these countries. These constraints involve weakness of physical infrastructure as well as regulatory and supporting institutions.

In fact, weakness of these institutions can be at least partly responsible for weak physical infrastructure. Recognising this, strategies to reduce administrative and regulatory barriers are being developed in many countries, including the use of transparency measures, regulatory reforms and other efficiency reforms.

Many governments are developing new initiatives to reduce the compliance costs of achieving public policies, which, when properly implemented, can reduce regulatory costs and improve policy outcomes.

However, this is just one side of the story. Regulatory reforms do not only mean the removal or rationalisation of existing regulatory measures. In many countries, particularly developing ones, there are not many of the regulatory measures that are essential to promoting a better investment climate. Obviously, they need to bring in many new regulations.

Read the Full Article at:

www.cuts-ccier.org/ccier-arDec06.htm#ar1

Representation

Nitya Nanda, Policy Analyst, CUTS CCIER participated in the Second Annual Conference of the Asian Competition Forum, at Hong Kong, on December 10-12, 2006. He made a presentation on competition policy and consumer welfare with particular reference to India and also used the opportunity to explore business opportunities with other participants in the conference.

Manish Agarwal, Policy Analyst, CUTS CCIER attended a two-day research policy symposium organised by Overseas Development Institute (ODI), in collaboration with the International Network for the Availability of Scientific Publications (INASP) at Oxford, UK, during November 16-17, 2006. The symposium contributed to participants' understanding by providing new perspectives on evidence-based research for policy advocacy.

Vikas Batham, Assistant Programme Officer, CUTS CCIER attended The Energy and Resources Institute (TERI) National Conference on 'Regulatory Performance in India: achievements, constraints and future actions' in New Delhi, on November 09-10, 2006. The objective of the two-day conference was to take stock of regulatory reforms in India's infrastructure sector, identify constraints, and chart a roadmap for future action.

Rijit Sengupta, Coordinator, CUTS CCIER presented a paper on 'Responsible Business Conduct in the Indian Infrastructure Sector – Experiences and Lessons for Policy' at the 2006 OECD Global Forum for International Investment (GFII) held at Turkey, on November 06-07, 2006.