

C-CIER ACTIVITIES REPORT



International Community Lauds CUTS Compendium on Competition Regimes



CUTS International and International Network of Civil Society Organisations on Competition (INCSOC) embarked on an ambitious endeavour to develop a report that presents a compilation of short essays on the national competition regimes from around the world. Work on this report entitled, “Competition Regimes in the World – A Civil Society Report” started from the middle of 2003, and in absence of outside support was self-financed. The publication is based on voluntary contributions from various INCSOC members, other experts and practitioners.

CUTS had joined hands with various CSOs from the North and South in 2002 to launch the international coalition INCSOC, comprising of organisations and professionals interested on competition policy and law issues. The network blossomed over time and presently boasts of a membership base of 105 members representing more than 50 countries. Many of the contributors of the country essays for the report are members of INCSOC.

An ‘advanced copy’ of the report was readied for the fifth review conference of the United Nations on competition policy held at Antalya, Turkey, during November 14-18, 2005.

Delegates representing more than 70 countries came together on the invitation of the United Nations Conference on Trade and Development (UNCTAD) to discuss impending issues in the realm of competition policy and law, on the occasion of this conference.

Frederic Jenny, a noted international competition expert observed while releasing the book, that the volume is a unique contribution to competition literature. He added that the book would plug a significant knowledge gap relating to competition scenarios the world over. Pradeep S Mehta, Secretary General of CUTS and editor of the volume emphasised the role that CSOs need to play for strengthening competition regimes, and that, the onus rests with inter-governmental organisations like UNCTAD to encourage civil society participation on competition issues.

George Lipimile, Executive Director of Zambia Competition Commission observed that the book is possibly the first attempt to present together competition scenarios

of so many developing countries in a single volume. Gesner Oliveira, a competition expert and former Head of the Brazilian competition authority said that the uniqueness of the book lies in that it analyses the competition process in the informal sector, which comprises a significant part of the economy in many developing countries.

The book describes the 150-odd years of the evolution of competition law, along with its different aspects of legislation and implementation, said Santiago Roca of the Peruvian competition agency. Allan Asher, co-chairperson of INCSOC observed that the book would serve as an important tool in the hands of consumer and other civil



Launch of ‘Competition Regimes in the World – A Civil Society Report’ at UNCTAD’s Fifth Review Conference of the UN Set, Antalya, Turkey, November 16, 2005. (L-R) Frederick Jenny, David Lewis, Pradeep S Mehta, Allan Asher, Santiago Roca, George Lipimile, Oliveira Gesner.

society activists, who are trying hard to get a better deal for consumers in different parts of the world.

This report paves the way for taking up in-depth research in future. It serves as a ready reference for readers to understand where a country stands vis-à-vis other countries in relation to development of competition regimes – something of utmost importance to all groups of stakeholders, including policy-makers, academia, civil society and the business community.

There was tremendous demand for the book, both during its release and later, from competition authority representatives, experts, academicians and representatives of intergovernmental organisation. Many felt that the volume would soon become one of the most referred books in the field of competition policy and law.

CUTS plans to refine the ‘advance copy’ further, both in content and also in scope (by adding a few more countries) and release the ‘final version’ of this book during the forthcoming conference of the International Competition Network (ICN), to be held at Cape Town, South Africa, on May 3-5, 2006.

CIRC – for a New Generation of Public Administration Experts

Regulatory reforms are gaining pace in developing countries, with an increasing number of countries enacting competition and sectoral regulatory laws. However, there is a severe shortage of institutional capacity to facilitate the spread of knowledge on regulatory matters in developing countries.



CIRC Governing Council Meeting, New Delhi, September 9, 2005. Dr. C. Rangarajan, Chairman and Pradeep S. Mehta, ex-officio member, along with other members of the Governing Council.

A clear gap exists in terms of research on regulatory issues, and their

utilisation for developing a cadre of professionals equipped with appropriate skills for use in their professional capacities.

With this backdrop, CUTS has initiated the inception of the CUTS Institute for Regulation and Competition (CIRC) at Jaipur, India, which aims to fill in the prevailing gaps and enhance knowledge on regulatory issues.

Speaking at the launch of CIRC in New Delhi on September 9, 2005, Dr C. Rangrajan, Chairperson, Economic Advisory council to the Prime Minister of India, who is also the chairman of the Governing Council of this Institute said, “given the changed circumstances and the role of governments in the globalised era, it is seen that training and education on these subjects, which are still evolving, is

essential”. Various eminent personalities grace the Governing Council of CIRC.

CIRC will adopt a multi-stakeholder approach and target regulators and their staff, government officials, civil society representatives, academicians, business, media, trade unions from the developing nations, in particular Africa and Asia. It would offer both general and customised training to meet the requirements of the various stakeholders. The

Institute plans to start online diploma and training courses in 2006.

CIRC would cater to the unmet demand of trained personnel in the following areas:

- Economic Regulation;
- Competition Policy and
- Commercial Diplomacy

The quality of educational and training programmes will be at par with developed countries, and would be designed incorporating experiences from developing countries. CIRC would establish associations with renowned universities/institutions in the identified subjects for designing the courses on offer.

Ongoing Projects

Competition Issues in Indian Pharma and Health Delivery Sectors



CUTS is implementing a project to assess the extent of anticompetitive practices in the Indian pharmaceutical industry and health delivery systems with support from the World Health Organisation and the Ministry of Health, Government of India. The methodology of the study involves surveys among key stakeholders – pharmaceutical manufacturers, hospitals, pharmacists, doctors and consumer organisations/NGOs in select Indian cities – Delhi, Kolkata, Mumbai, Chennai, Bangalore, Ahmedabad and Hyderabad.

Currently, field surveys are being carried out in these cities, and it is expected that the outcomes would be ready by the end of January 2006.

The report would analyse the option of using competition law and/or policy in dealing with anticompetitive practices in the pharmaceutical sector and health delivery systems.

Reviewing Regulatory Structures in Select Developing Countries



CUTS selected Cambodia, India, Indonesia, Kenya, South Africa, Vietnam and Zambia for studying the structure and functions of regulatory authorities in these countries, and in the process intended to develop a set of benchmarks in sectoral regulation relevant for developing countries.

CUTS is partnering with CSOs/research organisations from each of the project countries in order to implement this project, and prepare ‘Country Papers on Sectoral Regulation’. Researchers in each of the partner organisations were provided with the outline of the country reports, and constantly guided for developing these papers.

Country papers from most of the project partners have been received, which would be sent for external reviews and comments before being finalised. Simultaneously, a ‘synthesis paper’ collating the findings from the individual country papers would be produced and disseminated to the international policy community in order to sensitise it on the ground realities in these countries.

<http://www.cuts-international.org/sectoral-regulation.htm>

Advocacy and Capacity Building on Competition Policy and Law in Asia (7Up2 Project)



Training on Competition and Consumer Protection in Vietnam

CUTS, in collaboration with the Vietnam Standards and Consumer Association (VINASTAS) and the Vietnam Competition Administration Department (VCAD), Ministry of Trade organised the second training workshop for consumer representatives from the southern provinces at Vung Tau, Vietnam, on October 13-14, 2005, on issues related to competition and consumer protection in the country.

Strategy for Advocacy Activities on Competition in Lao PDR

The second NRG meeting in Lao entitled 'Competition Policy and Law in Lao PDR' was organised by the country's project partner, National Economic Research Institute (NERI), at Vientiane, Lao PDR, on October 24, 2005. About 50 participants attended the meeting. The Country Advocacy Document for Lao PDR, was released and discussed. The Vientiane Times covered the event favourably on October 25, 2005

Second National Stakeholder Meeting in Vietnam

The Central Institute for Economic Management (CIEM), the project's research partner in Vietnam, in collaboration with the Law Faculty of the Hanoi National University, organised the second meeting of the National Reference Group of Vietnam on October 20, 2005.

About 50 local participants discussed the draft Country Advocacy Document for Vietnam prepared by CIEM in both Vietnamese and English.

Second Round of National Consultation in Bangladesh

An Advocacy Document, capturing the way forward for promoting competition awareness among various stakeholders in Bangladesh, and pursuing the government to mainstream competition in its economic policy agenda was organised by Bangladesh Enterprise Institute (BEI), CUTS partner in Bangladesh on September 23, 2005.



7Up2 National Reference Group Meeting, Dhaka, Bangladesh, September 27, 2005. (L-R) John Preston, Enam Ahmed Choudhury, Farooq Sobhan, Rijit Sengupta.

A World Bank led multi-donor initiative – Private Sector Development Support Project (PSDSP) has competition policy as one of its components. The World Bank has shown interest in associating BEI and CUTS with the PSDSP, to commence in 2006.

(www.cuts-international.org/7up2.htm)

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



Administering Perception Surveys

Barring Namibia and Mozambique, perceptions surveys are being carried out in the remaining five project countries (Botswana, Ethiopia, Malawi, Mauritius and Uganda) to assess the level of awareness among select stakeholder groups on competition issues. Three groups: consumer representatives, government/regulatory authority representatives and the business community are being targeted. Outcomes from these surveys would be analysed and incorporated in a detailed 'Country Research Report' on competition policy and law, which is expected to be ready by January 2006.

Competition in Select Agriculture Produce Sector

With suggestions from the national level meeting, the country partners developed papers on 'Competition in Select Agricultural Sectors' – tobacco in Malawi, food grains in Ethiopia and sugar in Mauritius.

CUTS has prepared a policy brief on 'Competition in the Agricultural Produce Sector in Developing Countries' by

integrating these papers and from others from Africa and Asia for the forthcoming sixth WTO Hong Kong Ministerial Conference.

Series of Policy Briefs

One of the project partners – the Institute for Consumer Protection (ICP), Mauritius – has prepared a series of policy briefs in order to sensitise various stakeholders on the relevance of a functional competition regime for Mauritius. Issues covered include competition and poverty, consumer protection, implementation, and regulatory autonomy and accountability.

7Up3 e-Forum

This e-forum has been created with the membership of 7Up3 project partners, project advisory committee members, donors, members of the National Reference Groups, and other key stakeholders. The current membership of the forum is 217, and is growing everyday.

www.cuts-international.org/7up3.htm

Advocacy

National Competition Policy

CUTS made a presentation before the Planning Commission of India on the need for a comprehensive competition policy for India.

Pradeep S Mehta outlined the need for a National Competition Policy, citing examples from government practices that thwart market processes. He presented nine guiding principles for the stated policy to fill the existing vacuum, and hence rationalise the role of the government.

In response, Anwarul Hoda, Member of the Planning Commission agreed that this idea is a good one, and that the Commission would take up this policy issue in its approach paper for the 11th Five-Year Plan.

V K Dhall, Member, Competition Commission of India, said that besides ensuring efficiency, a well articulated competition policy would serve to enhance consumer welfare.

Media Outreach

Exploring the Benefits of Competition and Regulation for the Poor

Does Competition Policy Help the Poor?

In this article published in the Economic Times on October 28, 2005, Pradeep S Mehta argues that a functional competition regime has positive impacts at all levels and helps in creating awareness among all sections of the society, which leads to curbing anticompetitive behaviour at the national, regional and local levels.

He counters the popular belief that competition policy and law are the powerful tools for the rich and urban society only, and illustrates how poor consumers and the rural populace could benefit from the elimination of anti-competitive behaviour often resorted to at the micro-level.

Whither Regulatory Autonomy ?

No matter how strong (or weak) a regulatory legislation is, when it comes to the regulator exercising its power independent of the ministry concerned, the provisions made in the law proved to be of little significance. This is the central idea expressed in an article written jointly by Pradeep S Mehta and Vinayak R Pandey, and published in the Hindu Business Line on November 11, 2005.

Representation

Seoul Annual Competition Forum, November 11-12, 2005

Alice Pham, Researcher at CUTS moderated the session on 'International Cooperation among Competition Authorities in Asia', at the Seoul Annual Competition Forum organised between November 11-12, 2005.

Fifth Review Conference of UN on Competition Policy November 14-18, 2005

Pradeep S Mehta, Nitya Nanda, Policy Analyst and Rijit Sengupta, Programme Officer participated in the Fifth Review Conference of the UN Set of 'Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices', organised by UNCTAD.

Parliamentarians' Forum on Economic Policy Issues – Good Economics is Good Politics

CUTS is hosting a 'Parliamentarians' Forum on Economic Policy Issues', formed at the behest of five Members of Parliament (MPs) – Yashwant Sinha, Suresh Prabhu, N.N. Krishnadas, Madhusudan Mistry and Dinesh Trivedi – cutting across party lines. This forum is gaining popularity, with 40 MPs already part of it. It is proposed to facilitate discussions among MPs and to accelerate consensus on reforms.

CUTS plans to formally launch this forum on December 7, 2005 at New Delhi, taking up discussions on two issues:

- WTO Hong Kong Ministerial Conference: What is at stake for India?
- Regulatory autonomy and accountability

Short 'Issue Notes' detail out the issues at hand and end with a few questions that Parliamentarians must discuss inside and outside of the Parliament.

http://www.cuts-international.org/parliamentary_forum.htm

Citing various examples, the writers analyse that in the brief history of independent regulation in India, on several occasions, the ministries concerned have tried to 'clip the wings' of the 'independent regulator'. In India, regulatory bodies have neither been accorded adequate autonomy to perform, nor been made sufficiently accountable for their acts – is what emerged from a series of consultations organised by CUTS with the Indian policy community and other stakeholders.

Competition vs. Regulation – The Best Way Forward

Pradeep S Mehta, in this article published in the Hindu Business Line, welcomes the provision for the draft amendment Bill on the Indian Competition Act (2002), which proposes mandatory consultation for regulators with the competition authority, as against the earlier provision of 'may' consult.

The article explores the various successful models that address issues of the interface between competition and regulatory institutions and recommends the Indian policy-makers to look at countries like the U.K., France and Brazil as 'good examples'.

<http://www.cuts-international.org/articles2005.htm>

Meeting of CII's National Council on Infrastructure, November 21, 2005

Vinayak R Pandey represented CUTS at a meeting organised by the Confederation of Indian Industries (CII) in New Delhi on November 21, 2005 to share its presentation made before the Planning Commission on infrastructure regulation in India.

It was submitted during the brainstorming meeting, that competition issues should not be left exclusively for regulators to deal with.