

Unclassified

CCNM/GF/COMP/WD(2004)5



Organisation de Coopération et de Développement Economiques  
Organisation for Economic Co-operation and Development

20-Jan-2004

English - Or. English

**CENTRE FOR CO-OPERATION WITH NON-MEMBERS  
DIRECTORATE FOR FINANCIAL, FISCAL AND ENTERPRISE AFFAIRS**

CCNM/GF/COMP/WD(2004)5  
Unclassified

## **OECD Global Forum on Competition**

### **CHALLENGES/OBSTACLES FACED BY COMPETITION AUTHORITIES IN ACHIEVING GREATER ECONOMIC DEVELOPMENT THROUGH THE PROMOTION OF COMPETITION**

#### **Contribution from Cameroon**

-- Session II --

*This contribution is submitted by Cameroon under Session II of the Global Forum on Competition to be held on 12-13 February 2004.*

JT00156911

Document complet disponible sur OLIS dans son format d'origine  
Complete document available on OLIS in its original format

English - Or. English

## **Introduction**

1. Competition law and competition policy have been virtually forced on the developing countries, fairly brusquely and with no alternative, by today's global economic realities.

1. Indeed, the move to a multilateral framework for competition is inescapable. If the countries of Africa fail to demand their right to special treatment they need to bolster their still-embryonic industrial potential and establish reliable policies for consumer and environmental protection, they will find themselves increasingly left on the sidelines.

2. The challenges to be met and the obstacles to be overcome in achieving greater economic development through the promotion of competition law and policy are legion, and they could well be likened to the "labours of Hercules". These challenges and obstacles will be analysed as follows:

### **1. Challenges to be met:**

- Laying the groundwork and implementing competition;
- Boosting the capabilities of all parties involved and attuning public opinion to a culture of competition.

### **2. Obstacles to be confronted:**

- Interaction between industrial policy and trade policy;
- Competitive market governance;
- National competition law and anticompetitive transnational practices;
- Anticompetitive transnational practices and international trade;
- International co-operation in the realm of competition;
- Anticompetitive international practices and realities in the developing countries.

### **1. Challenges to be met by the competition authorities**

#### ***1.1 Laying the groundwork and implementing competition***

3. Experts unanimously agree that there is no universally applicable approach to preparing a country for and implementing competition. It must simply be ensured that the decisions taken are enforced, because if they are not, then even the right laws and the most highly qualified people will serve no purpose. Other factors that need to be taken into account include:

1. The country's legal framework, supervisory options for the competition body and consumer protection associations and policy;
2. The public interest, customs, the level of development, and the derogations, exemptions and exceptions needed to achieve objectives and accommodate local circumstances;
3. The competitiveness of businesses, their roles and the level of welfare they provide for the population;
4. The role of the public authorities, which must be included at all stages of the formulation and implementation of competition policy and law;
5. The development of a competition culture.

4. All of a country's basic competition legislation should be formulated and adopted at the same time. Only its implementation should be gradual, tailored to current realities with an objective of achieving

significant effectiveness. When competition legislation is adopted, all other laws containing elements that could affect its enforcement need to be amended accordingly. In any event, it is vital to create an institutional structure that has:

1. Autonomous legal personality;
2. A budget sufficient for assigned tasks;
3. An adequate number of qualified staff;
4. Appropriate supporting legislation.

## ***1.2 Boosting the capabilities of all parties involved and attuning public opinion to a culture of competition***

5. The prime objective of any country's economic policy should be to promote the welfare of its people, be they consumers or economic operators. That policy is generally in tune with prevalent environmental trends or forecasts of future events.

6. In many developing countries, competition policy and its role in the economy are not yet perceived clearly or on a wide scale. It is therefore not yet a priority in economic programmes and options.

7. The faster pace of economic deregulation and price liberalisation has impeded assimilation of a competition culture, prompting economic operators to confuse the notion of liberalisation with that of anarchy.

8. Implementation of a competition policy, combined with the pressures of globalisation of the world economy, would suggest that governments could lose sovereign control over their countries' economic mechanisms.

9. The above remarks do not militate for swift implementation of effective and efficient competition policies in countries that fear a deterioration of their ecological and economic environments.

10. In Cameroon, for example, the Competition Act, which has been on the books since 14 July 1998, has not yet been truly implemented, because the measure instituting the National Competition Commission—a central body vital to enforcement of competition policy—has not yet been signed. Legislation on dumping and the marketing of subsidised imports, which was supposed to ensure compensation for unfair competition and special treatment via a sort of protection for the national industrial fabric, is in the same position as the Competition Act, which happened to enter into force the very same day. The privatisation of State monopolies has led to the creation of multiple regulatory agencies for the sectors concerned, under the aegis of certain ministries whose powers overlap those to be taken on by the National Competition Commission, which has never been set up.

11. Apart from all this, competition policy is an evolving process, despite the blockages, which are mainly psychological. It is therefore indispensable to move in tune with the new trends by:

1. Holding information and awareness seminars for political authorities, civil society and senior officials, to lay a solid foundation for the competition culture;
2. Strengthening the capacities of competition agency officials;
3. Backing the institutions responsible for enforcing competition policy;
4. Making comprehensive documentation about competition available to the public.

## **2. Obstacles facing the competition authorities**

### **2.1 *Interaction between industrial policy and trade policy***

12. Discussions of the interaction between competition policy and industrial policy often centre on primacy between the two policies.

13. Examples from developed countries (e.g., EU, USA, Canada) show that although competition policy has existed there for a very long time, its implementation has been very recent; as a result, the initial emphasis was on an industrial policy that promoted stable growth and fostered rapid development. This is further illustrated by the economic history of Japan, whose faster growth has been attributed to the fact that for a long time industrial policy took precedence over competition policy.

14. Nevertheless, given today's world economic environment, it is crucial to develop both policies symbiotically, provided that industrial policy, which has a number of variants, is not solely interventionist, and that the protections it puts in place are limited in time.

### **2.2 *Competitive market governance***

15. The growing importance of a market-driven approach, at both the national and international levels, poses the problem of how to manage competition in these markets.

16. Clearly, the complexity of the rules prevailing in international markets must be grasped on two levels:

1. The parallel operation of different national legal systems is not conducive to effective regulation of international markets.
2. The existence of operators dealing on a transnational level in world markets tends to render compliance with domestic-market rules ineffective.

### **2.3 *National competition law and anticompetitive transnational practices***

1. There is an ever wider gap between the geographic contours of economically relevant markets and the scope of application of laws and competition authorities, which is subject to territorial limits.
2. Moreover, national competition authorities cannot deploy their investigative powers in respect of practices that are undertaken abroad, but that affect domestic markets.
3. In conclusion, it can be affirmed that economic globalisation leads inevitably to a loss of operational sovereignty for national competition authorities.

### **2.4 *Anticompetitive transnational practices and international trade***

17. Such practices can:

1. Impede liberalisation of trade through the constitution of import or international cartels, vertical restrictions and abuses of dominant position;
2. Confiscate the benefits of international trade through export cartels and transnational concentration, for example;
3. Inflict substantial costs on buyers through the practice of overpricing, which becomes entrenched on account of the longevity of cartels, which can last as long as 40 years;
4. Affect a great many sectors and thus poison an entire economy.

**2.5 *Anticompetitive international practices and the realities of developing countries***

1. In many cases, the purpose or effect of such practices is to impede the emergence of local industries and to impose terms of trade, thus thwarting government policies;
2. They inflict the most damage in developing countries that have no competition law, or that do not enforce it, and whose economies, which are heavily dependent on imports (or exports), have shaky industrial sectors.

18. In any event, the developed countries are obliged to promote competition policies conducive to the development of the poorest countries if they wish to stem flows of illegal immigrants prepared to do anything to flee destitution and share in their wealth.

19. For their part, the least advanced and developing countries have no choice in the current world context but to accept that economic reforms are meaningful only in a competitive national environment conducive to:

1. Economic consolidation, through the elimination of inefficient businesses;
2. Enhanced competitiveness;
3. Development of the private initiative of nationals;
4. Consumer welfare, through an improved supply of goods and services.