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Competition in the Food Supply Chain – Contribution from the Dominican Republic

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Please contact Mr Antonio Capobianco [Antonio.Capobianco@oecd.org] and Ms Carolina Abate [Carolina.Abate@oecd.org] if you have questions about this document.

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Competition in the Food Supply Chain

- Contribution from the Dominican Republic¹ -

1. Introduction

1. The Dominican Republic, located in the Caribbean, is an emerging economy with a diversified focus that includes sectors such as tourism, agriculture, and manufacturing. With an approximate population of 11 million inhabitants, the country stands out for its economic dynamism, reflected in sustained GDP growth in recent years. However, it also faces structural challenges, such as dependence on imports for essential products, vulnerabilities in its agricultural system, and socioeconomic inequalities.
2. The Dominican Republic has faced significant challenges in the food supply chain, especially in the context of the COVID-19 pandemic and global economic fluctuations. Pro-Competencia, as the body responsible for the defense of competition, has played a key role in promoting free competition within the food supply chain. This contribution reflects the lessons learned and challenges encountered. It highlights the policies adopted to ensure fair access to essential food while simultaneously preserving competitive conditions in the market.

2. Market Analysis in the Dominican Republic

3. At Pro-Competencia, we have developed a "competition conditions observatory," which is an analytical tool designed to continuously monitor the dynamics of key economic sectors in the Dominican Republic. Its objective is to identify risks and behaviors that may affect effective competition by evaluating factors such as price variations, market concentration, and the evolution of supply and demand for key products. Using both quantitative and qualitative criteria, the observatory allows the detection of market distortions that could impact consumer welfare.
4. This constant monitoring provides critical information for decision-making and the formulation of public policy recommendations that promote economic efficiency, particularly in strategic markets such as food.
5. As a result of the observatory's findings for the period January-June 2024 and the report on "Challenges and Issues in Food Supply Chains in the Dominican Republic due to

¹ María Elena Vásquez Taveras, President of the National Council for the Defense of Competition, former Director of the Center for Constitutional Studies of the Constitutional Court, PhD candidate in Constitutional Law and Public Liberties (University of Castilla La Mancha), Master's student in Administrative Law and Public Administration at the University of Buenos Aires (UBA), Master in Constitutional Jurisdiction (UCLM), Constitutional Law, concentration in Constitutional Jurisdiction (UCLM); (PUCMM) and Legal and Political Philosophy. Higher Diplomacy (Center for Diplomatic and Strategic Studies, Paris, France). Master's Degree in Legal and Political Philosophy from Universidad Carlos III. Specialization in Competition Law and Policy at Lead University, Costa Rica. Professor of Competition Law, Constitutional Law and Civil Liability.

the Impact of COVID-19²," produced by the Inter-American Development Bank, several issues affecting the efficiency of the food market were identified.

6. One of the main challenges in this area is the dependence on imported inputs, which makes the sector vulnerable to international market volatility. Increases in the costs of inputs such as wheat, corn, and fertilizers directly impact local production, particularly of high-consumption products such as rice, beans, and eggs.

7. However, in the case of the Dominican Republic, the country is largely self-sufficient in food security, producing 90.6% of the food consumed by Dominicans. This represents a significant increase compared to the 88.5% achieved in 2019, despite the country's limited land area.³ According to data from the Central Bank of the Dominican Republic, the Consumer Price Index (CPI) registered a year-on-year variation of 3.29% in September 2024, lower than the rates of 3.54% in July and 3.42% in August, and within the target range of 4.0% \pm 1.0%.⁴ This ensures that products such as rice, a staple in the Dominican basic food basket, will maintain their prices, guaranteeing food security in the country.⁵

8. In addition to the above, the Dominican Republic reduced hunger by 55% in three years, according to the Food and Agriculture Organization of the United Nations (FAO), experiencing a decrease in the undernourishment indicator, which currently stands at 4.6%. This figure is considerably lower than the average for the Caribbean region and the world, reflecting significant progress in the fight against hunger.⁶

9. Similarly, during the pandemic, key agricultural sectors, such as the oriental vegetables industry, also faced additional barriers. The disruption of commercial air transport affected exports to Europe and the United States, forcing producers to redirect their products to the domestic market at lower prices. This situation highlighted the importance of diversifying export markets and promoting local products as substitutes to reduce dependence on foreign inputs.

10. In response, Pro-Competencia has emphasized to regulators the importance of continuous and proactive market oversight to identify anticompetitive practices and price distortions that could exacerbate the situation. The agency has also recommended measures to support local production and reduce dependence on imports, such as fiscal incentives for domestic producers and the diversification of strategic crops. The combination of active

² Inter-American Development Bank (2021). "Challenges and Issues in Supply Chains in the Dominican Republic Due to the Impact of COVID-19." <https://publications.iadb.org/es/retos-y-desafios-en-cadenas-de-suministro-en-republica-dominicana-por-efecto-del-covid-19> . [To consult October 20, 2024].

³ LA Semanal, February 19, 2024. Luis Abinader President. <https://presidencia.gob.do/noticias/presidente-abinader-afirma-que-el-pais-produce-el-906-de-los-alimentos-que-consumen-los> [To consult October 20, 2024].

⁴ Central Bank of The Dominican Republic (2024). <https://bancentral.gov.do/a/d/6034-bcrd-informa-que-el-ipc-registro-una-variacion-de-329--en-septiembre-de-2024> [To consult October 14, 2024].

⁵ National Institute for the Protection Consumer Rights (2024). <https://proconsumidor.gob.do/pro-consumidor-asegura-hay-suficiente-arroz-para-que-se-mantenga-la-estabilidad-en-su-precio/> [To consult October 14, 2024].

⁶ Food and Agriculture Organization of the United Nations (FAO) (2024) <https://www.fao.org/republica-dominicana/noticias/detail-events/es/c/1712034/>). [To consult October 20, 2024].

oversight with production-boosting policies is essential to ensure a stable food supply and protect consumer welfare, especially in the context of global economic uncertainty.

3. Impact of the Crisis and Government Actions

11. As highlighted, the pandemic exposed structural vulnerabilities in the supply chain, such as the disruption of international transportation and delays in customs, which affected both imported products and local production. Additionally, the decline in tourism and mobility restrictions significantly reduced demand in food-related sectors, such as hotels and restaurants. This negatively impacted agricultural producers and local distributors, especially in markets such as oriental vegetables and meat products.

12. In response to the sustained increase in inflation and the rising costs of essential goods, the Government of the Dominican Republic implemented various measures to mitigate their impact on the most vulnerable sectors. One of the key actions was the enactment of Law No. 6-22, which eliminated import tariffs on essential basic food products for six months. This measure aimed to reduce the cost of foods such as meat, rice, beans, oils, flour, and dairy products, with the objective of alleviating the economic burden on the most disadvantaged families. The law, designed to be applied for six months, responded to a socio-economic context marked by the COVID-19 pandemic and other global crises, such as the Russia-Ukraine conflict, which have disrupted international supply chains and affected the prices of essential inputs.

13. However, this policy raised concerns among local producers, who, despite benefiting from the tariff exemption on imported products, continued to face high costs for importing the inputs necessary to maintain their production. This created a competitive imbalance, as foreign companies directly benefited from the tariff elimination, while domestic producers continued to bear the tariff costs on the inputs they imported to manufacture the same products for the local market.

14. Pro-Competencia intervened with a competition advocacy report, issuing recommendations for tariff exemptions to also apply to inputs used in production by local industries. This action aimed to ensure a more equitable competitive environment, allowing domestic producers to compete on equal terms with importers without sacrificing the goal of keeping prices affordable for consumers.⁷

15. Under ordinary circumstances, the temporary removal of tariffs might be seen as a market distortion that favors foreign companies at the expense of local ones. However, Pro-Competencia, following precedents from the European Union and other jurisdictions, recognized that these exceptional measures were justifiable given the extraordinary socio-economic circumstances at the time. In this context, food security became a public policy priority, with the aim of ensuring access to essential products for the population and mitigating the impact of inflation on the most vulnerable sectors. One measure that would counter these effects is the inclusion of a provision in the Project to impose a zero customs tariff on the imported inputs used by local companies in the production process of the same products, whose customs tariff the Project proposes to reduce to zero for six (6) months.

⁷ National Competition Defense Commission (2022). Public Recommendation Report on the "Bill that, on a provisional basis, imposes a zero rate on the current customs tariff for certain goods that affect the cost of food that constitutes a basic component for the diet of Dominican families." PR-IN-2022-0221.

16. In this regard, it is appropriate to refer to the precedent set in Judgment TC/0167/13, dated 09/17/2013, of the Constitutional Court on the "principle of concrete harmonization," the legal basis of which is found in Article 74, paragraph 4 of the Dominican Constitution, which states the following: "The public authorities interpret and apply the norms relating to fundamental rights and their guarantees in the most favorable sense to the person holding these rights, and, in the event of a conflict between fundamental rights, they shall seek to harmonize the goods and interests protected by this Constitution."

17. In the aforementioned judgment of the Constitutional Court, the judicial precedent was established that, in cases of conflict between fundamental rights, it is necessary to analyze the specific circumstances of the case in order to seek their harmonization, and if this is not possible, to prioritize the right most aligned with human dignity.

18. In these circumstances, the socio-economic context during the COVID-19 period, combined with the military conflict between Russia and Ukraine, highlighted that the right whose protection should be prioritized was food security.⁸

19. Furthermore, Pro-Competencia identified the need to limit the temporal scope of the measure to avoid permanent market distortions. Among the recommendations made, the introduction of quotas on the volume of imports was emphasized to prevent the benefits of the exemption from extending beyond the established period, and an assessment of the law's impact on existing free trade agreements was recommended.

20. These observations aimed to prevent discretion in the implementation of the policy and protect the long-term competitive structure of the food market. This recommendation was accepted by the Senate of the Republic and helped avoid the potential economic impact on thousands of small businesses in the country.

21. In summary, the measures adopted under Law No. 6-22 reflect the importance of finding a balance between social and economic objectives. Pro-Competencia has played a key role in harmonizing the interests of consumers with the need to protect domestic producers, demonstrating that competition authorities also contribute to the development of policies that promote food security and social welfare in times of crisis.

22. Similarly, following the promulgation of Law No. 6-22, Pro-Competencia, exercising its advocacy powers, submitted a public report with recommendations on best practices for drafting legislative proposals related to tariff exemptions, directed to the Executive Branch. The goal of the report is to ensure that the legislative proposals prepared by the Executive Branch not only achieve their immediate purpose—such as mitigating inflation or ensuring access to basic food—but also seek to preserve fair competition in the markets and promote the country's sustainable economic development.

23. The report highlights the need for a thorough analysis of the impact of these measures on free competition. Pro-Competencia warns that, if not carefully managed, tariff exemptions could distort the market by favoring foreign companies over domestic producers. The institution has emphasized that legislative proposals must include quotas for imports and clear temporal limits to avoid prolonged effects beyond the proposed timeframe in the initiative.

24. Furthermore, Pro-Competencia has suggested that monitoring and transparency be essential elements of any tariff measure. The recommendations include the implementation of continuous monitoring mechanisms to assess the impact of policies and detect speculative practices. These measures are crucial to prevent abuse during times of crisis, ensuring that consumers have access to essential products without facing disproportionate

⁸ Art. No. 54 of the Dominican Republic Constitution.

prices. The proposal also highlights the need for clear sanctions for price speculation, providing competent authorities with the necessary legal tools to protect the market and consumers in extraordinary situations.

4. Resolution No. 009-2024: First Case of Collusion Sanctioned in the Dominican Republic

25. Resolution No. 009-2024, issued by Pro-Competencia on August 14, 2024,⁹ represents an exemplary case of the impact that anti-competitive practices can have on the food supply chain, particularly in the context of public food procurement for vulnerable sectors. This case involved a collusive agreement between two companies that manipulated a bidding process organized by the Economic Kitchens of the Dominican State¹⁰ for the supply of food. This conduct undermined the transparency of the process and compromised the efficiency of distributing essential products to the neediest population.

26. The investigation revealed that, instead of competing, both companies colluded by agreeing on their bids to divide the benefits derived from the contracts, eliminating the possibility of obtaining better prices or more favorable conditions for the State. This collusion resulted in an inefficient award that increased supply costs and potentially hindered the Economic Kitchens' ability to fulfill their mission of providing affordable, high-quality food. The case highlights how distortions in competition affect the entire supply chain, from procurement to final delivery to consumers, especially in essential markets like food.

27. The Board of Directors not only imposed sanctions on the companies involved but also emphasized the importance of maintaining open and transparent procurement processes as a fundamental tool for promoting competition, in this case, within the food supply chain. Furthermore, it noted that price manipulation and reduced competition in public tenders have a direct impact on the quality and availability of products, affecting both state institutions and the final beneficiaries, who in this case were vulnerable individuals.

28. This situation has direct implications for the management of the food supply chain in the Dominican Republic. First, it demonstrates that effective competition is not only essential in private markets but also in the public sector, where the State is responsible for ensuring access to essential food through social programs. The lack of competition in these processes raises costs and compromises the efficiency of public spending, which in turn can lead to supply shortages or limit the coverage of food programs for vulnerable populations.

⁹ National Competition Defense Commission. (2024). Resolution No. 009-2024 on Anticompetitive Practices in Public Tenders for the Supply of Food (Public Version). <https://procompetencia.gob.do/wp-content/uploads/2024/09/resolucion-009-2024-version-publica.pdf> [To consult October 15, 2024].

¹⁰ The Economic Kitchens of the Dominican State are a public institution dedicated to ensuring access to low-cost or free food for vulnerable sectors of the population. Their main mission is to combat food insecurity and improve the quality of life for people in situations of poverty, unemployment, or those affected by emergencies such as natural disasters or economic crises.

5. Conclusion

29. The Dominican Republic, through the actions and policies implemented by Pro-Competencia, has reaffirmed its commitment to promoting effective competition in the food supply chain. In the face of challenges such as the COVID-19 pandemic, the volatility of international markets, and global crises that affect economic stability, the country has adopted measures aimed at balancing government intervention with the free functioning of the market.

30. The initiatives described, such as the market competition conditions observatory, the issuance of recommendations on tariff exemptions, and the sanctioning of anti-competitive practices through Resolution No. 009-2024, demonstrate a comprehensive strategy to address vulnerabilities in the food supply chain. These actions have not only helped mitigate inflationary effects and ensure access to essential products, but also strengthened the competitive structure of the market, benefiting both consumers and local producers.

31. The Dominican experience highlights the importance of proactive oversight and collaboration between competition authorities and other government entities to ensure efficient and fair markets. By adopting policies that promote local production, reduce dependence on imports, and foster transparency in public procurement processes, the country lays the foundation for sustainable economic development and improved social welfare.

32. In conclusion, the Dominican Republic offers an example of how the effective application of competition law and the implementation of appropriate government policies can play a crucial role in addressing market failures in the food supply chain. By sharing these lessons and challenges, the country contributes to the global dialogue on promoting competition in essential sectors and reaffirms its commitment to the goals of the Global Competition Forum.

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