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**LATIN AMERICAN AND CARIBBEAN COMPETITION FORUM - Session I: Competition
Law Enforcement in Informal Markets**

- Contribution from RECAC -

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This Note his attached document from RECAC is circulated to the Latin American and Caribbean Competition Forum (LACCF) FOR DISCUSSION under Session I at its forthcoming meeting to be held on 14-15 October 2026 in Buenos Aires, Argentina.

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Session I: Competition Law Enforcement in Informal Markets

- Contribution from RECAC –*

1. **The Central American Network of Competition Authorities (RECAC)** was established in March 2012, building on the Working Group on Competition Policy in Central American Economic Integration, as a permanent mechanism for coordination among national competition authorities. Its purpose is to facilitate collaboration on matters within their purview and to streamline communication among them.¹

2. RECAC's purpose is to facilitate joint efforts by national competition authorities to create mechanisms that strengthen the defense and protection of competition in Central American markets, as well as to foster relationships among these authorities through cooperation and mutual assistance for the effective enforcement of competition law in the region's markets.

3. The members of RECAC are: the Commission for the Promotion of Competition of Costa Rica (COPROCOM); the Superintendency of Competition of El Salvador (SC); the Commission for the Defense and Promotion of Competition of Honduras (CDPC); the National Institute for the Promotion of Competition of Nicaragua (PROCOMPETENCIA); the Authority for Consumer Protection and Competition Defense of Panama (ACODECO); the National Commission for the Defense of Competition of the Dominican Republic (PRO-COMPETENCIA), the Superintendency of Competition of Guatemala, the Superintendency of Telecommunications of Costa Rica (SUTEL), and the National Office for the Defense of Free Competition and Alternative Dispute Resolution.

4. According to figures from the Central American Integration System (SICA), the region—which includes Costa Rica, Guatemala, El Salvador, Honduras, Nicaragua, Belize, Panama, and the Dominican Republic—had a population of approximately 61 million people as of 2021. Furthermore, these are economies in which informality is not a marginal phenomenon, but rather a structural feature that shapes competitive dynamics across a wide range of sectors. For this reason, RECAC welcomes with particular interest the call for papers for Session I of the 2026 Latin American and Caribbean Competition Forum (FLACC) on the application of competition law in informal markets, and submits the following joint contribution.²

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¹Organisation for Economic Co-operation and Development (OECD). (2024). *Contribution by the Central American Network of National Competition Authorities (RECAC)*, OECD-IDB Latin American and Caribbean Competition Forum, document DAF/COMP/LACCF(2024)19.

²Central American Integration System (SICA) / Secretariat for Central American Economic Integration (SIECA). (2021). *The Central American Region and the Dominican Republic in Figures*. Figure cited in OECD, DAF/COMP/LACCF(2024)19.

1. The Scope of the Informal Economy in the Region and Its Measurement

5. For the purposes of this contribution, RECAC authorities adopt the definition of the informal economy proposed by the International Labor Organization (ILO), which encompasses all economic activities carried out by workers and economic units that, in law or in practice, are not covered or are insufficiently covered by formal frameworks, either because they operate outside the scope of the law, because the law is not enforced in practice, or because the law discourages compliance due to being inappropriate, burdensome, or imposing excessive costs.³

6. The economic literature offers different frameworks for interpreting the role of informal firms in competitive dynamics. La Porta and Shleifer (2008) distinguish three approaches: the “romantic” theory, which attributes high productivity potential to informal firms, limited by regulation, the tax burden, and restricted access to financing; the “parasitic” theory, according to which these firms are less productive than formal ones but exert significant competitive pressure by evading taxes, labor regulations, and quality standards; and the dual theory, which argues that, despite their lower productivity, informal firms tend to operate in market segments distinct from those of formal firms and therefore do not necessarily pose a direct competitive threat. These approaches, which are generally applicable across the region, allow RECAC authorities to tailor their analysis according to the sector and the degree of heterogeneity in the market in question.⁴

7. Informality is the main structural challenge facing labor markets in Latin America and the Caribbean. According to the ILO, informality affected 47.6% of the regional labor force in 2024, with a particularly high incidence among young people and women. In the Central American region, this proportion is, in most cases, considerably higher than the regional average.⁵

8. The extent of informality has direct consequences for competition. The Inter-American Development Bank (IDB), in its report *Markets for Development: Improving Lives through Competition* (2025), estimates that greater competition in Latin American and Caribbean markets could raise per capita GDP by about 11% and reduce inequality by nearly 6%, and warns that market concentration in the region is substantially higher than in advanced economies. In an environment of high informality, the coexistence of formal and informal actors influences both the intensity of competitive pressure and the authorities’ ability to measure and channel it.⁶ At the firm level, an IDB study found that,

³International Labor Organization (ILO). (2012). *The Informal Economy and Atypical Forms of Employment*. Geneva: ILO. Available at: <https://www.ilo.org/resource/informal-economy-and-atypical-forms-employment>

⁴ La Porta, Rafael, and Andrei Shleifer. 2008. *The Unofficial Economy and Economic Development*. Brookings Papers on Economic Activity.

⁵International Labor Organization (ILO). (2025). *Labor Outlook for Latin America and the Caribbean 2024*. Lima: ILO Regional Office for Latin America and the Caribbean. Informal employment affected 47.6% of the regional labor force in 2024.

⁶Inter-American Development Bank (IDB). (2025). *Markets for Development: Improving Lives through Competition*, Development in the Americas (DIA) series 2025. Washington, D.C.: IDB. <https://doi.org/10.18235/0013850>

on average, facing informal competition is associated with 15% lower productivity in the region's formal firms, regardless of their individual characteristics.⁷

9. This dynamic is not static: the International Monetary Fund has documented that informality in Latin America exhibits countercyclical behavior, acting as an adjustment mechanism during recessions, when a significant portion of workers displaced from the formal sector move to the informal sector. For competition authorities in the region, this implies that the magnitude and composition of informality—and, therefore, its impact on competitive dynamics—may vary depending on the phase of the economic cycle, which makes it advisable to periodically update sectoral assessments.⁸

10. Measuring the size of informal markets is the first challenge for the region's competition authorities. Unlike formal businesses, informal operators are not listed in commercial or tax registries, do not report sales volumes or prices, and often operate on a cash basis, making it difficult to include them in the analyses needed to determine market size. For this reason, RECAC authorities rely primarily on statistics produced by national statistical institutes and central banks, which apply the ILO's operational definition to determine the impact of the informal sector on market size.⁹

11. The most recent official figures illustrate the region's heterogeneity. In Costa Rica, informal employment accounted for 37.8% of the employed population in the fourth quarter of 2025, the lowest rate among RECAC members.¹⁰ In the Dominican Republic, informal employment stood at around 49.13% at the end of 2024, with much higher rates in agriculture, construction, transportation, and commerce.¹¹ An additional statistic illustrates the magnitude of the phenomenon within the business sector as well: 85.2% of Dominican micro, small, and medium-sized enterprises operate outside formal regulations.¹² In Honduras, the Permanent Household Survey placed informal employment at over 74% of the employed population, one of the highest rates on the continent.¹³ El Salvador also has

⁷ Castilleja-Vargas, Liliana, and Sheyla Enciso. 2024. Informal Competition and Productivity in Latin America and the Caribbean. Technical Note No. 1699. Washington, D.C.: Inter-American Development Bank, p. 14.

⁸ International Monetary Fund. Economic Outlook: The Americas. Labor Market Dynamics and Informality During the Economic Cycle in Latin America and the Caribbean. October 2019.

⁹ OECD. (2018). *Contribution from the Dominican Republic*, Latin American and Caribbean Competition Forum, document DAF/COMP/LACF(2018)8, as part of the discussion “The Informal Economy in Latin America and the Caribbean: Implications for Competition Policy.”

¹⁰ National Institute of Statistics and Censuses of Costa Rica (INEC). (2026). *Continuous Employment Survey, fourth quarter of 2025* (published on February 5, 2026). Available at: <https://www.inec.cr>

¹¹ Central Bank of the Dominican Republic (BCRD). *National Continuous Labor Force Survey (ENCFT)*, results as of the end of 2024 and the first quarter of 2025. Available at: <https://www.bancentral.gov.do>

¹² Central Bank of the Dominican Republic and Ministry of Industry, Commerce, and MSMEs (2024). Micro, Small, and Medium-Sized Enterprises in the Dominican Republic 2022–2023: Establishment Identification Survey and National MSME Survey. Key Findings and Methodological Aspects.

¹³ National Institute of Statistics of Honduras (INE). (2024). *Permanent Multipurpose Household Survey (EPHPM)*, November 2024. The Honduran Council of Private Enterprise (COHEP), based on ECLAC data, has reported higher rates. Both figures are presented with attribution to their source.

a rate of nearly 69 %, ¹⁴ while in Panama, non-agricultural informal employment stood at around 49% in October 2024. ¹⁵ In Guatemala, the National Survey on Living Conditions estimated that the informal sector accounted for about 70% of employment, ¹⁶ and in Nicaragua, available estimates place informality at nearly 80% of the labor force, although these figures should be interpreted with caution given the limited availability of recent official statistics. ¹⁷

12. Although these figures are not strictly comparable due to methodological differences in definition, coverage, and the year of measurement, they provide a sense of the scale of a common phenomenon: in most RECAC countries, between half and three-quarters of employment occurs in the informal sector. ¹⁸ The main source of information for competition authorities is, therefore, cooperation with the agencies that produce this data—statistical offices, central banks, tax authorities, customs agencies, and business licensing authorities—whose records make it possible to estimate the existence and structure of the informal sector when it is relevant to a specific case under analysis.

2. Addressing Informality in Competition Analysis

13. The coexistence of formal and informal segments raises key issues for competition analysis: the definition of the relevant market, the assessment of market power, and the design of remedies. The experience of RECAC authorities shows that informal operators can exert effective competitive constraints on formal firms, but also that their omission can distort the analysis, attributing greater market power to formal firms than they actually possess.

14. The Dominican Republic has documented this issue in detail. PRO-COMPETENCIA has pointed out that the high prevalence of informal food retailers—known as “colmados” and “bodegas”—forces formal firms to develop extensive distribution capabilities and influences access to supply chains, such that ignoring the informal segment could lead to an overestimation of the position of formal firms. The authority also warned that the lack of records for informal operators makes it difficult to both define markets and calculate potential penalties.

15. This difficulty was specifically observed in the Economic Study on Competition Conditions in the Bread Market in the Dominican Republic, in which the high level of informality among bakeries made it difficult to obtain reliable data for defining the relevant

¹⁴Competition Superintendency of El Salvador (SC) and Central Reserve Bank of El Salvador, *Multi-Purpose Household Survey (EHPM)*; regional informality rate according to the ILO, *Labor Outlook 2024*. El Salvador has one of the highest informality rates in the Central American region.

¹⁵National Institute of Statistics and Census of Panama (INEC) / Comptroller General of the Republic. (2024). *Labor Market Survey, October 2024*. The rate corresponds to non-agricultural informal employment. Available at: <https://www.inec.gob.pa>

¹⁶National Institute of Statistics of Guatemala (INE). (2024). *National Survey on Living Conditions (ENCOVI 2023)*. Guatemala: INE.

¹⁷International Labor Organization (ILO). (2022). *Labor Outlook for Latin America and the Caribbean 2022*. Lima: ILO. The figures for Nicaragua should be interpreted with caution given the limited availability of recent official statistics.

¹⁸Informality rates are not strictly comparable across countries, as the definitions used (informal employment versus the informal sector), coverage (inclusion or exclusion of agricultural activity), and the years of measurement differ.

market and evaluating barriers to entry, forcing the authority to combine surveys of producers, consumers, and retailers to estimate the actual market structure.¹⁹

16. Added to these findings are the cases closed by PRO-COMPETENCIA between 2018 and 2023—seventeen investigations closed due to informality—which illustrate the practical scope of the problem. In the case involving the production and sale of eggs (Resolution DE-079-2018), the absence of accounting records, trademarks, or commercial packaging among producers prevented a robust economic analysis of price and volume behavior. In the purified water market, the finding that more than 60% of production took place at clandestine plants without health permits made it impossible to estimate variables such as market shares and concentration levels, forcing the case regarding alleged predatory pricing to be dismissed. In the automotive sector (Resolution DE-053-2018), six of the companies under investigation were not registered in the Commercial Registry and lacked a verifiable address, which prevented them from being formally notified and thwarted the investigation.²⁰

17. In El Salvador, the Superintendency of Competition has incorporated the analysis of segments with an informal presence into various sectoral studies of the agri-food chain—including those related to the rice agroindustry, the fertilizer market, and the red bean supply chain—in which the interaction between modernized producers and smallholders, and between formal and informal distribution channels, is crucial to understanding the competitive dynamics and information asymmetries among the various actors.²¹

18. In Costa Rica, COPROCOM has explicitly considered the presence of informal operators in its competitive analysis of certain markets. With regard to economic concentrations, there are precedents in the artisanal bakery and pastry sector and the car rental sector, in which the presence of informal agents was qualitatively assessed as part of the existing supply and the competitive pressure faced by formal agents. This experience, in turn, highlights one of the main challenges associated with informality: the difficulty of quantifying the market share, capacity, and disciplining effect of these operators; therefore, their impact on competition must be evaluated on a case-by-case basis and not presumed based solely on their existence.

19. Turning to Costa Rica, SUTEL has analyzed the impact of informality on competition in the telecommunications market and determined that the phenomenon of informality in that market can take various forms, such as piracy and the illegal operation of networks and provision of telecommunications services outside the regulatory framework, with subscription television and internet access services being the most affected by this phenomenon, and whose negative effects have , multisectoral

¹⁹National Commission for the Defense of Competition (PRO-COMPETENCIA), Dominican Republic. (2017). *Economic Study on Competition Conditions in the Bread Market in the Dominican Republic*. Available at: <https://procompetencia.gob.do>

²⁰National Commission for the Defense of Competition (PRO-COMPETENCIA), Dominican Republic. Resolutions No. DE-079-2018 (eggs) and DE-053-2018 (automotive sector), and the case file on the bottled purified water market, cited in *Competition and Informality in the Dominican Republic: Challenges for the Enforcement of Competition Law* (June 10, 2026 version), PRO-COMPETENCIA.

²¹El Salvador Competition Authority (SC). *Sectoral studies on the rice agroindustry, the fertilizer market, and the red bean supply chain*. Available on the institutional website: <https://www.sc.gob.sv>

consequences—ranging from public finances to the protection of consumer rights and ensuring the efficient use of the radio spectrum²².

20. In Honduras, the Commission for the Defense and Promotion of Competition has expressly recognized the significance of informal microenterprises in sectors such as retail, bakeries, and restaurants, and has exercised its enforcement authority in markets of broad social relevance, such as the sale of medicines, where it sanctioned a case of collusive price-fixing. Likewise, the peer review of Honduras conducted by the Organization for Economic Cooperation and Development (OECD) and the IDB identified informality as one of the structural factors affecting the enforcement of competition law in the country.²³

21. Regional experience confirms that the treatment of informality in market definition must be handled with care. The doctrinal precedent guiding this analysis is the *Chiletabacos* case (2005), in which the competition authority did not accept that the informal cigarette market—with a small market share—could constrain the market power of the dominant firm. The lesson for RECAC authorities is that the mere existence of an informal supply is not sufficient to rule out a dominant position: it is necessary to assess whether that supply effectively exerts competitive pressure through substitutes in terms of quality, coverage, and sustainability.²⁴

3. The Challenges of Enforcing Competition Law in Informal Markets

22. The enforcement of competition law in markets with a strong informal component faces specific legal and procedural challenges. The first is a lack of data: without commercial, accounting, or tax records, it is difficult to define the market, quantify market power, and, in particular, calculate fines, which under most of the region's laws are determined based on the infringer's revenue or sales. The absence of this information may force authorities to resort to indirect estimation methods.²⁵

23. A second challenge relates to due process and the right to a defense. Notifying economic agents who do not have a registered business address or formal representation of proceedings can become complex, requiring authorities to exercise extreme care in guaranteeing the procedural rights of those under investigation. Added to this is the frequent overlap between a potential violation of competition law and violations of other regulations—such as tax, customs, health, or registration laws—which raises the need to delineate jurisdictions and coordinate actions with other authorities.

²² Telecommunications Superintendency (SUTEL), Costa Rica. *Report on Informality and Competition in the Telecommunications Market*. Available at: www.sutel.go.cr

²³ Commission for the Defense and Promotion of Competition (CDPC), Honduras. *Resolution No. 4-2008*, regarding collusive price-fixing in the sale of medicines, and sectoral studies on transportation. See also OECD-IDB (2011), *Competition Law and Policy in Honduras: Peer Review*. Available at: <https://www.cdpc.hn>

²⁴ OECD. (2018). *Secretariat's background note*, document DAF/COMP/LACF(2018)4, summarizing the *Chiletabacos* case (Chilean Court for the Defense of Free Competition, 2005), in which it was held that the informal cigarette market did not serve to constrain the market power of the dominant firm.

Telecommunications Superintendency (SUTEL), Costa Rica. *Report on Informality and Competition in the Telecommunications Market*. Available at: www.sutel.go.cr

²⁵ OECD. (2010). *Competition Policy and the Informal Economy*, OECD Roundtables on Competition Policy Papers, No. 100. Paris: OECD Publishing. <https://doi.org/10.1787/512c20f6-en>

24. In this context, RECAC authorities recognize that the most effective response to informality is not exclusively punitive. Inter-agency cooperation—with tax, customs, statistics, and financial supervision authorities—is the central tool both for measuring the phenomenon and for applying competition law in an informed manner. An example of this collaborative approach is the cooperation agreement signed in 2023 between ACODECO and the Superintendency of Banks of Panama for the periodic publication of comparative studies that bring transparency to markets with a broad impact on consumers.²⁶ Along the same lines, PRO-COMPETENCIA has proposed the creation of a Competition and Informality Observatory, which will coordinate with the Dominican Labor Market Observatory (OMLAD) of the Ministry of Labor to integrate statistics on labor and business informality with competition analysis.²⁷

25. The work of promoting and advocating for competition takes on particular significance in this area. Given that much of the informality stems from inappropriate, burdensome, or excessively costly regulatory frameworks—as recognized by the ILO’s own definition—the RECAC authorities consider that regulatory simplification, the reduction of barriers to entry into the formal sector, and coordination with formalization policies are complementary and indispensable instruments of competition policy. The OECD has emphasized that competition policy and formalization policies must be designed in a coherent manner, as both aim to achieve more open, contestable, and inclusive markets.²⁸

4. RECAC’s Regional Action

26. As in other areas, RECAC has carried out extensive advocacy and dialogue efforts that enable the issue of informality to be addressed from a regional perspective. The Central American Competition Forums serve as the primary platform for exchange: One example was the **19th Central American Competition Forum (RECAC)**, held on September 11 and 12, 2025, in San José, Costa Rica, which focused on regulatory and competition challenges in the digital age.

27. At this first session of FLACC 2026, RECAC reaffirms its commitment to strengthening competition law enforcement practices in a context marked by informality. The region faces a structural challenge that requires coordinated, evidence-based responses that respect due process and are complemented by strong advocacy efforts aimed at facilitating the transition toward formality. A more uniform understanding of these challenges among the region’s authorities is precisely the path to improving the effectiveness and coherence of competition policy in the service of more inclusive markets.

²⁶Consumer Protection and Competition Authority (ACODECO), Panama, and Superintendency of Banks of Panama (SBP). (2023). *Cooperation Agreement for the Publication of the Comparative Study on Credit Cards and Financing*, signed on January 30, 2023.

²⁷National Commission for the Defense of Competition (PRO-COMPETENCIA), Dominican Republic. Proposal for the creation of the Observatory on Competition and Informality, in *Competition and Informality in the Dominican Republic: Challenges for the Enforcement of Competition Law* (version dated June 10, 2026); see also Ministry of Labor, Dominican Labor Market Observatory: <https://mt.gob.do/omlad/quienes-somos/>

²⁸OECD. (2018). *The Informal Economy in Latin America and the Caribbean: Implications for Competition Policy*, OECD Roundtables on Competition Policy Papers, No. 221. Paris: OECD Publishing. <https://doi.org/10.1787/6c1eb867-en>

5. Considerations from the Central American Region within the Framework of the Forum

28. Before concluding this contribution, the RECAC authorities wish to highlight some considerations that, in their view, deserve special attention in the debate during this Session I of FLACC 2026.

29. First, informality in Central America is not a residual or transitory phenomenon, but rather a structural feature that spans most productive sectors and, in several countries in the region, involves more than half of the workforce. This reality requires that the criteria and best practices discussed at the Forum be sufficiently flexible to adapt to economies in which full formality is, in many cases, the exception rather than the rule.

30. Second, the heterogeneity observed among RECAC countries—both in terms of levels of informality and in terms of institutional capacities and available regulatory frameworks—suggests that any guidance emerging from this Forum should be formulated with the flexibility necessary to adapt to different national realities, avoiding one-size-fits-all approaches that fail to recognize the particularities of each jurisdiction.

31. Third, the experience accumulated by the region's authorities confirms that the competitive impact of informality cannot be assumed but must be analyzed on a case-by-case basis, weighing its actual effect on market definition, market power, and barriers to entry. RECAC considers it valuable for the Forum to promote the exchange of methodologies and practical experiences among authorities in the region and those in other Latin American and Caribbean jurisdictions facing similar challenges.

32. Fourth, RECAC reiterates that the response to informality goes beyond the strictly enforcement-based approach and requires effective coordination between competition policy, regulatory simplification, and formalization policies, as well as sustained inter-agency cooperation with tax, customs, labor, and statistics authorities. In this regard, the region values the technical support that organizations such as the OECD and the IDB can continue to provide to strengthen the measurement and analysis capabilities of Central American authorities.

33. Finally, RECAC reaffirms its willingness to continue contributing, through its Central American Competition Forums and other regional cooperation mechanisms, to building a common understanding of the challenges posed by the informal economy for competition policy, with a view toward more efficient, inclusive, and competitive markets for the benefit of consumers in the region.

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Superintendency of Competition of El Salvador (SC) and Central Reserve Bank of El Salvador, *Multipurpose Household Survey (EHPM)*; regional informality rate according to the ILO, *Labor Outlook 2024*. El Salvador has one of the highest informality rates in the Central American region.