



The benefits of trade liberalisation in a globalised economy

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Ad Hoc Expert Meeting: The Role of Competition Law and Policy in Fostering Sustainable Development and Trade Through the Enhancement of Domestic and International Competitiveness of Developing Countries

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Contents of presentation

- Five principles/recommendations with regard to the use of competition policy in supporting development, trade liberalization and effective participation in global value chains;
- Two illustrations/examples:
 - the reform of public and business infrastructure sectors, particularly in the context of developing and transition economies;
 - the addressing of possible monopsonistic practices in international supply chains that may affect the ability of developing country producers to reap gains from participation in international markets.



The first two principles/recommendations: re-stating the obvious (?)

- First, the focus of policy makers in using competition policy as tool for poverty reduction should be on approaches that are relatively easy to implement but have a track-record of being effective and economically sound.
 - Importance of international cooperation, experience sharing especially among developing countries to identify such “approaches that work”.
 - Importance of identifying focus areas/sectors to avoid dispersion of resources.



The first two principles/recommendations: re-stating the obvious (?)

- Second, for competition policy reforms and legislation to be successful, public acceptance and support is critical and must be an essential focus of related initiatives.
 - Importance of advocacy efforts
 - Importance of transparency in competition authorities work to create public buy-in.
- Human rights dimension of, “good governance” in competition policy.



Third principle/recommendation

- Third, to serve as an effective tool of poverty reduction, competition policy needs to address the needs of the citizens of poorer societies in their capacities as producers (i.e. as users of extensive input goods and services, including public infrastructure), in addition to their capacities as final consumers/households.
 - Developing country (small) businesses as consumers.
 - Competition policy as tool to improve competitiveness of developing country businesses by improving inputs and reducing cost of doing business.
 - Competition policy as tool to preserve export interests of developing country producers in the global value chain.



Fourth principle/recommendation

- Fourth, "competition policy" is more than just "what competition agencies do" and includes the full spectrum of measures that governments employ to enhance competition and improve the performance of markets.
 - Take competition policy into account in creating a business-friendly regulatory, legislative and institutional environment.
 - E.g. international trade liberalization as tool to enhance competition in the market.
 - E.g. international trade liberalization to translate improved competitiveness into export opportunities.



Fifth principle/recommendation

- Fifth, in order to address the challenges posed by the changing landscape of competition policy worldwide, new forms of international co-operation may need to be considered:
 - Global value chains mean that market failures, distortions have a world-wide effect.
 - Are national competition laws able to address all these effects? Are spill over-effects enough?
 - What new forms of international co-operation?

First example/illustration: reform of public and business infrastructure sectors



- Infrastructure services, including transportation, energy and telecommunications, account for a large proportion of the costs of export-oriented and other developing and transition economy businesses.
- Focused reform as part of overall competitiveness efforts by governments. Buy-in by the public, as important in daily lives.
- Remedial measures include overall regulatory environment.
- Importance of the continuing application of competition law, post-restructuring
- Interaction with international trade agreements and cooperation, e.g. Mexico – Telecoms case

Second example/illustration: monopsonistic practices in international supply chains



- Small and medium sized businesses in developing countries must often market their products through international distribution and retailing conglomerates.
- Major advantages in terms of brand recognition, economies of scale and scope.
- But: gains from participation in international trade that are actually reaped by developing country business owners, and the effects on further development of successful businesses in developing countries, depend at least partly on whether or not rents are distributed equitably between international conglomerates and developing country businesses.
- Unequal bargaining power & potential monopsonistic practices as potential problems to be addressed through regulation taking into account competition policy concerns.

Examples from the Agro-food sector



"French" beans from Madagascar

In Madagascar, vertical co-operation between a local food processing business consortium, Lecofruit, and rural farmers has helped in establishing Madagascar as exporter of high quality "French" beans to Europe.

Lecofruit buys vegetables from more than 9000 small farmers based on contracts. It distributes seeds fertilizer and pesticides as part of the contract. The value of those inputs is later paid back in kind by farmers upon harvest and therefore pre-financed by Lecofruit. Furthermore Lecofruit teaches farmers how to make compost with a beneficial spill-over effects to other crops. In order to ensure compliance with contracts by farmers the company has put in place a hierarchical system of monitoring with lower levels of monitoring carried out by people living in rural villages themselves.

The co-operation contracts are perceived as useful by farmers as they help reducing periods without income caused by seasonality of crops. Further reasons for farmers to sign contracts were the receipt of inputs on credit and the learning of new technologies. However, a higher income was mentioned by a relatively low number of contractors and almost half the farmers were willing to stick to the contract even if prices offered were half of the price observed on the local market. A consequence is that there is little potential for farmers to negotiate prices with Lecofruit.

Source: Minten, Randrianarison and Swinnen (2006).



Examples from the Agro-food sector

Market power and merger review in the agri-food sector: the case of South Africa

The South African Competition Commission describes its merger review in regard to the agriculture and agro-processing sector as follows:

"[D]eregulation, with the closing of the marketing boards (the former control boards) coupled with the conversion of most of the cooperatives into private and listed companies, has underpinned high levels of merger activity. Many of the firms that held dominant positions in the regulated market have, over the past decade, extended their control over the vertical and horizontal channels through which they produce and market.

For example, the former Ost-Transvaal Ko-operasie (OTK) has become Afgri Operations. Afgri Operations has extended horizontally through acquiring other former cooperatives together with their fixed infrastructure such as grain silos. Afgri Operations has also extended its range of services offered to farmers on the input side as well as on the output side as a buyer, trader and processor of agricultural products.

In the poultry industry, Astral's acquisition of National Chicks in 2001 (approved with conditions) and Earlybird Farms 2004 increased Astral's total broiler production to just below that of Rainbow Chickens. Rainbow Chickens expanded its operations through the acquisition of Vector Logistics in 2004, which resulted in the firm becoming even more vertically integrated in the poultry supply chain.

The merger between Afgri Operations and Daybreak Farms, approved in 2006, resulted in the creation of another vertically integrated player in the poultry industry, by merging a feed manufacturer with a producer of broilers.

An example of a prohibited merger in the food sector is the proposed Tongaat-Hulett Group/Transvaal Suiker Beperk merger in 2000. This was a large horizontal proposed merger that was prohibited by the Tribunal in a food market that is highly concentrated. The merger would have resulted in the acquisition of the third largest sugar producer (Transvaal Suiker Beperk, controlled by Rembrandt) by the Tongaat-Hulett Group, a subsidiary of the Anglo American Corporation."

Source: Competition Commission of South Africa 2009.

Examples from the Agro-food sector



Cases of anti-competitive practices in agro-food chains in South Africa

The South African Competition Commission prioritizes its work, with a focus, among others, on food and agro-processing.

One of the Commission's first cases contained complex issues of alleged vertical and exclusionary restraints by South African Dried Fruit Holdings Ltd (SAD). Exclusive supply arrangements effectively foreclosed the market to new entrants, such as South African Raisins, the complainant in this case.

Similarly, in 2000, an Eastern Cape citrus farmer brought an interim relief application against citrus packing and distribution company, Patensie Sitrus, claiming that certain provisions of the company's articles of association contravened the Competition Act. They locked farmers, who were shareholders in the company, into an exclusive supply arrangement with Patensie Sitrus, thus excluding potential competitors from the market for packing and distributing citrus fruit in the Gamtoos River Valley.

In 2005, the Commission investigated a complaint against a major tea supplier that had entered into exclusive supply arrangements with the major local packers of rooibos tea. According to the finding of the Commission, these supply agreements foreclosed rivals and new entrants from supplying processed rooibos to domestic packers, amounting to the foreclosure of 91 percent of the processing of raw and bulk-supplied rooibos to the domestic market.

Source: Competition Commission of South Africa 2009.

Examples from the Agro-food sector



UK Enquiry into groceries retailing.

In the UK, the Competition Commission carried out an enquiry into UK groceries retailing which finished in 2008 and concluded that measures were needed to address its concerns about relationships between retailers and their suppliers. As a result the Groceries Supply Code of Practice (GSCOP) came into force on February 2010 and replaced the former Supermarkets Code of Practice (SCOP). The aim is to ensure that suppliers do not have costs imposed on them unexpectedly or unfairly by retailers.

The GSCOP ensures that:

- the provisions of the GSCOP are included in every contract between grocery retailers and their suppliers;
- all retailers with groceries turnover in excess of £1 billion per year are included within its scope;
- an overarching fair dealing provision is included;
- retailers are prohibited from making retrospective adjustments to terms and conditions of supply;
- retailers are prohibited from entering into arrangements with suppliers that result in suppliers being held liable for losses due to shrinkage;
- retailers are required to enter into binding arbitration to resolve any dispute with a supplier; and
- retailers are required to keep written records of all agreements with suppliers on terms and conditions of supply.

It also establishes an Ombudsman to arbitrate on disputes between grocery retailers and suppliers and investigate complaints under the new Groceries Supply Code of Practice (GSCOP).

Source: United Kingdom Competition Commission, Press Release (2011B) and sources referenced therein.

Summary: what we have covered



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