



School of
Management and Law

6th Meeting of the UNCTAD Research Partnership Platform
Geneva, Friday 10th July 2015

Class Actions in Competition Law



Building Competence. Crossing Borders.

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The views expressed are those of the author and do not necessarily reflect the views of UNCTAD

Class Actions in Competition Law

Agenda

- I. About us
- II. Background
- III. Objective
- IV. Plan
- V. Key Messages

I. About us

Zürcher Hochschule
für Angewandte Wissenschaften



School of
Management and Law



ZHAW School of Management and Law

One of Swiss leading business schools:
scientifically grounded, interdisciplinary, and
strongly oriented to real-world business
practices.



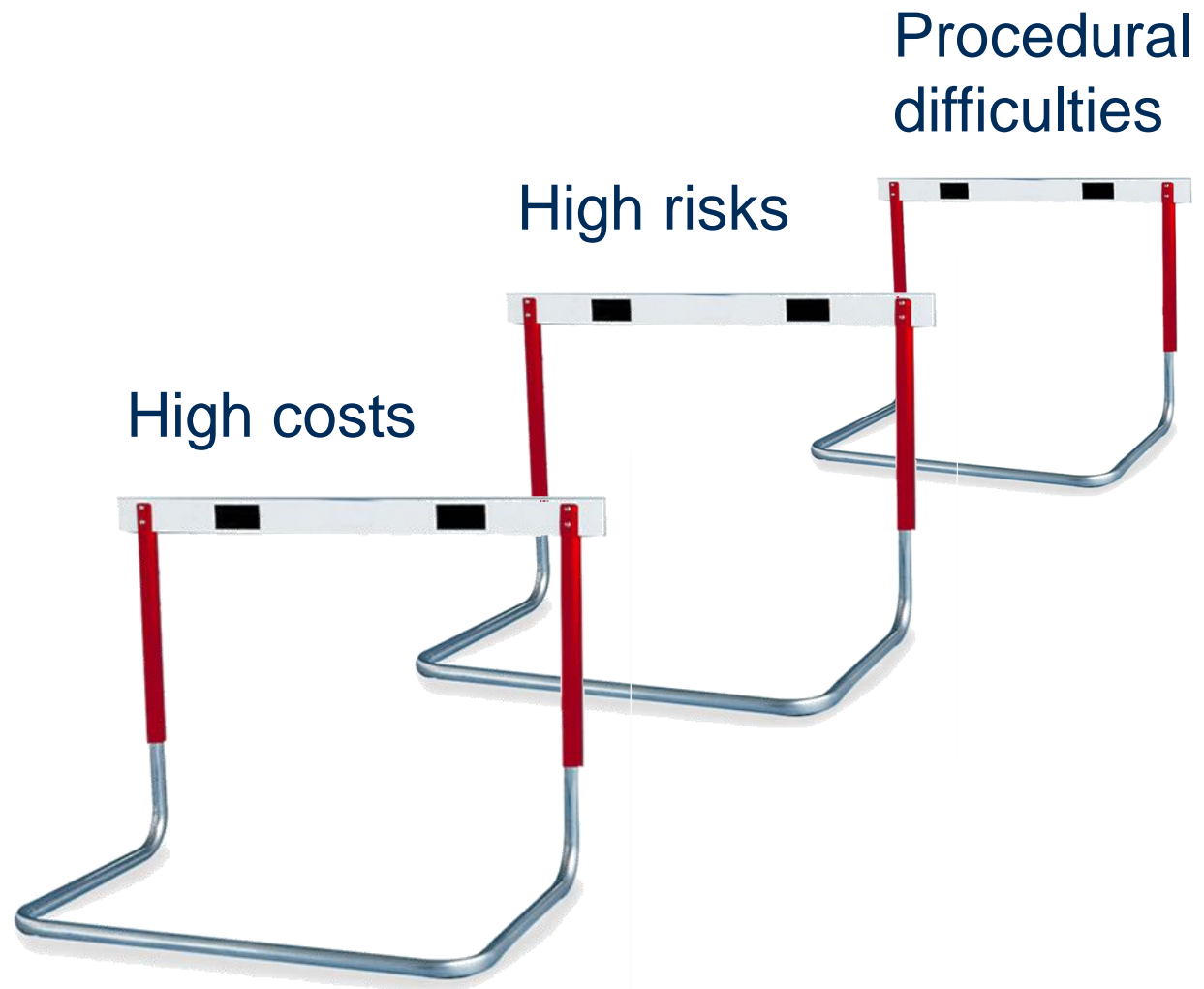
Center for Competition and Commercial Law

Focuses on selected aspects of international
commercial law at the intersection of business
and law. We facilitate cooperation and build
networks with premier academic and business
partners.

II. Background

Who are the « real » victims of an antitrust law violation?

Clients and consumers



II. Background

Improvement through Class Actions



- **Opt-out:** All members of a defined group are bound into the action unless they opt out
- **Opt-in:** Members have to opt in to the action

II. Background

Subject Matter of Antitrust Class Action

- **Follow-on claim:** Civil law action is initiated after the public procedure has established an infringement
- **Stand-alone claim:** Regardless of public law procedure

II. Background

Geographical spread of Class Actions

EU: Efforts to introduce class action law suits



II. Background

Advantages of Class Actions

- Administration of Justice is **simplified**
 - **Cost effective**
 - **Identical decisions** for a variety of similar situations
- **Eliminating imbalance** of power
- **Public Interest**
 - Deterrence
 - Economy

II. Background

Risks of Class Actions

- **Liability** and **financial consequences** for companies
- **Leniency notice** from competition authorities could be undermined
- **De facto absence of defences**
 - Defendant bears costs of their own legal representation
 - Settlement is preferred (legal blackmailing)

III. Objective

Strengthening Antitrust Civil Law Introduction of Class Action Law Suits


1 Analyse functioning
of antitrust class action
lawsuits

2 Establish « **Best
Practices Class Action
in Competition Law** »

III. Objective



Consolidated
observation
of facts



Scientific
grounded
prediction of
economic &
social benefits



Extensive
examination
of risks &
rewards



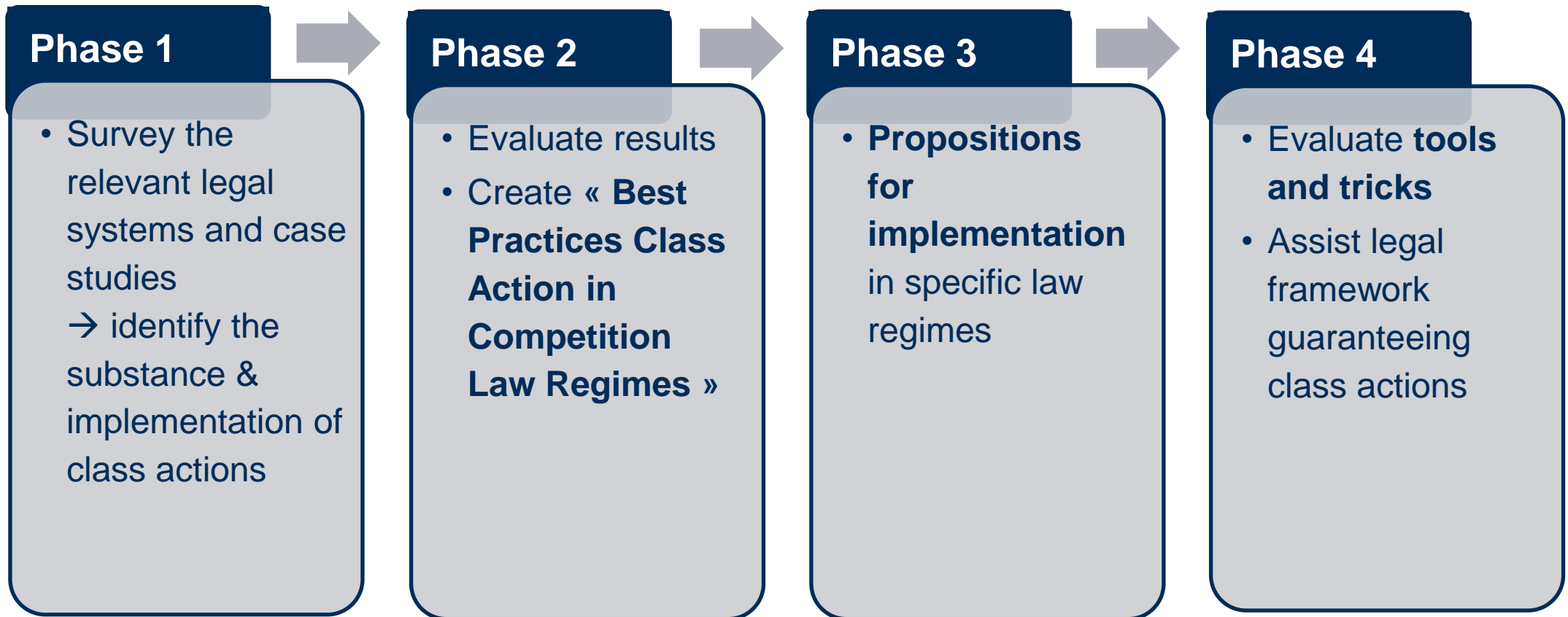
Implementation
of gained
findings to
establish Best
Practices

III. Objective

Best Practices

- **Enforce the position of consumers** and improve their protection
- Integrate advantages **without leading to « over the top » claims** for damages
- **Different style of analysis:** Class action as a process instrument (e.g. punitive damages, contingency fees for lawyers, fishing expeditions)

IV. Plan



IV. Plan

Relevant Legal Systems

Approach: Limited jurisdictions and results in a reasonable time

Africa & Middle East

- Israel
- South Africa

Asia Pacific

- Australia
- India
- Japan
- New Zealand
- Russia

Europe

- Belgium
- France
- Germany
- Lithuania
- UK

North America

- Canada
- Puerto Rico
- USA

Latin America

- Argentina
- Brazil
- Chile
- Colombia
- Mexico

V. Key Messages

- Efforts to **strengthen private enforcement** in several countries and EU
→ **Consumer Protection**
- Class Actions simplify the Administration of Justice: **Saving time and money**
- Objective: Establish « **Best Practices Class Action in Competition Law** » and **assist implementation**

To find the most efficient and best practices for Class Actions
in Competition Law

**Thank you for your
attention!**

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