

COMPAL GLOBAL: support to MENA countries

Wednesday 23rd April 2014 - 13:45-14:30

Palmeraie Golf Palace, Marrakesh, Morocco

Side-event at the 14th ICN Annual Conference

The aim of the event is to launch UNCTAD's COMPAL Global Programme before heads and other representatives of competition agencies who will meet in Marrakech in the occasion of the Annual Conference of the International Competition Network (ICN)¹.

UNCTAD's main areas of work are international trade in goods and services and commodities; investment and enterprise development, trade facilitation and logistics and globalization, international finance and development. It also has a Special program for the Least Developed Countries (LDCs).

UNCTAD's work on Competition and Consumer Policies, which is mainly carried out through its Competition and Consumer Policies Branch (CCPB), cross-cuts all these areas and seeks to promote stable economic conditions, competitiveness and trade diversification, as well as mobilize domestic and foreign investment and improve basic infrastructure for development. Particular emphasis is placed on private sector development as a driver of sustainable growth and poverty alleviation. Indeed, the objective is to ensure that beneficiary countries (developing and emerging countries, and countries in transition) enjoy the benefits of increased competition, open and contestable markets, private investment in key sectors and, ultimately, that consumers achieve improved welfare.

UNCTAD has a long-standing experience in providing technical assistance and capacity building on competition and consumer protection policies and laws all around the world. Its most successful programme is COMPAL (*Competencia y Protección del Consumidor en America Latina* – Competition and Consumer Protection for Latin America), which has been running for almost 10 years thanks to the financial support of the Swiss Government. This COMPAL Programme has undergone two external evaluations which confirmed its very positive impact. In particular, the second evaluation concluded that it was “a successful, worthwhile program” and that it had made “clear contributions to institutional development in Latin America”. The Programme gained such a reputation that many countries in the Latin American region asked to join, even at their own expense. Indeed, COMPAL started with just five member countries and now counts eight others, who joined through the Regional Component of the Programme, which aims at enhancing regional cooperation. As a result of its success, the Programme's strategy was “exported” to Africa, namely to the West African Economic Monetary Union (WAEMU), and UNCTAD has recently adopted it as its general strategy for intervention in Competition and Consumer Protection worldwide (**CCPB's strategy or COMPAL GLOBAL** –see in annex-).

In the context of COMPAL Global, two regional technical assistance projects, for Latin American and for MENA (Middle East and North Africa) countries, have already been planned.

¹ “The ICN provides competition authorities with a specialized yet informal venue for maintaining regular contacts and addressing practical competition concerns. This allows for a dynamic dialogue that serves to build consensus and convergence towards sound competition policy principles across the global antitrust community”. For more information about ICN see <http://www.internationalcompetitionnetwork.org/>

In the case of MENA, the Swedish Government is considering a contribution of around USD 7.5 million in five years (2014-2019) to a Programme which will mainly have a regional focus and which will give special and cross-cutting attention to gender and good governance issues. The main objectives of the Programme for MENA are the following:

1: To enhance MENA countries' effective capacities to adopt and implement regional competition programmes, through the introduction of national competition policy and legal frameworks, institution building including the establishment of competition agencies, training of enforcers and regional cooperation initiatives.

2: To enhance MENA countries' effective capacities to adopt and implement regional consumer protection programmes, through the introduction of national consumer protection policy and legal frameworks, institution building including the establishment of consumer protection agencies, training of enforcers and regional cooperation initiatives.

3: To help companies and business associations comply with competition and consumer protection laws and regulations, through advocacy for voluntary compliance, for integrating the informal sector into the formal economy and for eliminating unfair trade practices, as well as through workshops, and the publication of guidelines on the substantive application of competition and consumer protection laws and regulations and guidelines on leniency programmes.

4: To assist MENA countries in the establishment of an effective dialogue between policymakers for coherence between competition, consumer and other public policies, in the adoption of competition neutrality² frameworks, and in the implementation of Regulatory Impact Analyses so to avoid unnecessary burdens to competition.

5: To enhance cooperation among MENA countries in competition and consumer protection issues through the establishment of an Advisory Group of Experts for COMPAL MENA and of a knowledge management platform to facilitate experience and knowledge sharing.

The Programme envisages the provision of support to the **Euro-Mediterranean Competition Forum (EMCF)**, a regional cooperation initiative which has its origins in a meeting held in Vienna in December 2011 in the margins of a conference on the "Application of competition law in the Mediterranean countries". The idea was first presented there to create a platform to enhance cooperation in competition matters in the Mediterranean region, which was further discussed in a meeting organized in the margins of the 12th IGE on Law and Competition Policy organized by UNCTAD in Geneva in July. The debate resumed during a meeting in Rabat in November 2012 which touched upon the needs of competition authorities of the region, the organization of the cooperation initiative and its work program for the following two years. The First EMCF Workshop was then organized in the margins of the 13th IGE on Competition Law and Policy in July 2013 and dealt with competition advocacy towards certain constituencies in the private and public sectors. The Second EMCF Workshop was held in Tunis in November 2013 and addressed the relationship between competition agencies and sector regulators. A third EMCF Workshop will take place in Geneva, in the margins of the 14th IGE on Competition Law

² Competition neutrality (CN) means a level-playing field for public and private enterprises, i.e. that public companies do not enjoy any competitive advantages by virtue simply of government ownership or control. It means that state aid and other industrial policies or regulations do not discriminate against some companies compared to others.

and Policy in July 2014, which will look at the independence and accountability of competition authorities. Finally, by the end of 2014, the Competition Authority of Malta will host a new meeting of the EMCF where the possibilities to enhance cooperation in competition cases will be explored.

Annex: CCPB's strategy or COMPAL GLOBAL

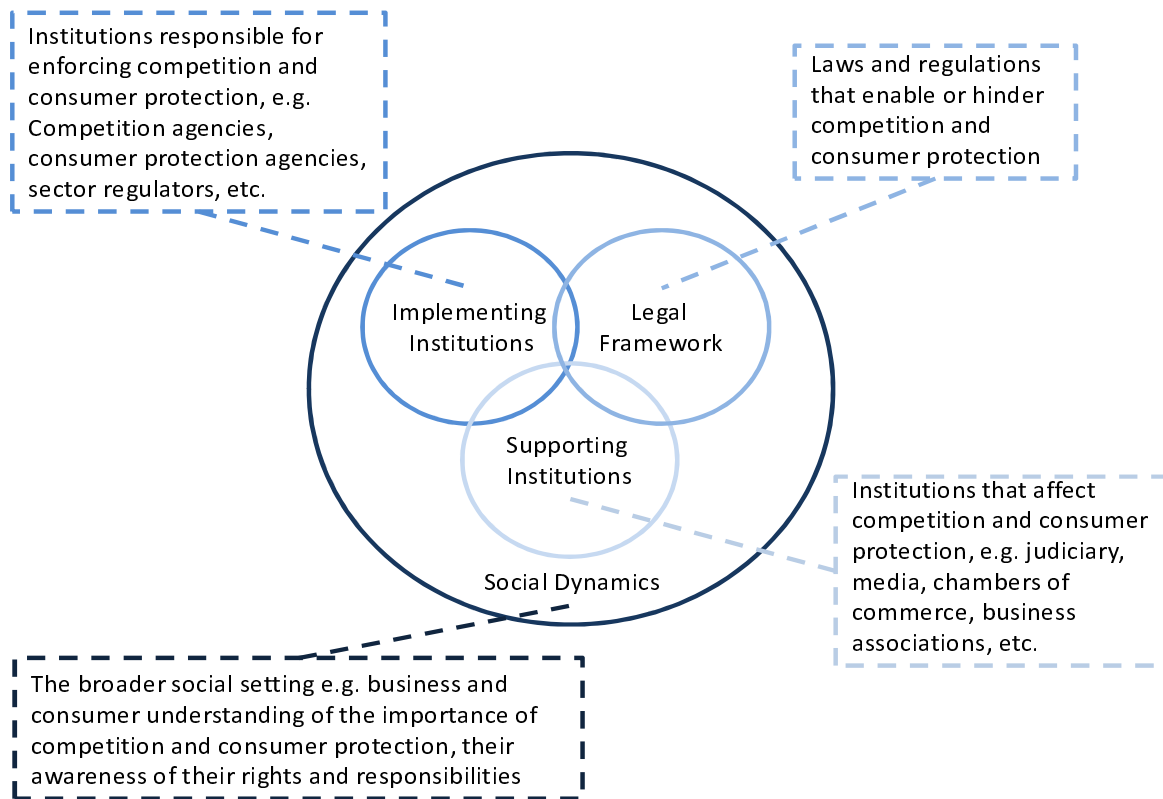
CCPB aims to continue being the partner of choice for developing countries, emerging economies and economies in transitions seeking high quality, development-focused competition and consumer protection systems. It seeks to achieve this objective through the following:

- Global delivery of in-depth technical assistance: CCPB delivers thinking globally, making it possible that work done with one country or one region contribute to the work to be done with other countries and regions, and that efforts and resources are efficiently allocated at global scale.
- Multiplying impact through regional leaders: CCPB will focus initially on countries that are willing to take on this leadership role and have the necessary economic clout and competition infrastructure. This approach allows initial donor funding to act as a catalyst, with the efforts of the regional leaders delivering increased impact and value for money.
- Strong field-based presence: A strong presence in the countries and regions where CCPB works will make in-country delivery more effective and responsive, and will ensure a free flow of information between countries and UNCTAD in Geneva. It will also increase operational efficiency.
- World-class technical expertise: CCPB will strengthen its technical capacity in order to provide high quality advice to counterparts.
- Increased financial resources: CCPB will seek increased donor funding, as well as more direct funding from beneficiary countries.
- The following principles guide the work carried out in CCPB, to assure strategic intervention and good impact assessment:
- Focus on country needs: While CCPB fully believes in the advantages of competition and consumer protection and is fundamentally committed to promoting them; it does not impose priorities on partner countries. CCPB's approach is always bottom-up, tailoring interventions to partners' needs.
- Holistic approach: CCPB takes a holistic approach to competition and consumer protection, in the sense that every country's competition and consumer protection systems are the result of a complex interplay between a broad range of factors (see Figure 1 below). CCPB considers all of these factors when identifying intervention opportunities in a country.
- Partnership: Beneficiary country buy-in and involvement is a prerequisite for a successful project. Consequently, CCPB always works in very close partnership with the competition and consumer protection agencies in the beneficiary countries.
- Results focus: CCPB focuses all of its activities on achieving sustainable outcomes, and conducts monitoring and evaluation exercises to ensure that its programs and activities are achieving the desired results.

CCPB adopts a three-stage plan-do-review approach to its work:

- Plan: CCPB carries out needs analyses in the beneficiary countries and regions, in collaboration with agency partners, to prioritise interventions and develop annual action plans.
- Do: CCPB and partners implement the activities set out in the action plans.
- Review: CCPB monitors the outcome of its activities draw lessons from them and identify best practices which are then shared with other partners and used to refine and strengthen future action plans.

Figure 1. UNCTAD’s holistic analytical framework



To ensure partner countries’ buy-in and commitment, all programs and activities are planned and implemented with the involvement of their competition and consumer protection agencies, as well as other national, regional and global networks where appropriate.

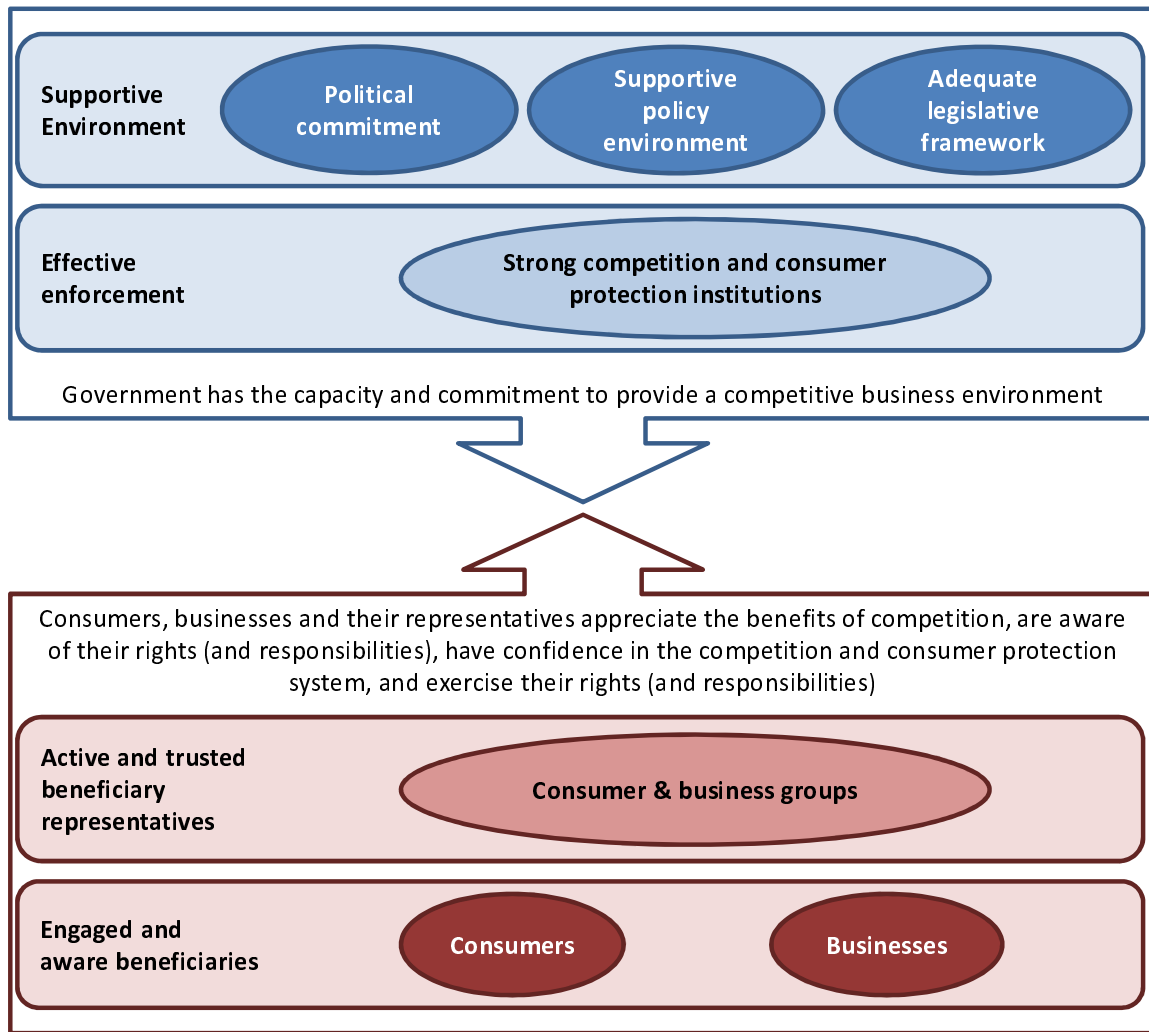
CCPB works with national, regional and global components:

The objective of the **National Component** is to strengthen the competition and consumer protection systems in the partner countries. Work under national components is entirely demand driven and focused on each country’s needs.

To ensure strong national ownership, each country’s needs analyses are conducted in partnership with their competition and consumer protection agencies. The analyses draw on agencies’ strategic priorities and are informed by other key studies such as UNCTAD and OECD’s peer reviews of competition law and policy. The needs analyses review all the components of a country’s competition and consumer protection system (summarized in Figure 2 below).

Based on the findings of the needs analyses, each country develops an action plan, setting out priorities. These plans need to be aligned to the competition and consumer protection agencies’ strategies to ensure coherence.

Figure 2. Components of a national competition and consumer protection system



CCPB works with partner countries to implement their action plans. While priorities will vary between countries, they are likely to include:

a. Improving the policy and legislative environment

- *Building political commitment.* CCPB will make the case for competition and consumer protection, targeting key decision makers in government, the civil service, parliament and the judiciary. CCPB has very good access to Ministers and parliamentarians due to its status as a UN program.
- *Generating a supportive policy environment.* CCPB carries out studies and reviews to identify gaps and inconsistencies between countries' competition policies and other national (and regional) policies. These might include investment promotion, industrial policy, etc. CCPB also supports governments to address weaknesses identified by developing appropriate policy positions.
- *Strengthening the legislative and regulatory framework.* CCPB assists countries to strengthen their legislation and regulations. For example:

- advising on legal and regulatory changes that can open markets to competition;
- drafting new laws and regulations for effective antitrust and consumer protection policies;
- carrying out reviews to identify regulatory gaps and inconsistencies with national and regional laws;
- providing technical advice in the implementation of competition policies, including state aid regulations and competition advocacy initiatives, creating a level playing field across the entire economy;
- mainstreaming principles of competition policy within broader investment climate reforms.

CCPB also builds the capacity of the judiciary to improve their understanding and application of competition and consumer protection regulations.

b. Building the capacity of competition and consumer protection agencies

- *Building the capacity of enforcement agencies.* CCPB strengthens agencies' substantive and corporate functions. Substantive support builds agencies' capacity in areas such as cartel prosecution, identifying anticompetitive agreements, etc. Corporate support improves agencies' capacity in areas such as planning, performance management, communications, etc. that are essential for the agencies to operate effectively. Both types of support have the ultimate aim of enabling the agencies to better investigate and resolve competition cases and defend the rights of consumers. Support for communications also assists agencies to raise awareness of (and confidence in) their services among businesses and the public.
- *Developing tools and information products.* CCPB assists competition and consumer protection agencies to produce essential tools and information products to identify and tackle anticompetitive behavior. These include studies, manuals, guidelines, and knowledge management tools, such as Competition Assessments that identify constraints to the development of competitive markets.

c. Building the capacity of consumer groups and business associations

- CCPB raises their awareness of the details of competition and consumer protection law, and of their rights and responsibilities, and supports these groups with communication and outreach to their constituents.
- CCPB works with competition and consumer protection agencies to evaluate the success of activities implemented, and to identify and compile best practices and key lessons. This information are then disseminated through the regional and global components, explained in more detail below.

The **Regional Component** has two main objectives: to promote peer to peer learning between competition and consumer protection agencies, and to identify and address competition and consumer protection issues with an international dimension that require regional collaboration to be resolved. In addition, regional activities provide an effective avenue for involving other non-partner countries.

a. Peer to peer learning: Experience from COMPAL I and COMPAL II found that regional peer to peer learning is an extremely effective tool for building the capacity of competition and

consumer protection agencies. It enables those agencies that are more advanced to support and mentor the weaker agencies, which benefits both groups, and develops relationships between the agencies which will outlast the program, ensuring sustainability. CCPB works to bring together representatives from the national agencies, as well as from regional bodies and networks, to share their experiences and discuss key lessons learned at the national level. CCPB also encourages the more developed agencies to play a leadership role and take responsibility for developing the capacity of the less advanced agencies.

b. Addressing regional issues: As companies and value chains become increasingly international, competition and consumer protection issues often need to be addressed at the regional (or global) level. Countries have to work together to identify cartels and other anticompetitive behavior, for example, and develop coherent regulatory responses. CCPB seeks to help agencies develop the tools to identify anticompetitive practices at the regional level and facilitates discussions between agencies with shared concerns.

The objective of the **Global Component** is to promote learning between regions by sharing best practice, and to identify and address global competition and consumer protection issues. Direct interactions between partners from different regions are valuable for sharing experiences, building networks, identifying areas of common interest and establishing collaborative initiatives.

a. Sharing best practice: As in the regional component, through this component counterparts from competition and consumer protection agencies can share experiences, best practices and lessons learnt.

b. Addressing global issues: CCPB aims at promoting deliberations on concrete problems with an international dimension and, in response to demand from the participating countries, conducting research to inform these debates. CCPB also seeks to link competition and consumer protection agencies from different regions with areas of common interest to promote collaborative initiatives.

c. Promoting convergence: As more countries adopt sound competition principles and enforcement techniques, there will be “soft” convergence towards best current practices. This soft convergence will reduce the costs to business of compliance with increasingly harmonized enforcement standards, encouraging trade and investment to the benefit of developing countries. CCPB seeks to work with other multilateral institutions to continue to build consensus on appropriate competition law and policy principles in developing as well as developed nations.