UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT

UNCTAD

Trade and Private Sector Development Programme (TPSDP)

A programme funded by the European Union

TPSDP 3.2.1 Competition Assessment Toolkit

Competition Assessment Toolkit for Zimbabwe

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Under the Trade and Private Sector Development Programme funded by the European Union, UNCTAD produced a Competition Assessment Toolkit for Zimbabwe. This toolkit is a guide for relevant Ministries or government organs in assessing draft legislation, government policies and measures in terms of their implications for competition. This toolkit was prepared by Mr. Thula Kaira, UNCTAD consultant; and edited and reviewed by Ms. Elizabeth Gachuiri, Economic Affairs Officer and Project Manager, Mrs. Ebru Gokce Dessemond, Legal Officer, and Mr. Rachid Amui, Economic Affairs Officer, UNCTAD.

ABBREVIATIONS

CAT	Competition Assessment Toolkit
CTC	Competition and Tariff Commission
DFID	Department for International Development
GCR	Global Competitiveness Report
GDP	Gross Domestic Product
ICT	Information and Communication Technology
IEEA	Indigenisation and Economic Empowerment Act
OECD	Organisation for Economic Cooperation & Development
PLGBA	Policy, Law, Government or Business Action
RBZ	Reserve Bank of Zimbabwe
SOE	State-owned Enterprise
UNCTAD	United Nations Conference on Trade and Development
WEF	World Economic Forum
ZIA	Zimbabwe Investment Agency
ZEPARU	Zimbabwe Economic, Policy Analysis & Research Unit
ZIM ASSET	Zimbabwe Agenda for Sustainable Socio-Economic Transformation

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I.
Introduction

Various studies have been undertaken on tools or frameworks for comprehensive regulatory or competition impact assessments as part of a deliberate national program to measure effects of both government and business action in a market or sector. The Department for International Development (DFID) in particular published a Competition Assessment Framework in 2008 targeted for use in developing countries as a guide to help policy makers identify key barriers to competition.[1] This document has been used extensively in this paper to design a similar but tailor-made competition assessment toolkit for Zimbabwe. Competition Assessment Toolkits (CATs)[2] have been developed for a number of countries but have not been high on the agenda in most developing countries as they have been received in transition and industrialised countries,[3] OECD[4] in particular. The reason for this is that for most developing countries (and least developed countries (LDCs)) in Africa, competition policy as a distinct policy realm requiring a distinct results-based monitoring and review is not high on the political agenda. It is generally subsumed in other policies such as the Industrial Policy (within the domestic economy) and Trade Policy (in relation to cross border collaboration). For example, Zimbabwe had an Industrial Development Policy (2012-2016), with a key and ambitious objective of transforming Zimbabwe's economy to a vibrant, self-sustaining and competitive economy. This was subsumed into the Zimbabwe Agenda for Sustainable Socio-Economic Transformation (Zim Asset)[5] (2013-2018), the country's current flagship developmental strategy. Its effective implementation will greatly benefit from adoption and implementation of a CAT. The role of Zim Asset is summarized in the Box 1.

Following the Voluntary Peer Review of Competition Law and Policy of Zimbabwe that was facilitated by UNCTAD in 2011/12, several issues were identified, which included undertaking a legal inventory of laws that affect competition. As this exercise was undertaken by the Competition and Tariff Commission (CTC),[6] UNCTAD proposed developing a CAT in order to have a mechanism to review the harmonisation of Policy, Law, Government or Business Actions (PLGBAs) in relation to their effect on competition (and subsequently on industrialization, sustainable growth and development). Further, the CAT is to provide a sieving mechanism to ensure coherence between PLGBAs and competition rules and principles.[7] To develop the CAT, a fact-finding mission to Harare, Zimbabwe was undertaken by a consultant from 25 to 29 August 2014 to collect necessary information and carry out interviews with representatives of the relevant institutions. Appendix A contains all the institutions that were consulted during the process of developing this CAT.

1.1 Zimbabwe's Economic Outlook

The Zimbabwean Government and its people are well aware of the current economic outlook, causes and challenges thereof. In the 2013/2014 Global Competitiveness Report (GCR), Zimbabwe is categorized as having an economy that is "factor-driven", i.e. at Stage 1 of the economic development process.[8] In 2014, Zimbabwe's GDP was estimated at US$13.66 billion and total population at 15.25 million.[9] The country had a per capita income of US$ 830. This was well below the 2014 average for developing countries in sub-Saharan Africa (US$ 1,699). The World Bank classifies Zimbabwe as a low-income country based on its classification system of the world's economies with incomes lower than $1,035.[10] Between 2009 to 2012, Zimbabwe's economy grew strongly[11] at an average rate of 11 per

Box 1: Zim Asset

Zim Asset stands for "Zimbabwe Agenda for Sustainable Socio-Economic Transformation" - *Towards an Empowered Society and a Growing Economy*, adopted by the Government of Zimbabwe for implementation from 2013 to 2018. It is effectively an economic blueprint, a Results-Based Agenda for Zimbabwe's economic recovery built around four strategic clusters of Food Security and Nutrition; Social Services and Poverty Eradication; Infrastructure and Utilities; and Value Addition and Beneficiation. By coming up with Zim Asset, the Government seeks to address on a sustainable basis, the numerous challenges including those affecting quality service delivery and economic growth. It is expected to consolidate the gains brought about by the Land Reform, Indigenization and Economic Empowerment and Employment Creation Programmes, which have empowered the communities through Land Redistribution, Community Share Ownership Trusts and Employee Share Ownership Schemes, among others.

Source: ZimAsset, towards an empowered society and a growing economy.

cent per annum but fell sharply to 4.5 per cent in 2013 and again to an estimate of 3.1 per cent in 2014.[12] Poverty levels is estimated at 72 per cent of the population.[13] The country's economic situation was bravely acknowledged in a Monetary Policy Statement issued by the Reserve Bank of Zimbabwe (RBZ)[14] in 2014. The statement pointed out that the country's high commodity dependence combined with huge import absorption has drained the banking sector of income largely realized from the five key sources, namely: export earnings; diaspora remittances; offshore credit facilities; foreign direct investment (FDI); and portfolio investment inflows.

Zimbabwe's competitiveness rankings decreased from 128 in 2012/13 to 132 in 2013/14.[15] The country remains saddled with challenges such as severe and persistent liquidity crunch which has made it very difficult for local productive sectors to access sufficient credit to oil the wheels of the economy; and lack of competitiveness of locally produced goods due to high costs of production resulting in the huge importation of finished goods. There is also the challenge of infrastructure bottlenecks especially around key economic enablers such as energy, transport, communication. These bottlenecks have eroded the viability and competitiveness of local producers in key economic sectors.

The challenges have resulted in low industrial capacity utilization, accentuated by widespread company closures, deterioration in the external sector position, deepening of liquidity shortages and rising formal unemployment. In 2014, over 70 per cent of the Zimbabwean population (mostly women) relied on agriculture for their livelihood.[16]

To deal with liquidity challenges, Zimbabwe has adopted a multi-currency framework, with the United States dollar as a leading currency. Other adopted currencies are Botswana Pula, United Kingdom Sterling Pound, Euro, South African Rand, Australian Dollar (AUD), Chinese Yuan (CYN), Indian Rupee (INR) and Japanese Yen (JPY).[17]

1.2 Synopsis of the State of Competition Law and Policy in Zimbabwe

An overview of Zimbabwe's state of affairs on the consistency and coherence of competition policies and other government policies was previously undertaken in 2011.[18] The overview took cognizance of studies by key researchers that emphasized coordination between competition policy and other government socio-economic policies as very crucial for economic development. The overview highlighted that competition policy is not to be a standalone cure, but is needed to complement other government policies.[19] (See box 2.)

Box 2: Coherence between Competition Policies and other Government policies

Coherence problems with the country's trade and industrial policy were recognised right from the onset of the effective implementation of the country's competition policy in 1999. It was found that while competition policy advocated non-discriminatory treatment of business enterprises, the industrial policy tended to recognise certain 'sacred cows' for preferential treatment. For example, State enterprises in strategic industries receive financial and administrative support from the government that disrupt fair competition in the relevant markets in which private firms compete. The affected markets are, in any case, mainly those that are traditionally prone to serious competition concerns, such as the cement industry, the steel industry, and the fertilizer industry, thus compounding the competition problems in the markets.

Source: World Economic Forum, Global Competitiveness Report 2013/14

Furthermore, the overview pointed out that there was incoherence between competition policy with Zim Asset and the law on indigenisation, i.e. the Indigenisation and Economic Empowerment Act (IEEA). See Box 3.

The preamble to the IEEA states that it is "An Act to provide for support measures for the further indigenisation of the economy; to provide for support measures for the economic empowerment of indigenous Zimbabweans; to provide for the establishment of the National Indigenisation and Economic Empowerment Board and its functions and management; to provide for the establishment of the National Indigenisation and Economic Empowerment Fund; to provide for the National Indigenisation and Empowerment Charter..." The Act is administered by the Minister of State for Indigenisation and Empowerment. The indigenisation policy should be understood within the unique political, social and economic circumstances that Zimbabwe finds itself.

Box 3: Zimbabwe law on indigenisation

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"Empowerment" is defined in section 2 of the Act as the creation of an environment, which enhances the performance of the economic activities of indigenous Zimbabweans into which they would have been introduced or involved through indigenisation. Section 2 also defines "indigenous Zimbabwean" as any person who, before the 18th April, 1980, was disadvantaged by unfair discrimination on the grounds of his or her race, and any descendant of such person, and includes any company, association, syndicate or partnership of which indigenous Zimbabweans form the majority of the members or hold the controlling interest.

Source: Indigenisation and Economic Empowerment Act (IEEA), Chapter 14:33.

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The IEEA has an immediate effect on merger review process by the CTC in terms of shareholding thresholds. However, a proper contextualisation of the IEEA shows that it does not necessarily lead to wholesale adverse effects on competition in the economy as this can only be ascertained on a case by case basis through investigation or assessment. Applicable provisions in section 3(1) of the IEEA include approval of mergers subject to 51 per cent (or such lesser share as may be temporarily prescribed…) shareholding in the merged or restructured business is held by indigenous Zimbabweans; and indigenous Zimbabweans are equitably represented in the governing body of the merged or restructured entity.

From the foregoing provisions, IEEA simply facilitates involvement of citizens in economic activity in a country with high demonstrable inequalities.[20] The IEEA does not prescribe that competition assessment by the CTC or other bodies conferred with such powers should not be done in those instances where the IEEA provisions are triggered. The CTC could still, e.g., reject a merger or modify its implementation where there are plausible anti-competitive concerns (even when indigenous Zimbabweans are involved). The Competition Act provisions relating to abuse of market power, horizontal agreements, etc., are not suspended under the IEEA. Further, powers of the CTC to influence Government policy remain unchanged and influential as indicated in Box 4.

It is clear from the foregoing that the Government of Zimbabwe has set its policy record straight in the application of competition law, whether to citizen-owned or State-owned enterprises (SOEs). In relation to the latter, the Government has adopted what the experts refer to as "competitive neutrality"[21] principle. This is unambiguously qualified in Section 3 of the Zimbabwe Competition Act, which states that:

(i) Except in so far as criminal liability is concerned, this Act shall bind the State to the extent that the State is concerned in the manufacture and distribution of commodities.

(ii) This Act shall apply to the activities of statutory bodies, except in so far as those activities are

Box 4: Duties of the Zimbabwe CTC

1. To encourage and promote competition in all sectors of the economy; and
2. To reduce barriers to entry into any sector of the economy or to any form of economic activity; and
3. To investigate, discourage and prevent restrictive practices; and
4. To study trends towards increased economic concentration, with a view to the investigation of monopoly situations and the prevention of such situations, where they are contrary to the public interest; and
5. To advise the Minister in regard to – all aspects of economic competition, including entrepreneurial activities carried out by institutions directly or indirectly controlled by the State; and the formulation, co-ordination, implementation and administration of Government policy in regard to economic competition; and
6. To provide information to interested persons on current policy with regard to restrictive practices, acquisitions and monopoly situations, to serve as guidelines for the benefit of those persons.

Source: Zimbabwe Competition Act section 5(1).

authorized, expressly or by necessary implication, by any enactment.

Such provisions are enough for one to draw a conclusion that there is fertile ground for effective employment of a CAT in Zimbabwe as well as dealing with any incoherencies or inconsistencies through enforcement and/or skilful advocacy efforts. The economic situation Zimbabwe finds itself in, and in any case the need to sustain industrial growth, wealth and employment creation leading to alleviation of abject poverty, requires many interventions, which should include a formalised CAT in the public service system.

1.3 Prerequisites for a CAT in Zimbabwe

Zimbabwe has adopted a results-based management system throughout the civil and public service, with all institutions directed to formulate results-based strategic planning to assist in moving the country to greater prosperity. Despite all odds, Zimbabwe remains a great country and critically pivotal to the development cycle of the subregion. It is a country that has undergone several remarkable transformations with unparalleled resilience before and after 1980 when it attained its independence. It was one of the first countries in Africa to introduce a comprehensive competition law.[22] While competition is not the only panacea to dealing with some of the problems that besiege Zimbabwe currently, it is a necessary input that contributes to generating the much-needed production, allocative and dynamic/technological efficiencies in the economy.[23] Experts agree that to be effective in supporting the development process, competition law and policy (CLP) need to be supported and compatible with other complementary pro-development policies that can bear on economic development. A spectrum of factors – including social, economic and political environment – dictate the choices for competition provisions and enforcement design.[24]

Consultations with key players revealed that there has not been a system in Government to monitor or review the impact of PLGBAs on competition, *ex-ante* or *ex-post*. While there is a centralised system to ensure that there is policy or legal consistency and/or congruity through the Attorney-General's Office and the Ministry of Justice, there is no mechanism within the public service to deal with subjecting PLGBAs to any specific competition impact assessment.

1.4 Key Stakeholder Support

Some preconditions have been suggested by various stakeholders in Zimbabwe as necessary to make the use of the CAT more sustainable and productive. These are identified below.

1.4.1 Political Support

Political support is important as it is the source of policy and direction for Zimbabwe's development process. It is critical to assure the Government and Members of Parliament that the CAT will contribute to achieving the national development goals and aspirations as contained in Zim Asset. There is need to demonstrate to the political leadership that competition in commercial activities (as is the case in political activities), is important for society's benefit (through competitive wealth creation by business and citizens. The benefits of competition have been well highlighted in the UNCTAD Peer Review Report on Zimbabwe of 2012 and several contributions submitted to UNCTAD by Zimbabwe.[25]

1.4.2 Senior Technocrat Support

Technocrats are critical players on the ground for the success of any policy or system, the CAT inclusive. They are the brains that work to implement government policies. In many cases, technocrats have more time to prepare documents and interpret them meaningfully during actual implementation. They also are central to policy coordination and coherence within the civil/public service. The CAT's success will therefore hinge heavily on technocrats' support. Consultations held with various technocrats showed that they would welcome the competition assessment concept and would be ready to use the CAT as part of the monitoring & evaluation process. There was however a common call for specialized training in this regard from UNCTAD or other counterpart agencies.

1.4.3 Regulatory Agencies

Regulatory agencies are important stakeholders as they influence ease of entry and cost of doing business in any country. Zimbabwe has a number of regulators set up as autonomous bodies in various sectors, including energy, investment promotion and protection, insurance, companies and intellectual property, ICT, standards, professional associations (law society, accountants, etc.). These agencies possess powers to introduce codes of conduct, fees, forms and licensing processes that may have an impact on competition. Meetings held with some of the key regulators showed that they welcomed the CAT as it would assist in creating a better environment for business.

1.4.4 Local Authorities

Local authorities have been identified in competition assessment or related frameworks as important players in facilitating business progress as well as affecting competition. They may, through decentralisation, have regulatory responsibilities that affect business. For example, local authorities may be given responsibilities through by laws to enforce national laws that may have effects on business entry, growth and development in their respective municipalities

1.4.5 Business and their Lobby Groups

Both big and small businesses have a certain influence on how other businesses fair in a particular market. While big business may wield considerable power in unilaterally affecting PLGBAs, there is also the other form of influence that comes in the form of lobby groups. Lobby groups such as the Chamber of Mines, Confederation of Zimbabwe Industries, and the Zimbabwe National Chambers of Commerce will also need to use some form of CAT once Government has institutionalised it as part of a process of sieving PLGBAs (see APPENDIX B). Such groups use research and/or subcontract other institutions to carry out research to justify certain representations to Government, notably in relation to imports and tariffs thereof.

1.5 Format of the CAT

Arising from the above and other stakeholder interactions, it was clear that the pre-requisite for a sustainable and productive use of the CAT in Zimbabwe by the stakeholders will depend on whether the CAT is formulated in a manner that addresses the issues and concerns raised during the consultations process (see Appendix A for a list of stakeholders). While competition assessment framework from DFID has substantially been the benchmark, it was recognised that there was no need to transplant that framework in its entirety but rather engage with the stakeholders in Zimbabwe to gauge what would be efficient and effective in application. Table 1 details issues and concerns pivotal in shaping the format of the CAT:

Table 1: Factors to consider while developing Zimbabwe CAT

Issue	Concern
Cost	Additional cost to Government and other stakeholders in terms of hiring consultants or adding more staff to deal with the work related to the CAT. Where such cost is inevitable, that the cost shall be reasonable within cash-budget constraints.
Additional work	Government, regulatory agency and other staff are overwhelmed with work and the CAT should not unreasonably add work load to them – but it will be welcomed if it is part of existing work.
Merging CAT with the Monitoring and Evaluation (M&E) systems	Potential difficulty in using the CAT if it is not part of existing M&E systems. (M&E systems usually assess performance, efficiency etc., whereas CAT will assess a PLGBA and its potential impact on competition.]
Training	Time allocation for training of CAT users.
Development of a National Competition Policy (NCP)	Absence of a National Competition Policy (NCP) to drive use of CAT.
Central monitoring office	Establishment of a central monitoring/filter office for the CAT.
Ease of use	A complicated CAT would deter users. The CAT should be easy to use and not complicated.
ICT based toolkit may be easier to use	Use of ICT tools in CAT application.
Competition Advocacy	Lack of use of the CAT by the Ministry of Industry and Commerce and CTC for advocacy.
CAT as user friendly tool	Level of technicality in the design of the CAT and ease of use.
Conciseness of toolkit	Large volume of the CAT will pose challenge to users. CAT should not be too voluminous (like a textbook) but should be what it is meant to be – a toolkit.

2.
The Competition Assessment Toolkit

2.1 Operational Guidelines for a Competition Assessment Toolkit

CAT can be a useful instrument in complementing various efforts that enable a country to be competitive. CAT on its own does not and will not necessarily bring about competitiveness. It is part of a whole range of national efforts that lead to competitiveness. It is also an important component in making an assessment on whether a PLGBA is adding value to business growth and development. In the Global Competitiveness Report (GCR) (2013/14), the CAT is referred to as a "competitiveness practice". The Report defines *competitiveness* as, "the set of institutions, policies, and factors that determine the level of productivity of a country," and proceeds to highlight that the level of productivity, in turn, sets the level of prosperity that can be reached by an economy.

The UNCTAD World Investment Report (WIR 2013) highlights an upsurge in national investment policymaking geared towards new development strategies. The report points out that "national investment policymaking is increasingly geared towards new development strategies. Most governments are keen to attract and facilitate foreign investment as a means for productive capacity building and sustainable development. At the same time, numerous countries are reinforcing the regulatory environment for foreign investment, making use of industrial policies in strategic sectors."[26] Under the Sixth (6th) Pillar on Goods Market Efficiency of the GCR, it is explained that, "countries with efficient goods markets are well positioned to produce the right mix of products and services given their particular supply-and-demand conditions, as well as to ensure that these goods can be most effectively traded in the economy. Healthy market competition, both domestic and foreign, is important in driving market efficiency, and thus business productivity, by ensuring that the most efficient firms, producing goods demanded by the market, are those that thrive. The best possible environment for the exchange of goods requires a minimum of government intervention that impedes business activity."[27]

Furthermore, the regulatory environment should be enabling to an extent that relevant questions asked by CAT can be addressed. In the Global Competitiveness Report 2013/14 it is underscored that competitiveness can be hindered by distortionary or burdensome taxes and by restrictive and discriminatory rules on foreign direct investment (FDI)—which limit foreign ownership—as well as on international trade. The recent economic crisis has highlighted the high degree of interdependence of economies worldwide and the degree to which growth depends on open markets. Protectionist measures are counterproductive as they reduce aggregate economic activity. Market efficiency also depends on demand conditions such as customer orientation and buyer sophistication. For cultural or historical reasons, customers may be more demanding in some countries than in others. This can create an important competitive advantage, as it forces companies to be more innovative and customer-oriented and thus imposes the discipline necessary for efficiency to be achieved in the market.

2.2 How the CAT can be used

Fair competition in markets is crucial for economic and social development, and for reducing poverty. Developing country governments need to identify and address anti-competitive arrangements and practices in both the private and public spheres. This Framework is intended as a convenient and user-friendly tool to approaching this task.[28]

The CAT is expected to be a diagnostic tool that poses a set of questions that are grouped by theme. The questions begin with the selection of sectors for assessment. This is followed by steps that analyse the State of competition in each sector selected: identifying the markets and competitors, examining the market structure, looking for barriers to entry, looking for anti-competitive conduct, considering vested interests and the principal beneficiaries, and identifying Government policies or institutions that limit competition.[29] Figure 1 provides an overview of the CAT operational framework.

The potential benefits from using the CAT for Zimbabwe are indicated in Table 2 for users and beneficiaries.

Figure 1: CAT operational framework

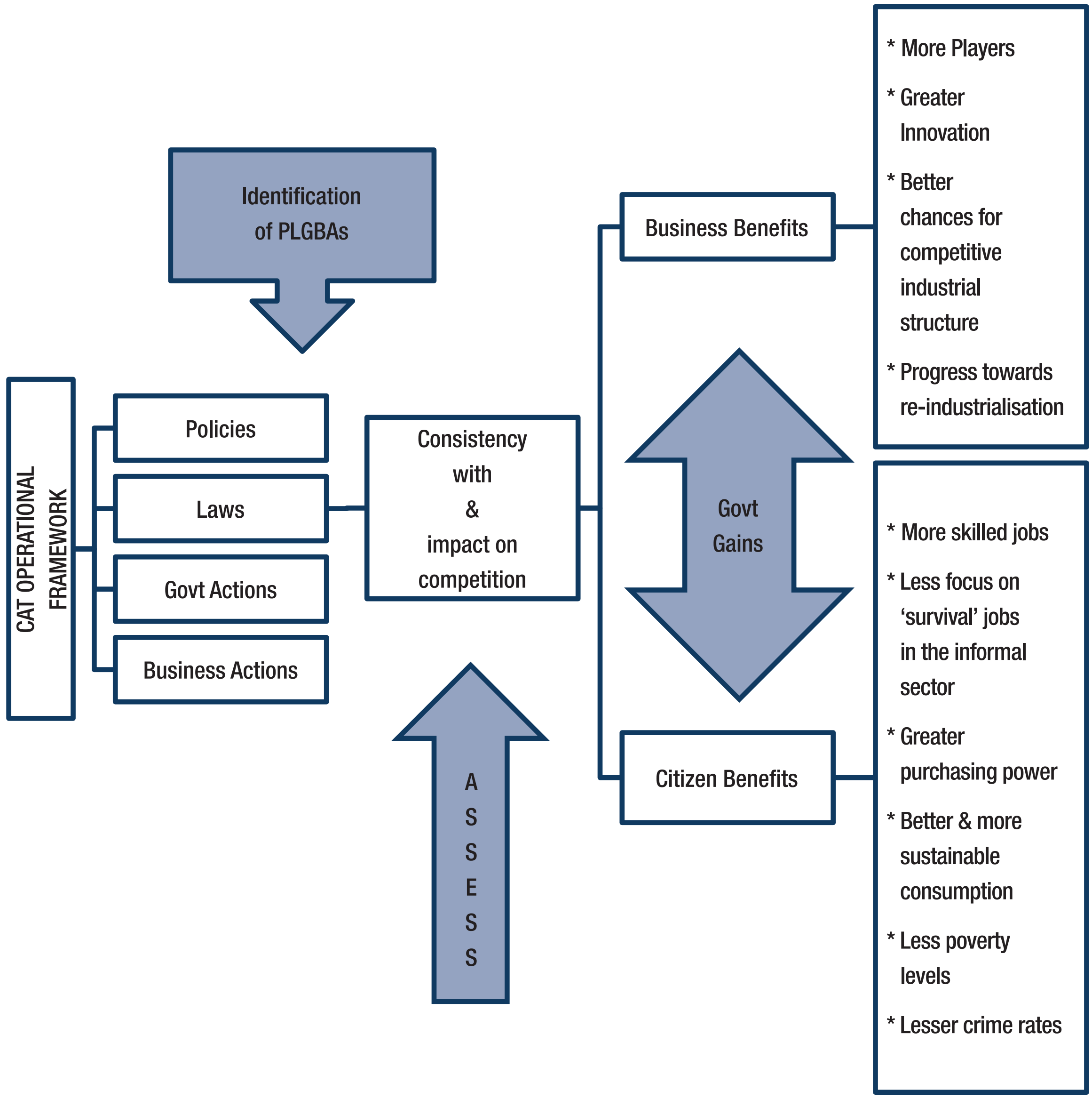


Table 2: Matrix of CAT potential benefits

Beneficiary	Areas Of Use	Benefits
Government/Policy Level	• Monitoring effectiveness of anti-monopoly policy[30] • Policy-Eye view of impact *ex-ante* and *ex-post*	• Policy Coherence and Consistency • Certainty of policy for business • Less costly Monitoring and Evaluation process • Less business lobby meetings with Government officials
Business Level	• Formulation of pro-competition marketing strategies • Identify market distortions • Lobby for fair/level playing field	• Greater operational space • Assurance of pro-competition policies • Longer-term view of investment strategies • Likely to seek less political patronage to succeed
Citizen Level	• Employment • Quality Consumption	• Skilled jobs for Zimbabweans (recognized to have one of the highest literacy levels among the developing countries[31]
Advocacy Organizations	• Communication and advocacy programmes to Government • Advocacy Toolkit	• Provide necessary structured communication and advocacy programs to Government • Provide framework to ask relevant questions • Use it as an advocacy tool

2.3 Who should use or undertake the Assessment?

It is advisable that relevant national institutions take over ownership of CAT and use appropriately in their respective sectors. Relevant national institutions may include the CTC, academia, industry associations such as Confederation of Zimbabwe Industries (CZI), Zimbabwe National Chambers of Commerce (ZNCC), which may undertake a requisite competition impact assessment. For Government assessments, the Zimbabwe Economic, Policy Analysis and Research Unit (ZEPARU) should be empowered to undertake studies regarding effects of PLGBA. CTC may also undertake the same but may lack the research focus, tools and other resources that are at ZEPARU's disposal. ZEPARU and CTC may also work together in undertaking competition assessment. Such collaboration would enhance capacities of both institutions in this area.

Regulatory agencies with capacity to undertake competition impact assessments may proceed to engage relevant expertise as well, including ZEPARU or other private consultants. The same would go for local authorities. For the private sector lobby and/or advocacy groups, they could equally partner with ZEPARU to undertake competition impact assessments. Recommendations arising from such assessment should be reviewed by a central office and directions for implementation issued to the relevant actor. For example, Bhutan has formed a Regulatory Impact Assessment (RIA) Committee accountable to a Committee of Secretaries, which oversees the assessments. The RIA Unit is set up as a central administrative unit established under one of the existing divisions in the Cabinet Secretariat.[32] See Appendix B for suggested Guidelines in Implementing a CAT.

2.4 The Stages for Competition Assessment

The Five Stages for assessing competition in a sector in Zimbabwe should include the following (see figure 2).

2.4.1 Sector Identification

A productive CAT should be predicated on asking the relevant questions, which should guide the process of selecting the relevant sectors in which to carry out a comprehensive competition assessment. Table 3 provides a sample matrix of questions that can be asked ex-ante or ex-post about a PLGBA.

Figure 2: Stages to implement competition assessment

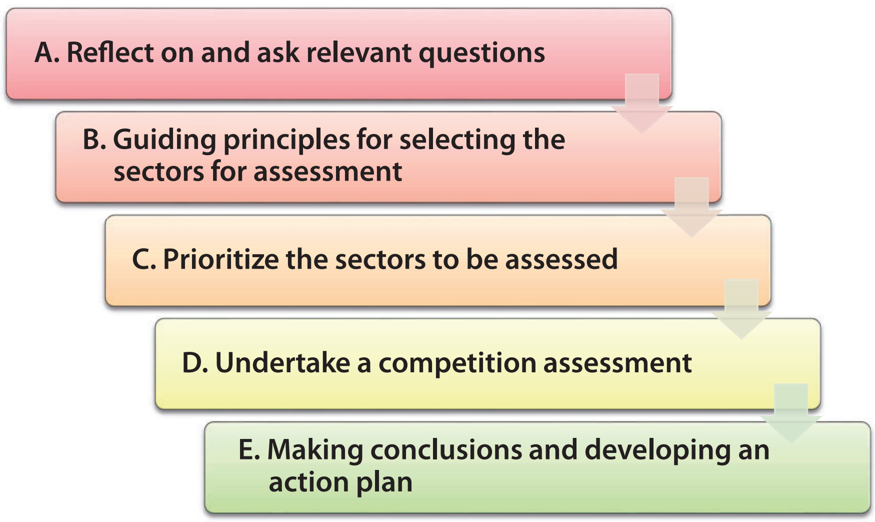


Table 3: Suggested questions to guide design of a productive CAT

QUESTION	WHY ASK THE QUESTION	ANSWER		WHERE ANSWER IS 'YES' IDENTIFY THE SECTORS
		YES	NO	
(i). Is there a PLGBA that prevents competition in any sector?	It is a critical aspect of the CAT, i.e., review impact of PLGBAs on competition.			
(ii). Is there a PLGBA that has greater effect on the welfare of consumers in any sector?	Consumption is linked to health and quality of life.			
(iii). Does the application of the PLGBA in any sector affect or likely to affect the majority of the poor?[33]	Zimbabwe has high poverty levels and economic interventions are targeted at reducing poverty.			
(iv). Does the PLGBA affect or is it likely to affect employment levels in any sector?	It helps to identify sectors where the impact will be greater in terms of employment. Agriculture, manufacturing top the list[34] - this is more of a public interest issue.			
(v). Is the PLGBA in any sector likely or actually going to have a significant effect on the country's GDP?	A PLGBA that negatively affects GDP does not add value to the economy.			
(vi). Is the PLGBA perpetuating a monopoly or dominant position of existing firms in any sector?	High industry concentration affects the conduct of dominant firms and output.			
(vii). Is the PLGBA likely or actually affecting potential for entry or sustenance of SME businesses in any sector?	The significance of the SMEs in creating employment in Zimbabwe is a critical factor.			
(viii). Has the existing PLGBA affected new and effective entry in any sector in the last 5 years?	Absence of entrants may be indicative of high barriers to entry.			
(ix). Does the sector include a large number of informal businesses/ SMEs that fail to graduate to the formal and big business stage?[35]	Large informal sector is good for social-safety net purposes but in the long term, growth or graduation to formal and larger businesses is vital.			
(x). Has a PLGBA in any sector led to foreign-owned businesses dominating the sector?	This may be a good gauge for the citizen empowerment policy. It may also be indicative of certain barriers to entry.			
(xi). Are there any PLGBAs in a sector that has created and or perpetuated the presence of State-owned enterprises (SOEs), and if so, are SOEs subjected to the same taxation, licensing and competition and other relevant rules as the private sector?	Fair/level playing field is key to unlocking the potential of each enterprise to create maximum wealth for the country.			
(xii). Is there any sector that is exempted from the scope and/or application of competition law?	Fair competition is based on similar rules to be applied to all players. (Acknowledge that agriculture is usually subject to special treatment under or exemption from competition law in developed countries due to its special nature and unbalanced market powers between vertical players, e.g., producers/farmers and buyers,processing firms.)			
(xiii). Is there a history of recurrent exit in any sector for new start-ups?	Recurrent exit from an industry by entrants may be indicative of a PLGBA that constrains growth.			
(xiv). Is there a PLGBA that is affecting the competitiveness of any sector?	This is important to identify as it provides a solution to reverse the de-industrialization.			

2.4.2 Guiding Principles for Sector Selection

The suggested reflective questions above lead to establishing important principles on how to finally select the sectors for competition assessment. Selected criteria must take into consideration the unique political, social and economic history and circumstances of Zimbabwe. It is also pertinent to take cognizance of the Results Based Agenda in Zim Asset built around four strategic clusters that are earmarked to enable Zimbabwe achieve economic growth and reposition the country as one of the strongest economies in Africa. These clusters are: Food Security and Nutrition; Social Services and Poverty Eradication; Infrastructure and Utilities; and Value Addition and Beneficiation.[36]

The key principle is to use the CAT to contribute to resolving the economic problems that besiege Zimbabwe at any given time and to achieving sustainable growth. Obtaining these objectives would only be possible if business and Government work together to ensure a win-win situation. Below are a set of guiding principles that should inform sector selection:

(a) Sectors which have a greater impact in jumpstarting the economy (i.e. 'Quick-Wins')

There is no doubt that Zimbabwe needs to jumpstart the economy to another level. Before economic sanctions were imposed, Zimbabwe had a thriving agriculture, manufacturing and tourism sector but the land reforms of the 1990s put a setback to economic growth. Despite these registered declines, there have been signs of recovery since 2010. Agriculture in particular is growing fast. It has the highest number of workers (women in particular).[37] These industries are connected to energy, transport and communications, which will have to be part of sectors to be prioritised for development.

(b) Sectors in which Zimbabwe previously held but has lost competitive edge

Zimbabwe used to be an industrial hub and breadbasket for thesub region. With the economies of scope as well as infrastructure still in place in terms of factory shells, agricultural land and tourism facilities, Zimbabwe can ensure that policies in these areas are coherent and pro-competitive. As more efficient firms enter, the greater will be the propensity to ignite a return to the industrial era.[38]

(c) Sectors with long-held legal or de facto monopolies, dominant firms

Despite a return to liberal market policies, there has been a slow movement towards de-concentrating sectors such as energy, ICT, upstream premier banking services and insurance. These sectors have ripple effects in other sectors of the economy and the market structures ought to be of concern.

(d) Sectors which have a greater impact on the poor

Zimbabwe's poverty levels increased dramatically between 2000 and 2009 but began to decrease after 2010. In 2011/12, the poverty level was at 63 per cent.[39] ZEPARU points out that targeting sectors with high productivity and employment creation potential bodes well for job-rich growth and poverty reduction. Sectors such as agriculture, manufacturing, construction, tourism and services exhibit high potential for employment and should be deliberately promoted.[40] Agricultural competitiveness is particularly key to Zimbabwe's industrial and economic growth, as well as poverty reduction efforts, more so with the value-chains it creates.[41] Staple foods such as maize meal, flour, edible oils, sugar and milk should be considered as potential sectors for competition assessment. The value chain for soya beans for instance, is a crucial economic subsector, because of the varied activities associated with productivity and job creation (see figure 3).

(e) Sectors with existing or potentially large number of jobs

With high unemployment, Zimbabwe's policies aim at maximizing job opportunities both in terms of number and quality. This will have a direct impact on the quality of life of the citizens. Agriculture is estimated to employ about 70 per cent of the working population.[42]

The matrix in table 4 provides qualification to each principle, which should lead to a final selection of a sector for assessment:

Figure 3: Soya beans value chain

Table 4: Principles for selecting sectors with job potential

SELECTION CRITERIA		
GUIDING PRINCIPLES	**IDENTIFIABLE SECTORS**	**REASONS FOR CONSIDERING THESE SECTORS**
1. Sectors which will have greater impact in jumpstarting the economy (i.e. economic enablers)	Energy	❏ Investment deficit over a number of years of protectionist policies, leading to lack of capitalization by SOEs and leading to the current power deficit. ❏ Petroleum pricing and logistics have greater impact on society.
	Transport	❏ Zimbabwe used to have a thriving car assembly industry,[43] which is nearly non-existent - but has a great potential for resuscitation and entry into the SADC market; the industry also has local supply linkages to the steel and financial sector. ❏ Road maintenance and construction sector - Zimbabwe has an extensive road network system that has not received optimal maintenance over the last 10 years. High costs of road maintenance and high end prices to construction bids have a direct effect on the national budget.
	ICT	❏ Despite market liberalization, key ICT sectors such as mobile telephony remain duopolistic in market structure and tariffs are perceived to be too high.
2. Sectors in which Zimbabwe previously held competitive edge	Agriculture	❏ Has a high number of workers; sector has spin-off effects to the SMEs and synergies into manufacturing.
	Manufacturing	❏ Zimbabwe was a manufacturing hub since the pre-independence days. Local firms and TNCs that had set up production facilities developed economies of scope. Most of these facilities or factory shelves are already in place and a possible gateway to re-ignite the competitive edge.
	Tourism	❏ Potential for developing the sector which has been neglected after economic sanctions.
3. Sectors with long-held legal or de facto monopolies, dominant firms	ICT	❏ As noted above.
	Energy	❏ As noted above.
	Milling (maize, flour)	❏ Staple foods - price variations have greater impact on the poor.
	Cement, building materials	❏ Effect on the construction sector (including affordable housing for the poor).
4. Sectors which have a greater impact on the poor	Maize	❏ Staple food.
	Flour	❏ Staple food.
	Tobacco, cotton	❏ Large contract farming sector.
	Dairy	❏ Rural cattle farmers.
5. Sectors which are experienced to have high prices or less supply compared to demand	ICT	❏ As noted above
	Road and other infrastructure development	❏ High public expenditure. ❏ Potentially high risk areas for bid-rigging/ collusive tendering.
	Private schools	❏ Excessive pricing by private schools.
	Medical Aid	❏ Effects on purchasing power of patients (especially the low income category).

SELECTION CRITERIA		
GUIDING PRINCIPLES	**IDENTIFIABLE SECTORS**	**REASONS FOR CONSIDERING THESE SECTORS**
6. Sectors which have a history of actual or perceived anti-competitive conduct	Clear Beer	❑ High volume sector with linkages/synergies to the SME sector and farmers.
	Carbonated soft drinks	❑ High volume sector with linkages/synergies to the SME sector.
	Contract farming	❑ Effect on employment and poverty levels.
	Medical Aid	❑ Effects on purchasing power of patients (especially the low-income category.
	Banking	❑ Synergies to the SMEs and financing of productive sectors .
	Cement	❑ Effect on construction industry (roads, airports, housing, etc.).
	Fertiliser	❑ Key input into the agriculture sector.
	Petroleum	❑ Fuel for the economy.
7. Sectors where entry is restricted or controlled by policy or statute	Retail	❑ Ease of entry – in sectors where there are restrictions for citizens only. Further, the IEEA requirement to have 51% shareholding by citizens in companies operating in Zimbabwe and its implications in making Zimbabwe as an “attractive” destination for investors.
	Fixed telephony	❑ Lack of innovation/ stagnant growth in relation to mobile phones.
8. Sectors where there are barriers to entry or expansion for prospective new suppliers	Retail	❑ Retail trading is restricted to citizens. The retail trade is just an example and other areas that may have other barriers may be reviewed accordingly.
	Civil Aviation	❑ Lucrative routes reserved for the national airline, Air Zimbabwe.
9. Sectors where entry is vulnerable to strong vested interests likely to oppose increased competition in the sector	Public procurement	❑ Huge Government procurement bill.
	Petroleum imports	❑ Huge Government local procurement and import bill.
	Diamond mining	❑ Huge spin-off effects on the economy.
10. Sectors which are dominated by foreign investors	Banking	❑ Indigenisation policy.
	Tourism	❑ Indigenisation policy.
11. Sectors where entry is low due to high cost of regulatory tariffs	ICT	❑ As noted earlier.
	Energy	❑ As noted earlier.
12. Sectors with greater export potential[44]	Maize	❑ Zimbabwe used to be an exporter – greater impact on employment and poverty.
	Flour	❑ Zimbabwe used to be an exporter – greater impact on employment and poverty.
	Tobacco	❑ Zimbabwe used to be an exporter – greater impact on employment and poverty.
	Cotton	❑ Zimbabwe used to be an exporter – greater impact on employment and poverty.
	Manufacturing	❑ Zimbabwe used to be a manufacturing hub – greater impact on employment and poverty.
13. Sectors with a greater number of employees	Agriculture (Maize, flour, tobacco, cotton)	❑ As noted earlier.
	Tourism	❑ As noted earlier.
	Retail	❑ As noted earlier.
14. Sectors with greater propensity to form clusters[45]	Agriculture	❑ As noted earlier.
	ICT	❑ As noted earlier.
	Energy	❑ As noted earlier.
15. Sectors where Government procurement is high	Road construction	❑ Bid-rigging/ collusive tendering in such contracts has been experienced in a number of countries. South Africa has unearthed a number of such in the construction sector. Most of the companies operate at regional level.
	Airport upgrade and construction	❑ High cost of contracting and actual works for Government.
	Technical Services/ Consultancies for major Public works/ projects	❑ High technical fees that may be spent on certain Government procurement needs.

Table 5: Sector prioritization matrix for Zimbabwe CAT

PRIORITIZATION CRITERIA				
PRIORITIZATION BASIS	POSSIBLE PRIORITY SECTOR	COMPETITION ASSESSMENT REQUIRED		
		Immediate	*Medium Term*	*Long-term*
Sector important to the economy, because: **(a) it makes a significant contribution to the national income, or** **(b) it has linkages with other sectors/industries as a provider of inputs and services, or** **(c) its nature and type gives it importance such as being an SOE, or mixed public/private enterprise, or** **(d) it provides greater scope for synergies in the economy**	Energy			
Sector important to consumers, because: **(a) It has essential services/products directly or indirectly affects the quality of life of the people** **(b) It contributes to the alleviation of poverty**	Maize and flour milling; transport, etc.			
Sectors which will have greater impact in jumpstarting the economy (i.e. Quick Wins/enablers)	Energy Transport ICT Tourism[46]			
Sectors in which Zimbabwe previously held competitive edge	Agriculture Manufacturing Tourism			
Sectors with long-held legal or de facto monopolies, dominant firms	ICT Energy			
Sectors which have a greater impact on the poor	Milling (maize, flour)			
Sectors with high procurement Budget for Government	Road Construction Airport upgrade/ construction Technical Consultancies			

The process above would only be necessary where there are competing sectors that require assessment, especially by the Government. Otherwise, where a sector is already identified, e.g. by sector regulator, the process above would not be necessary to follow. With several sectors to choose from, prioritization would be the next step.

2.4.3 Prioritizing a sector for Competition Assessment

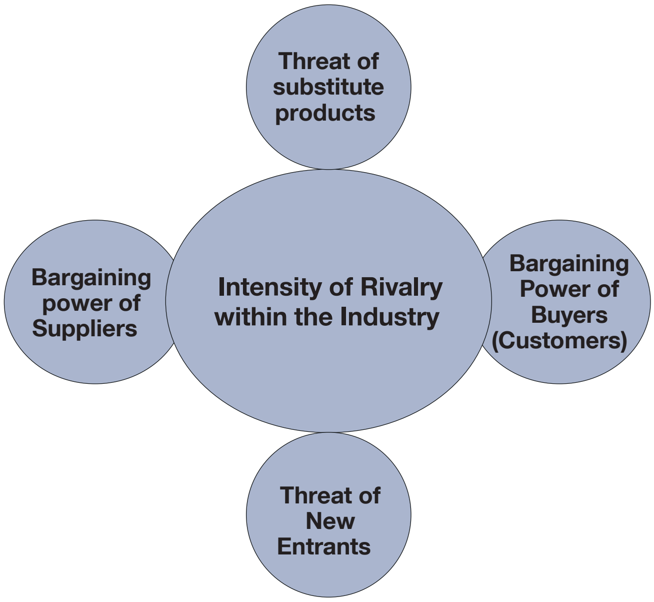
To prioritize interventions and ensure maximum and focussed impact is an important part of the CAT. There should be a segmentation of interventions in terms of duration; i.e. immediate, medium and long term. Figure 5 provides a sector prioritization for Zimbabwe. The prioritization criteria have a proposed base to aid the process leading to identifying those sectors that evoke a sense of urgency for the required intervention through a competition assessment. This process may be influenced by the political, social and economic factors facing the situation.

2.5 How to analyse competition

Competition assessment under CAT should be done primarily for purposes of advocacy rather than enforcement, i.e. primarily to assist policymakers and other stakeholders in making appropriate policy review and decisions and to enhance advocacy efforts. The starting point for competition analysis is identifying the market (i.e. the Market Definition).

This is followed by an analysis of the nature of competition within the market using Porter's 5 Forces Model, which is generally considered to be an authoritative influence for competition analysis.[47] For competition assessment, the tool provides a useful easy hands-on model for ease of independent information gathering and analysis by policy makers, busy technocrats and other non-experts in competition law. The five forces considered in the analysis are: i) Threat of new entrants to a market; ii) Bargaining power of suppliers; iii) Bargaining power of customers ("buyers"); iv) Threat of substitute products; and v) Degree of competitive rivalry. (See figure 4.)

Figure 4: Porter's 5 Forces Model



Source: Competitive Strategy – Techniques for Analysing Industries and Competitors.

The model helps to identify the key factors to facilitate understanding and selection of appropriate interventions. For example, to understand what contributes to high or low industry profits, the model brings out key important arguments to resolve potential problems See Table 6

Table 6: Analysis of factors that contribute to high/low industry profits using Porter's 5 Forces Model

❏ High Industry Profits associated with: ❏ Weak suppliers ❏ Weak customers (buyers) ❏ High entry barriers ❏ Few opportunities for substitutes ❏ Little rivalry	❏ Low industry profits associated with: ❏ Strong suppliers ❏ Strong customers (buyers) ❏ Low entry barriers ❏ Many opportunities for substitutes ❏ Intense rivalry

2.5.1 Identification of the relevant market and market actors

Identify market players or participants

Identifying the market actors commences with understanding whether a market exists in the first place, i.e. a place where goods and money are exchanged. Business activity takes place in a market and creates wealth. Understanding what a market is and what makes it unique from all other markets makes it easier for business to position its products and also for ease of policy and regulatory intervention. By asking the right questions, market players or participants can be identified. (See figure 5.)

Identify all competitors

Markets are contested by those who actively engage with the consumer or end users. Identifying them is important as this assists in understanding how many they are, who they are and what they are.

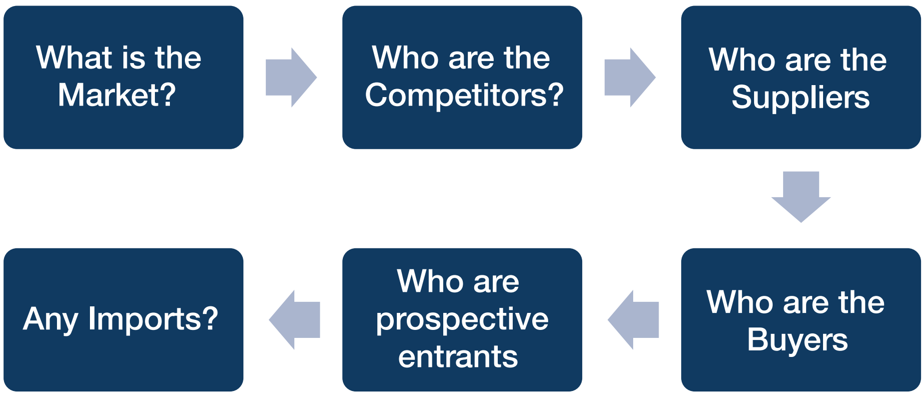
Identify existing suppliers

Suppliers play an important role in providing the market with inputs and or requisites required for manufacturing processes or for resale. Who these suppliers are and what influences them to supply, the power they hold in relation to the market and the sources of such power, if present, is an important variable to understand.

Identify the main buyers

Who buys? The buyer here is the consumer. All Government efforts are meant to enhance the welfare of citizens. The welfare of citizens is met through quality and sustainable jobs that raise their purchasing power as well as human development indices.

Figure 5: Identifying market players/participants



Identify any prospective entrants

Existing players in a market may have an idea of who is planning to enter a market, based on market intelligence or press reports. Further reports of prospective investment from a Government office or investment authority may provide indicators. In addition, the Registrar of Companies may have information on newly registered companies that may be planning to enter relevant markets.

Identify potential for import

Imports are critical as they may discipline the behaviour of dominant or monopoly suppliers in a market. This is more important where there are no effective substitutes to the goods and services within the country. Imports may also act as an innovative spur to the domestic market and provide consumers with a choice in both quality and pricing.

2.5.2 Examining the Market Structure

Zimbabwe is concerned about the structure of its markets, as the structure has a direct bearing on performance of markets. The structure of a market is determined by various factors, including historical, political, social and economic. For example, entry into Zimbabwe's liberalized energy sector has not been as expected because of natural barriers such as limited access to secure power generation from waterfalls, rivers with dams, etc. caused by first-movers. Furthermore, historical protection of SOEs from competition has resulted in a legacy of under-development in areas such as energy, due to lack of innovation. This could have been addressed if effective competition prevailed in the market.

Market structure can have a positive impact on the performance of the market, i.e. output from the market in terms of desired goods and services are produced in the right quantities, quality and using today's terminology, technologically compliant and useful. However, the lack of optimal performance of markets can also lead to greater welfare losses for society.

Relevant reflective questions on how the market structure in Zimbabwe can be strengthened should include the following:

- What influences the market structure in the sector?
- What is the existing market structure?
- How long has this market structure been in existence?
- Who controls the upstream supply chain?
- Who controls the downstream market?

2.6 Identification of Barriers to Entry

Barriers to entry affect the entry and exit in a market - and consequently have a direct influence on the market structure.[48] Therefore, identifying barriers to entry and growth in a sector is important for timely intervention in a market or sector. Such identification facilitates understanding by policymakers and regulatory agencies of the reasons why the existing market structure is the way it is and/or why there has been no successful entry. Therefore, barriers to entry should be a great concern where they exist and appropriate interventions must be made.

Natural barriers

Natural barriers create close to impossible chances of entry into a sector. Such barriers include high unrecoverable sunk cost, e.g., a railway to pass through mountainous terrain; access to raw materials (where such are scarce or costly to extract); technological patents; or policy generated (e.g. Investment licensing etc.).

Relevant reflective questions to be asked in order to increase competition should include the following:

- Are there any natural barriers in the relevant market? If so, what are they?
- How do they affect new entrants?
- Is key infrastructure in the sector classifiable as an essential facility? If so, is there an access regime?

Strategic barriers

Strategic barriers are barriers used by existing players in a market or sector, exemplified through their behaviour at the time that entry is put in motion and/or effected in the market place. Existing firms may engage in behaviour to affect the prospective or new entrants in the following ways:

- Long term exclusive supply contracts;
- Anti-competitive mergers: vertical or horizontal;
- Cartels;
- Cross-subsidization; or
- Predatory conduct.

Regulatory and policy barriers

Government, regulatory agencies and local authorities can come up with policies and laws that actually prevent entry, especially of indigenous and SME businesses. For example, the requirement that a company can only be registered by a qualified lawyer or accountant has been removed from the requirement under the Companies Act.[49]: Critical questions to ask in light of policies and laws that act as barriers should include the following:

- Is the sector subject to any policies or regulations that are onerous, costly or time-consuming, or that frequently change, thereby creating "policy uncertainty"?
- If there are any such restrictions, which organization is responsible for administering them? To what extent are the effects of the restrictions attributable to the government's purpose in applying the restrictions, and to what extent do the effects result from the way in which they are administered?
- If there are PLGBAs that are considered to make entry more difficult than seems reasonably necessary, what appears to be their impact on the level of competition in the market?

Foreign ownership

The IEEA prescribes a shareholding threshold of 51 per cent for local investors and 49 per cent for foreign investors. However, this is not presumed to be cast in stone, as there are exemptions that may be granted to an applicant. Considering the large number of investors entering the mining sector, the policy should be seen in the right context but also be applied in a manner that is consistent with Zimbabwe's overriding vision.

2.7 Assessment of government policies or institutions on competition

Like any other country, Zimbabwe has contrasting and competing interests that include those of business and the consumer. The Government may come up with a policy in the hope that it will benefit citizens (in terms of jobs or consumption) but negatively affects business. However, where Government action crowds out the private sector in a negative way, there is need to ensure that steps are taken quickly to correct the situation. Another important policy to look at is the public procurement policy. Government is a key commercial player in terms of its procurement of goods and services in an economy. Therefore, it is worthwhile to analyse whether public procurement policy and procedures are pro-competitive or are prone to corrupt and collusive practices. The following may assist in assessing whether government policies or institutions limit competition in one way or another.

2.7.1 State-owned enterprises

Zimbabwe has a number of SOEs in key sectors such as telecommunications (mobile and fixed telephony), postal services, railways, banking, civil aviation and insurance. The questions to ask when dealing with these sectors should include the following:

- Is there an SOE operating in the market being considered under the assessment?
- Are SOEs on a level playing field vis-à-vis private firms regarding the fiscal and regulatory issues?

- Are there any exemptions for SOEs? If so, how significant are these in relation to their effect on competition?
- Are high-ranking Government officials, who develop policy, also members of the Board of the SOE?
- Do the SOEs receive any direct or indirect subsidies or benefits (e.g. extended losses beyond the statutory permissible limits, effective exemption from payment of corporate, VAT, PAYE taxes, etc.)?
- Where they are a statutory monopoly, are they protected from imports?
- Do they receive export subsidy/support?
- Does the SOE preside over essential or legacy assets? If so, to what extent is the private sector given fair access terms and conditions? Who regulates such access? What have been the historical experiences for the private sector and the effects thereof?

2.7.2 Exemptions under laws

To what extent are existing exemptions achieving the incentives that they are intended to bring out? The Zimbabwe Investment Agency (ZIA)[50] has for instance specific tax incentives used to lure investors, as indicated in box 5.

ZIA demonstrates that in terms of policy, all special incentives are equitably applied to all applicants - and they are published and applied equitably as indicated by ZIA.

Box 5. Specific Tax Incentives (for both local and foreign investors who go through ZIA)

- 20% corporate income tax[51] for manufacturing companies exporting at least 50% of their output
- 15% corporate tax is applied for the first 5 years of operation in road, bridge and sanitation or water facility construction
- 15% corporate tax for special mining lease operations. Losses are carried forward indefinitely for mining operations
- Duty exemptions on imported capital equipment
- Exemption from duties on import of raw materials used in the manufacture of goods for export and also for a registered operator
- Five-year tax holiday for designated Tourism Development Zones
- Exemption from VAT for a variety of products that include agricultural produce, raw materials for further processing, goods used in the production of agricultural, mining, industrial or manufactured products, etc.
- Build Operate Transfer (BOT) and Build Own Operate Transfer (BOOT) projects are taxed at a variable rate depending on the years of operation. It is 0% for the initial 5 years and increases to 30% after 16 years

Source: ZIA, "Invest in Zimbabwe" booklet, p. 15.

2.7.3 Public Procurement

Zimbabwe has a State Procurement Board established under the Procurement Act (Chapter 22:14). Public procurement is a decisive economic activity for the Government in Zimbabwe. It is estimated that procurement accounts for between 65 per cent and 80 per cent of the national expenditure in Zimbabwe. Public procurement must therefore aim at achieving economic efficiencies in the procurement of works, goods and services, as well as fair and equal access to legitimate suppliers for works, goods and services.[52]

Key questions to address in context of the CAT should include the following:

- Is Government an important purchaser in the identified sectors/markets?
- Do Government procurement policies embody the principles of competitive bidding, transparency and fairness in the procurement process?
- If the Government is an important purchaser and the procurement policies and processes are not transparent and fair, how does this affect competition in the relevant sector/market?
- What administrative and enforcement mechanisms are there to deal with collusive tendering/ bid-rigging/tender manipulation/fraud? How effective are these? Are there successful cases?
- To what extent is the Zimbabwe Anti-Corruption Commission[53] effective in dealing with corruption cases in public procurement?

2.7.4 Regulated sectors

Like any other country in the region, Zimbabwe has regulated sectors, with regulators in investment, energy, ICT, standards, procurement, companies and intellectual property, environment, banking, pension and insurance services. The concern of regulators across all these sectors should take the following into account:

(a) Existence of restrictions on nature and extent of operations of the players in the sector;

(b) Limitation on number of firms;

(c) If there is entry restriction, what have been the effects?

(d) Where there is harm to competition, is the CTC or the sector regulator empowered to deal with such cases?

(e) Has CTC or the sector regulator actually dealt with such cases to the point of issuing a cease and desist order or fine?

Going forward, there is a need for cooperation between the regulatory agencies and the CTC, by establishing a Regulators' Forum/Association/Network to create positive peer influence and to share information. This may be done by through a Memorandum of Understanding as it is done in Australia.

2.7.5 Trade policy and industrial policy

Zimbabwe has entered into a number of multilateral, regional and bilateral trade and investment treaties. Zimbabwe is a signatory to and a member of the International Centre for the Settlement of Investment Disputes (ICSID) and it also acceded to the World Bank's Multilateral Investment Guarantee Agency (MIGA) in September 1989. The country also has signed 31 Bilateral Investment Treaties (BITs), which include those with the Netherlands, Denmark, Germany, South Africa, Zambia, Mauritius and Switzerland. Foremost of these is the COMESA Treaty and the SADC Trade Protocol. Articles 55 and 25 of the COMESA and SADC treaties, respectively, call for Member States to institute mechanisms that deal with anti-competitive conduct that may affect trade amongst the Member States. However, SADC member States have accused each other of protectionist tendencies. Such instances would need to be reviewed in light of the effect they have on the long-term competitiveness of domestic industry in the absence of the innovative trigger that competition implies. Box 6 shows some research that has previously been done by ZNCC:[54]

UNCTAD[55] has recommended that Investment Promoting Agencies (IPAs) have a role to play not only in identifying regulatory and administrative barriers to investment and in helping investors overcome those barriers, but also in strengthening or leading efforts to break down barriers (e.g. by simplifying rules and procedures). Key questions for Zimbabwe under Trade and industrial policy implications are as follows:[56]

- Are there any trade or industrial policies that appreciably restrict competition in the market/s? (For example, do non-tariff barriers impose quantitative restrictions on, or otherwise limit, the importation of particular categories of products? Are the tariff rates on some products very high, or is extensive and possibly unjustified recourse had to anti-dumping remedies, or do some suppliers benefit from tax concessions while other competitors do not?)
- If so, do these policies have adequate justification, taking account of their effects on competition?

Box 6: Industry Protection and Competitiveness in Zimbabwe

The decision to protect the industry should depend on industry's learning potential, shape of learning curve, the degree of substitutability between domestic and foreign goods. There is need to ensure that candidate industry only needs temporary protection and that this protection will generate higher cumulative benefits than costs… Industry protection assumes some baseline factors which might turn out not to be realistic… Key to the success of industry protection is the ability to ensure that the domestic firms become competitive in the market after the temporary period is over. While the high prices of the products that protection would ensure could result in increased rent, competitiveness depends on the extent to which the firm is able to contain its cost structure to levels that are below those of competitors. Given that inputs into the production system go beyond the protected industry, encompassing other variables such as utilities, labour costs, regulatory costs or other costs that lie outside the control of the firm, the firm might remain uncompetitive after the period… In a Kenya study of 2012, it showed that the protection of the sugar industry from imports had negative effects on allocative efficiency as an average of US$ 43.64 million was being lost annually since the protection policy was introduced in Kenya. It is strongly felt that this lack of efficiency was lost due to lack of competition, which would have seen some innovative schemes being introduced to enhance competitiveness.

Source: Zimbabwe National Chamber of Commerce.

2.7.6 Unequal enforcement of laws and regulations

Unequal enforcement of laws and regulations across the business players creates an uneven playing field. Such disparities can occur at the central and local government levels, and through practices of local authorities, regulatory agencies, and professional associations. These need to be identified and addressed accordingly for such disparities and interventions thereto. The welfare effects of such regulations on the poor and the consumer should be assessed. In addition, a public benefit-cost analysis should be made.

A relevant question to ask is whether any firms in the market suffer from the unequal application of laws or regulations. (Examples of where this might occur include the unequal enforcement of taxes, labour regulations, health and safety regulations, access to land, access to key infrastructure, standards and intellectual property rights.)

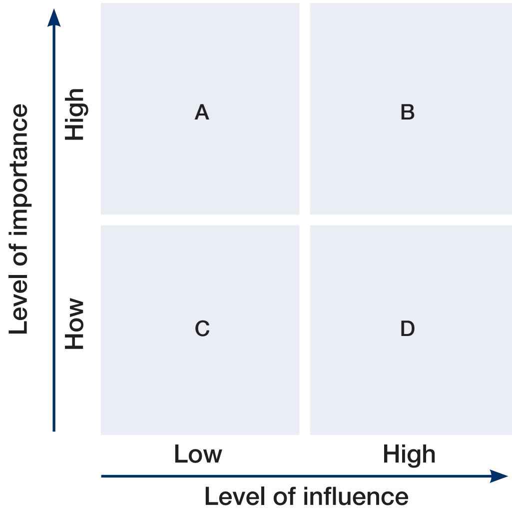
2.7.7 Vested interests

Vested interests exist in every society and need to be recognized and not ignored in the context of how they influence PLGBAs. Table 7 provides an analytical framework:

Table 7: Analytical framework of vested interests' impacts on PLGBAs

KEY VESTED INTERESTS	WHAT IS THE INTEREST THEY SEEK TO PROTECT?	WHICH STAKEHOLDER IS LIKELY TO SUPPORT INCREASED COMPETITION IN THE RELEVANT MARKETS?	WHAT REASONS & JUSTIFICATIONS DO OPPONENTS & SUPPORTERS HAVE FOR THEIR VIEWS?
Politicians	Political power and direct or indirect business benefactors		
Citizens	Preferential investment opportunities as well as Government procurement Sustainable consumption on competitive and affordable but high quality goods and services and variety thereof, with less strenuous switching costs		
Foreign Investors	Tax and other investment incentives Policy and Legal certainty Assurance of investment from expropriation		
Trade/Business associations	Entry (import or otherwise) restrictions through bans, tariffs or licensing procedures Preferential procurement		

Figure 6: Stakeholders' Importance/Influence Matrix



Source: Adapted from DFID, Competition Assessment Framework.

A useful "Importance/Influence Matrix" can be constructed as shown in figure 6 to help in identifying stakeholders with power and influence on the level of competition in the relevant market.[57] The matrix will enable the user to identify key stakeholders and ascertain their influence and impact on competition. (See box 7.)

Box 7: Evaluation of classified stakeholders

The stakeholders classified in rectangle B will require the most attention in competition assessment if a policy change is to be sought. It will be important to gain the cooperation of these stakeholders, or to counter their influence, and any proposed change that would affect their interests must be managed carefully. The stakeholders in rectangle A rank next in significance, and a successful policy change will require that their interests are kept satisfied. Stakeholders in rectangle D would need to be kept informed, while the reactions of those in rectangle C need only to be monitored, with the expenditure of minimal effort.

Conclusions required: Who are the key stakeholders? What is their position on competition? What is their influence, and how important are their views? Knowing this will help to provide the basis for a realistic assessment of what will be needed to modify any constraints that exist, and to introduce more effective competition.

Source: DFID (2008). Competition Assessment Framework – An operational guide for identifying barriers to competition in developing countries.

2.8 Indicators of anti-competitive conduct by firms

Anti-competitive conduct by firms, especially the dominant ones or monopolies, can have adverse economy-wide effects in a vertical, horizontal or conglomerate context. Vertical effects arise in the production and marketing chain to the consumer; horizontal effects occur amongst competitors; while conglomerate effects would occur in complementary sectors. Table 9 provides an overview of anti-competitive conduct and suggestions on how the user can build on it to identify various anti-competitive practices by firms.

Table 8: Anti-competitive conduct and identification of anti-competitive practices

INDICATORS	AREAS OF PROMINENCE	POSSIBLE EFFECTS	POSSIBLE REASONS OR TYPE OF ANTI-COMPETITIVE PRACTICE
Similar pricing patterns	❏ Homogenous products such as cement, sugar, fertiliser, edible oils	❏ Higher prices	❏ Collusion
High Prices	❏ Mobile telephony ❏ Retail Internet Prices ❏ Private School Fees ❏ Tourism facilities	❏ Excessive profits by the suppliers ❏ Reduced purchasing power for the consumer ❏ Exploitation of the consumer	❏ Monopoly and/or barriers to entry ❏ Collusion
Monopoly markets	❏ Energy ❏ Fixed telephony ❏ Postal Services ❏ Railways ❏ Civil aviation	❏ Excessive pricing ❏ Less innovation ❏ Stagnant growth ❏ Net welfare loss due to Government subsidies?	❏ Barriers to entry ❏ Abuse of dominance
Oligopoly markets	❏ Mobile Telephony ❏ Cement ❏ Sugar	❏ Higher prices; lesser choice	❏ High propensity for conscious parallelism (i.e., copy-cat market strategies) ❏ Abuse of dominance
Markets with long-term exclusive supply agreements	❏ Fuel procurement ❏ Road and other infrastructure ❏ Supplies to Government institutions (Hospitals, prisons, schools, etc.)	❏ Strong vested interests controlling process?	❏ High levels of corruption? Bid-rigging/ Collusive Tendering? ❏ Weak competition enforcement capacity? ❏ Weak tender authority regulation?
Markets with a history of anti-competitive practices	❏ Clear Beer ❏ Carbonated soft drinks ❏ Contract Farming ❏ Medical Aid	❏ Higher prices and less consumer choice?	❏ Closed markets with no effective entry for some time? ❏ Captured market distribution channels?

3.
Conclusions

The purpose of the CAT is not only to seek answers to relevant questions, but also to develop a road map for dealing with undesirable situations arising from the observations arising from the series of questions asked or other reflections. The problem may not necessarily lie in the PLGBA, but rather in the implementation itself. The problem may not require a competition related intervention, but may require other policy interventions such as strengthening anti-corruption efforts or the public procurement system. However, where competition is found to be weak, the causes should be addressed, effects should be evaluated and possible remedies need to be developed.

To conclude the CAT process, the approach taken by the OECD can be adopted. (See Table 9.)[58]

Table 9: Requirements and responsibilities for concluding the CAT process

CONCLUDING THE CAT PROCESS	ACTION REQUIRED	RESPONSIBLE INSTITUTION	NEED FOR A CENTRALISED MONITORING SYSTEM
(a) What effect does weak competition in the market have on the economy? (b) Who profits from the effects of weak competition, and by how much? (c) Who loses because of the weak competition, and by how much? (While exact calculations might not be possible, it is necessary to have an understanding of the likely extent of the harm from weak competition, and the nature of its impact, before concluding whether corrective action is needed, and, if so, of what type.) (d) What are the possible actions to improve the state of competition? (Feasible options will be determined by the specific problems identified, and by the nature of national institutions, laws and policies. For example, if high prices are caused by collusion among suppliers, the available options will depend on whether there is a law under which enforcement action could be taken. If not, generating media interest to increase awareness and to put public pressure on those carrying out the practice might be worth pursuing.] Some examples of possible remedies that might be recommended in appropriate situations are to: ❑ Disseminate information to help consumers make better-informed decisions, taking care to ensure that the right information reaches the right people at the right time and in usable form; ❑ Encourage individual firms to take corrective action (where the problem appears isolated) or to formulate an industry code of practice - where the problem is widespread; ❑ Amend regulations or policies that unnecessarily limit market entry or that reduce competition between existing suppliers; ❑ Amend the applicable regulations or policies for regulated sectors to allow increased competition; ❑ Reduce privileges to SOEs; ❑ Amend public procurement policies; ❑ Amend specific trade or industrial policies that adversely affect competition; ❑ Promote policies to increase the awareness of competition by business, consumers and government, i.e., to develop a "culture of competition"; ❑ Develop a national competition policy; ❑ Amend competition law, and increase the resources available to the competition authority. (e) Which stakeholders would benefit from the possible corrective actions, and to what extent? (In proposing corrective action, policymakers will need to take account of the likely impact on vulnerable groups, especially the poor; and other national policy objectives and policy coherence.]			
Expected effect/Results of possible corrective actions			
(f) What is likely to be the effect of the possible corrective actions on key economic variables including investment, productivity, employment, exports and growth? Being able to demonstrate likely benefits for the economy should increase the willingness of stakeholders to support the corrective actions required, e.g.: ❑ Reversal of de-industrialization; ❑ More formalized business operations; ❑ More quality jobs for Zimbabweans; ❑ All other attendant benefits of greater business activity.			

APPENDIX A
LIST OF INSTITUTIONS CONSULTED DURING THE FACT-FINDING MISSION ON 25-29 AUGUST 2014

Ministries

1. Ministry of Industry and Commerce
2. Ministry of Finance and Economic Development
3. Ministry of Transport, Communications and Infrastructural Development
4. Ministry of Justice

Regulatory Authorities

5. Zimbabwe Investment Authority (ZIA)
6. Registrar of Companies and Intellectual Property
7. Zimbabwe Energy Regulatory Authority (ZERA)
8. Postal and Telecommunications Regulatory Authority of Zimbabwe (POSTRAZ)
9. Civil Aviation Authority
10. Law Society of Zimbabwe
11. Competition & Tariff Commission

Business Associations

12. Zimbabwe National Chamber of Commerce
13. Confederation of Zimbabwe Industries

Academia/Research Institutions

14. University of Zimbabwe - Economics and Business Departments
15. Zimbabwe Economic, Policy Analysis and Research Unit (ZEPARU)
16. USAID Strategic Economic Research & Analysis (SERA)

Legislature

17. National Assembly

APPENDIX B
GUIDELINES ON USING A COMPETITION ASSESSMENT TOOLKIT

An appropriate questionnaire will have to be developed using the sub-headings and questions/problem identification processes provided for in the CAT. The Questionnaire would then be used to collect relevant information from identified influencers, vested interests, stakeholders, etc.

A. Purpose And Scope

1. The purpose of the guidelines is:
   - (a) To provide guidance in establishing and using a Competition Assessment System (CAS) in Zimbabwe;
   - (b) To assist in decision-making prior to, during and after use of the CAT;
   - (c) To enhance transparency, accountability, policy coordination and coherence in the process of recommending new or reviewing existing policies, legal, government or business actions (PLGBA).

B. Competition Assessment

2. Competition Assessment involves detailed analysis to ascertain whether or not a new or amended PLGBA would have the desired impact and shall identify the adverse impacts or any hidden costs associated with the measure.
3. A Competition Assessment Report shall, as much as possible, be completed in substantial conformity to the CAT.

C. National Competitiveness Committee or Commission (NCC)[59]

The National Competitiveness Committee shall review all the policy recommendations arising from competition assessment reports and chart the way forward for implementation of the recommendations.

4. Competition assessment shall be coordinated through the existing frameworks at Cabinet level or other Ministry where proposed or new PLGBA are ordinarily handled.
5. The NCC shall, inter alia, perform the following functions:
   - (i) Maintain competition assessments across the Government;
   - (ii) Identify priority areas for conducting competition assessments;
   - (iii) Meet periodically to discuss progress, review implementation, share “best practices”;
   - (iv) Provide technical backstopping to competition assessments.

D. Policy and Planning Divisions

6. Policy and Planning Divisions and their equivalent in the Government shall, inter alia, perform the following functions:

   (i) Monitor the work done by their respective sectors;

   (i) Supervise and scrutinize the preparation process for competition assessments in their sectors either on their own or with the assistance of ZEPARU or other research institutions;

   (i) Review and approve competition assessments that are done and forward them to the relevant central Government organ together with the recommended course of action in relation to a proposed new or amended policy or law;

   (i) Coordinate training for its staff in relation to use of CAT.

E. Regulatory Agencies

7. Regulatory agencies proposing a new PLGBA or amendments should prepare their competition assessment report as per the CAT.

8. The regulatory agency shall submit its competition assessment to the line Ministry, who shall then send it to the NCC.

F. Enforcement

9. No policy, law or regulation affecting competition shall be submitted to the Parliament unless it has undergone a competition assessment and reviewed by the NCC.

10. A relevant Parliamentary Committee shall require a competition assessment as part of the monitoring process.

11. The regulatory agency shall submit its competition assessment to the line Ministry, who shall then send it to the identified central monitoring/screening office.

APPENDIX C
GLOSSARY

For meanings of terms used in this document and others to arise as a result of implementing the CAT, the user is advised to check with the definition of the terms as used in the Competition Act and/or National Competition Policy of Zimbabwe.

In general, the following is adapted from DFID CAF:

Cartels. Cartels result from the action of firms that are nominally competitors agreeing to coordinate their price and output decisions, or to limit the geographic markets they will supply, so as to reduce or eliminate competition between them. If the colluding firms account for all of the supply in a market, they can act in a similar way to a monopolist. Historically, the formation of cartels was encouraged by some governments in some sectors, but this is now unusual. Where competition laws exist cartels are normally illegal, leading to secrecy in their operations and their existence. This makes it difficult for competition authorities to establish the existence of a cartel, and to obtain evidence sufficient to permit enforcement action. While many cartels are unstable, because of the incentives they may provide for members to cheat on their undertakings, some have lasted for many years. In recent years there has been justified publicity about the harmful effects of large international cartels on developing countries, but it should not be overlooked that domestic cartels are also a substantial problem in most countries.

Competition. Competition in trade is the process of rivalry between sellers who are seeking to make sales to earn profits. While a seller's motive is of course self-interest, the existence of competitive markets is mostly of considerable benefit to society, because they result in the nation's resources being used in the most productive ways, and because firms have incentives to reduce prices, to improve the quality of products and to innovate. This makes higher rates of economic growth possible.

Competition Authority. This is a body established by the Government to enforce its competition law. Except in the case of mergers and acquisition proposals, a competition authority acts after a competition problem is drawn to its attention, and it does not normally monitor the performance of markets or endeavour to shape them, other than through allowing the forces of competition to operate (in contrast to sector regulators).

Contestability. A market is contestable if new entry is likely were the existing supplier/s to increase prices above competitive levels. Where a market is contestable, the pricing decisions by the incumbent suppliers might be at competitive levels, even if a single supplier accounted for most of the supply, because the incumbents would expect new suppliers to enter the market if prices were higher than this. For contestability to exist there must be low barriers to entry and exit.

Dominance. An enterprise is dominant in a market if it has sufficient market power to allow it to make decisions on prices or levels of output without having to take account of the likely response of competitors. The abuse of a dominant position is a key type of anti-competitive behaviour of concern to competition authorities.

Enterprise. An enterprise, or "firm", is the business unit that is operating in a market. The term includes all legal forms of ownership, including limited liability companies (both those listed on the stock exchange and those in which the shares are privately held), partnerships, joint ventures, sole traders and State-owned trading entities.

Market. This key concept in the analysis of competition (discussed more fully in Appendix B(3) above), refers to the extent to which it is reasonably possible for sellers and buyers to interact to undertake transactions. A market is defined in terms of both the product (this being a good or service for which there are no close substitutes) and the geographical extent of the area within which buyers and sellers interact. A "sector" or "industry" is less likely to be a single market than a collection of several markets, and the pattern of competition might differ considerably between markets in a sector. A "relevant market" is one that is of concern and that will be assessed in an analysis of competition.

Market power. The ability of a firm to change the market price of a good or service without having to take account of the likely response of existing or potential competitors. A firm with market power has the ability to undertake unilateral anti-competitive activities.

Mergers and acquisitions. These are of interest for competition analysis where they bring two or more firms that were formerly competitors under common control, thereby increasing market concentration. It is the increase in concentration that is of interest for competition analysis, and distinctions between mergers, acquisitions and other forms of economic concentration are not important from this perspective. Competition laws usually define economic concentration broadly, to include all of the ways in which it may be accomplished. Mergers and acquisitions that involve firms in unrelated markets are of much less concern, and seldom raise competition problems.

Monopoly. A strict definition is the situation of a single seller in a market. However, the term is often used to describe situations where a supplier has a high degree of market power, even though there might be other suppliers to the market. (A situation of a single buyer is called a "monopsony".)

Natural monopoly. A situation where the long run marginal cost of production (i.e. the cost of producing another unit) is falling. This means that a single firm can produce any given quantity at a lower unit cost than could two or more firms. Regulation is normally used to allow efficient production to take place, while controlling the prices that may be charged or the profit that the monopoly supplier may earn.

Oligopoly. This is a market structure in which a small number of firms account for most of the supply in that market. Because the number of firms is small, each is likely to know how its competitors would react to changes in prices or output by any firm in the market. The effect can be to blunt competition, because the firms are likely to see an advantage in acting more as monopolist would.

Predatory pricing. This is a form of abuse of dominance where a dominant firm sells a product at a low price (usually below cost) with the aim of forcing smaller competitors out of the market, or of creating a barrier to entry. The dominant firm must have sufficient resources to fund the period of low pricing if the tactic is to be effective. If its action is successful, and the competitors are eliminated, the predator will then increase its prices to recoup the losses from the period of low pricing, and to make a higher profit.

Products. This term is used to include both goods and services.

Regulators. Sector regulators are created by governments to monitor the conduct of firms in sectors in which competitive markets are not able to operate because of features such as the existence of natural monopolies. The regulators may have a wide range of responsibilities including setting technical standards for equipment and quality of service, and administering profit or price caps.

Regulatory capture. This is where a regulatory agency becomes dominated by the industry that it was created to regulate.

Rent. Two meanings must be distinguished. The everyday meaning is the amount paid to a landlord for the right to use a building, piece of land or other asset. "Economic rent", however, is a measure of market power. It is the difference between what is needed to allow a factor of production (i.e. land, labour or capital) to continue in its present use and what is actually paid.

Rent seeking means trying to receive more without producing more. An example of rent seeking is where the suppliers to a market form a cartel with the intention of raising prices. The revenue above the competitive price level is economic "rent".

Sunk Costs. These are costs that have been incurred, and that cannot be recovered to any significant extent. When business people are acting rationally, sunk costs should not influence decisions affecting the future. An example is a factory building that was so specialized that it could not be used for any purpose other than making the product it was designed for. If there were a permanent large fall in the demand for that product, and the only other use of the building was the sale of re-usable materials it contained as scrap, the costs incurred in constructing the building would be irrelevant to decisions on the future use of the site. Sunk costs can be significant as barriers to entry.

Tacit collusion. This occurs where firms "collude" without any direct contact, simply on the basis of their expectations of how their competitors will respond to any changes in their behaviour in the market.

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Zimbabwe National Statistics Agency (2013) , *Poverty and Poverty Datum Line Analysis in Zimbabwe 2011/12.*

ENDNOTES

1. DFID (2008), Competition Assessment Framework – *An operational guide for identifying barriers to competition in developing countries.*
2. A Competition Assessment Toolkit is also referred to as Competition Assessment Framework. For regulated sectors, there may be a Regulatory Impact Assessment Toolkit encompassing competition assessment. The principle is the same as that for Regulatory Impact Assessment (RIA). UNCTAD has previously assisted the Royal Government of Bhutan to develop RIA Rules and Regulations, as well as Guidelines, which are aimed at assisting and guiding experts and staff of all Government ministries, commissions and agencies to organise, design and draft RIA reports. A committee of secretaries coordinates the RIA reports before any new law or amendment is presented to Parliament.
3. Australia has in place a National Competition Council that monitors central and State Governments actions in relation to competition policy
4. OECD has a well developed Competition Assessment Toolkit that has been tested in a number of its member countries
5. See http://www.dpcorp.co.zw/assets/zim-asset.pdf (accessed 6 Ocober 2015)
6. Zimbabwe CTC, (2014), *Legal Inventory Report as per the Voluntary Peer Review Recommendation for Zimbabwe.*
7. Other than a strategic plan by the CTC as well as an annual report submitted to parliament, there is no formal mechanism on how government measures the impact of its Policies, Laws, Government or Business Actions (PLGBAs) on the levels of competition and the harmony thereof.
8. World Economic Forum (2013), Global Competitiveness Report of 2013-14, page 10.
9. See http://data.worldbank.org/country/zimbabwe (accessed 06 October 2015).
10. See http://data.worldbank.org/news/new-country-classifications (accessed 06 October 2015).
11. The dramatic rise in GDP during the period of national unity government may be attributed to ease of some sanctions.. The African Development Bank also attributes the strong growth in GDP to the introduction of a multiple currency system.
12. See http://www.afdb.org/en/countries/southern-africa/zimbabwe/zimbabwe-economic-outlook/ (accessed 06 October 2015)
13. See http://data.worldbank.org/country/zimbabwe (accessed 06 October 2015)
14. Dhliwayo C.L. (2014), Monetary Policy Statement issued by Acting Governor in terms of the Reserve Bank of Zimbabwe Act Chapter 22:15, Section 46.
15. World Economic Forum (2013), Global Competitiveness Report 2013-14, page 15
16. Ibid, paragraph 119 - 120
17. Ibid, paragraph 153-155; Gono G. (2013), Statement by Gono G., Governor of 6 August 2013 on *Continued use of Multicurrency System in Zimbabwe, August.* See full report at http://www.rbz.co.zw/pdfs/Multicurrency%20Use%20August.pdf (accessed 06 October 2015)
18. Kububa A., *Coherence between Competition Policies and other Government policies*, Eleventh Session of the Intergovernmental Group of Experts on Competition Law and Policy 19-21 July 2011: Geneva, Switzerland, http://unctad.org/Sections/wcmu/docs/Contribution-Zimbabwe.PDF (Mr Kububa was the CEO of the Competition and Tariff Commission (CTC) between 1998-2014)
19. Khemani R.S., *A Framework for the Design and Implementation of Competition Law and Policy*, Chapter 1., The World Bank, Washington DC, and Organisation for Economic Co-operation and Development (OECD), Paris, 1999.
20. http://www.nayoyouth.org/docs/Zimbabwe%27s%20Indigenisation%20and%20Empowerment-Act.pdf (accessed 06/10/15).
21. Competitive Neutrality means that the competition law is, in a *de jure* context, applicable equally to both State and private commercial activities.
22. The Zimbabwe competition law was introduced in 1998. At the time, Zimbabwe had embarked on higher-end measures to ensure that its economic activity was not concentrated in a few hands (i.e. measures that deal with economic concentration of economic power). Details of the state of competition law implementation are well covered under the 2012 UNCTAD Voluntary Peer Review of Competition Law and Policy in Zimbabwe
23. See clause 2 of the UN Set of Principles on Competition (The UN Set)
24. UNCTAD (2010), *The Role of Competition Policy in promoting Economic Development: The appropriate Design and Effectiveness of Competition Law and Policy*, TD/RBP/CONF.7/3, August.
25. Sixth United Nations Conference to Review All Aspects of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices, Geneva, 8–12 November 2010, Session III: The role of competition policy in promoting economic development Written contribution by Zimbabwe. See http://unctad.org/Sections/wcmu/docs/tdrbpconf7_s3_Zimbabwe.pdf

26. UNCTAD, World Investment Report, 2013, page x???
27. World Economic Forum, The Global Competitiveness Report 2014-2015; pg 7.
28. DFID, Competition Assessment Framework – *An operational guide for identifying barriers to competition in developing countries*, 2008; Foreword
29. Ibid page 6
30. See Global Competitiveness Report 2013/14, page 50
31. 92.2%, UNDP Human Development Report 2013
32. Paragraph 8 and 9 of the 'Rules and Regulations for Mainstreaming Regulatory Impact Assessment (RIA) System in Bhutan, 2011", Cabinet Secretariat, Royal Government of Bhutan
33. ZEPARU in Growth, *Employment and Poverty in Zimbabwe: Economics of Employment Creation*, September 2013, page 61; Agriculture is identified as one such sector. It is classified into 8 commodity industry groups being: (i) horticulture (ii) livestock and meat (iii) legumes and oil seeds (iv) tree crops (v) grains (vi) cotton (vii) tobacco (viii) forestry and timber. These have the potential for increasing the employment multipliers through the value chain approach ()
34. Ibid., page 59, Agriculture, hunting, fishing and forestry contributes an annual average of 43,120 employment creation, followed by manufacturing with 25,940, distribution, hotels and restaurants third at 14,107
35. ZEPARU (2013), *Growth, Employment and Poverty in Zimbabwe: Economics of Employment Creation*, September, pg 30; ZEPARU echoes a FinScope MSME Survey of 2012, which estimated that 5.7 million people work in the MSME sector, of which 2.8 million were business owners and 2.9 million were employees. About 65% of the business owners reported to have had a total turnover of US$7.4 billion, which accounted for 63.4% of nominal GDP (page 30)
36. Preamble to Zim Asset (2013 – 2018)
37. Paragraph 1.8 of Zim Asset posits that through Zim Asset, Government will immediately implement initiatives that can yield rapid results (Quick-Wins).
38. Paragraph 2.10 of Zim Asset acknowledges that the manufacturing sector remains in crisis with capacity utilisation declining from an average of 57% in 2011, 44% in 2012 and 39% in the 3rd quarter of 2013. This is attributable to structural and infrastructural bottlenecks such as erratic power supply, obsolete machinery and dilapidated infrastructure as well as lack of and high cost of capital, hence negatively affecting value addition and beneficiation as well as employment creation.
39. Zimbabwe National Statistics Agency, *Poverty and Poverty Datum Line Analysis in Zimbabwe*, 2011/12.
40. ZEPARU in *Growth, Employment and Poverty in Zimbabwe: Economics of Employment Creation*, September 2013, page 60
41. Agriculture is reckoned to contribute 15 – 18% of Zimbabwe's GDP, according to ZEPARU in *Building Agricultural Competitiveness in Zimbabwe - Lessons from International Perspective*, 2012
42. Ibid, page 28
43. Willowvale Mazda Motor Industries (WMMI), majority owned by the SOE, Industrial Development Corporation, is engaged in Mazda contractual assembly. Quest Motors, another assembly plant, has engaged in assembly of Chinese vehicle models.
44. UNCTAD, Economic Development in Africa Report, 2013 (page 23), shows that Zimbabwe main export destinations, in order of priority, were South Africa, Democratic Republic of Congo (DRC), Botswana, Zambia, Malawi, with a total export share of 91.8%
45. ZEPARU in *Growth, Employment and Poverty in Zimbabwe: Economics of Employment Creation*, September 2013, page 60, posit that cluster development in the manufacturing sector, especially targeting MSMEs, is a viable industrialisation strategy as it focuses development on group of firms rather than on individual firms. Clustering provides and encourages collective efficiency, competitiveness and fosters productivity and innovation and such a strategy will also help SMEs in rural and communal areas to have easier access to markets and technology.
46. ZEPARU (2013), *Positioning the Zimbabwe Tourism Sector for Growth: Issues and Challenges*, page 17-18; According to Zimbabwe Tourism Authority statistics tourism contributed about 10% to GDP by 2008, but has since been in decline The paper also notes that tourism receipts increased from a low US$61 million in 2003 to US$662 million in 2011. Key growth challenges identified for urgent Government intervention included lack of institutional coordination and lack of internal airline connectivity (page 20). Key enablers for tourism growth were identified as agriculture, manufacturing, ICTs, National Roads, Electricity and water supply, safety and security (page 28).
47. Porter, M.E. (1980), *Competitive Strategy – Techniques for Analysing Industries and Competitors*, pp 3-29, The Free Press.
48. See Gladmore Mamhare, Assistant Director (Competition), *CTC, Competition at National and International Levels: Energy*, Intergovernmental Group of Experts on Competition Law and Policy, Geneva, 17-19 July 2007

49. DFID Competition Assessment Framework, *An operational Guide for identifying barriers to competition in developing countries*, 2008
50. ZIA is a statutory body established by the ZIA Act No. 4 of 2006 (CAP 13:30) of the Laws of Zimbabwe mandated to promote, facilitate and coordinate both FDI and local investment. It was a merger between the previous Export Processing Zones Authority (EPZA) and the Zimbabwe Investment Centre (ZIC), which merger was aimed at creating a one stop investment shop for quicker and easier facilitation of investment.
51. Normal corporate tax rate ranges between 25-30%.
52. Chizu N. (2013),*Objectives of Public Procurement*, CIPS Fellow, April. See also section 3(1)(f) & (g) of the IEEA, which states that: (f) all Government departments, statutory bodies and local authorities and all companies shall procure at least fifty *per centum* of their goods and services required to be procured in terms of the Procurement Act [*Chapter 22:15*] from businesses in which a controlling interest is held by indigenous Zimbabweans; (g) where goods and services are procured in terms of the Procurement Act [*Chapter 22:14*] from businesses in which a controlling interest is not held by indigenous Zimbabweans, any subcontracting required to be done by the supplier shall be done to the prescribed extent in favour of businesses in which a controlling interest is held by indigenous Zimbabweans.
53. Established under the Anti-Corruption Commission Act [*Chapter 9:22*].
54. Zimbabwe National Chamber of Commerce (2014), *Public Policy Advocacy for business viability*, Research Papers, page 62-64.
55. UNCTAD (2013)World Investment Report pages 92-101.
56. DFID (2008), Competition Assessment Framework – *An operational guide for identifying barriers to competition in developing countries*, page 22
57. DFID (2008), Competition Assessment Framework – *An operational guide for identifying barriers to competition in developing countries*, page 25
58. DFID (2008), *Competition Assessment Framework*, pages 33-35.
59. During the field mission, the Government of Zimbabwe set up a National Competitiveness Committee, which was transformed into a Commission through legislation. This could be the right national fora for CAT reviews.

Useful links for competition policy and law materials:

Australian Competition & Consumer Commission (ACCC), www.accc.gov.au

Competition and Markets Authority (CMA), UK, www.cma.gov

International Competition Network www.internationalcompetitionnetwork.org

OECD, www.oecd.org/competition

Southern Africa Development Community, Competition & Consumer Policies Committee, www.sadc.int [SADC Trade Protocol, Article 25]

United Nations Conference on Trade and Development (UNCTAD), http://unctad.org/en/Pages/DITC/CompetitionLaw/ccpb-PubsPage05.aspx

United States Federal Trade Commission www.ftc.gov

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