

Competition Law Enforcement: a Necessary Tool for Economic Development

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Issues to be Addressed

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- 2) **Competition law and Competition Policy**
- 3) **International Trade, a Substitute or a Complement to Competition in Small Developing Countries?**
- 4) **Anticompetitive Practices in Small Developing Countries**
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1) The Rise of Competition Law Throughout the World

Adoption of Competition Laws since 1998

(more than 62 countries)

1998	Bulgaria, Gabon, Cameroon, Malawi, South Africa, Bulgaria...	6
1999	Belgium, Indonesia, Thailand, Slovenia, Saint Vincent, Cyprus,	6
2000	Armenia, Morocco, Lithuania, Moldova, Uruguay, Cape Verde, Fiji, Uruguay.....	8
2001	Slovakia, Ukraine, Bosnia,-Herzegovina, Kazakhstan, Saint Lucia, Antigua and Barbuda.....	6
2002	Austria, Azerbaidjan, Latvia, Barbados, Papua New Guinea..	5
2003	Albania ,Algeria, Mauritius, Namibia, Tanzania, Ethiopia, ...	6
2004	Jordan, Laos, Saudi Arabia, Vietnam, Jersey, Luxembourg, Singapore, El Salvador, Paraguay.....	9
2005	Serbia, Macedonia, Honduras, Egypt, El Salvador, Austria...	6
2006	Montenegro, Nicaragua, Colombia, Kazakhstan, Qatar.....	5
2007	China, Mauritius , Nepal.....	3
2008	Syria, Feroe Islands.....	2

Competition Law Upgrading (in more than 63 Countries)

1998 Estonia, UK.....	2
1999 Cyprus , Mali, Korea, Taiwan.....	4
2000 Poland, Denmark, Brazil, Algeria	4
2001 Burkina Faso, Estonia, Malta,Ukraine, Argentina , New Zealand.....	6
2002 India, Ireland, UK, Belarus	4
2003 Albania,Portugal, Bulgaria, Croatia, Chile, Greece.....	6
2004 Czech Republic, Finland, Latvia, Norway, Slovenia, Chile, Venezuela	7
2005Turkey, Bosnia Herzegovina, Portugal, Argentina, Brazil, Peru, Uruguay, Andean Community, Israel, Greece, Hungary	12
2006 Kazakhstan, Austria, Belgium, Russia, Turkey, Mexico, France.....	7
2007 Spain, India, Denmark, Pakistan, Australia.....	5
2008 Egypt, Israel,Japan, Korea, Bulgaria, Germany.....	6

Countries in the Process of Adopting a Competition Law

Angola

Botswana

Bolivia

Cambodia

Ghana,

Guyana,

Lebanon

Lesotho

Madagascar

Mozambique

Nigeria

Swaziland

Togo,

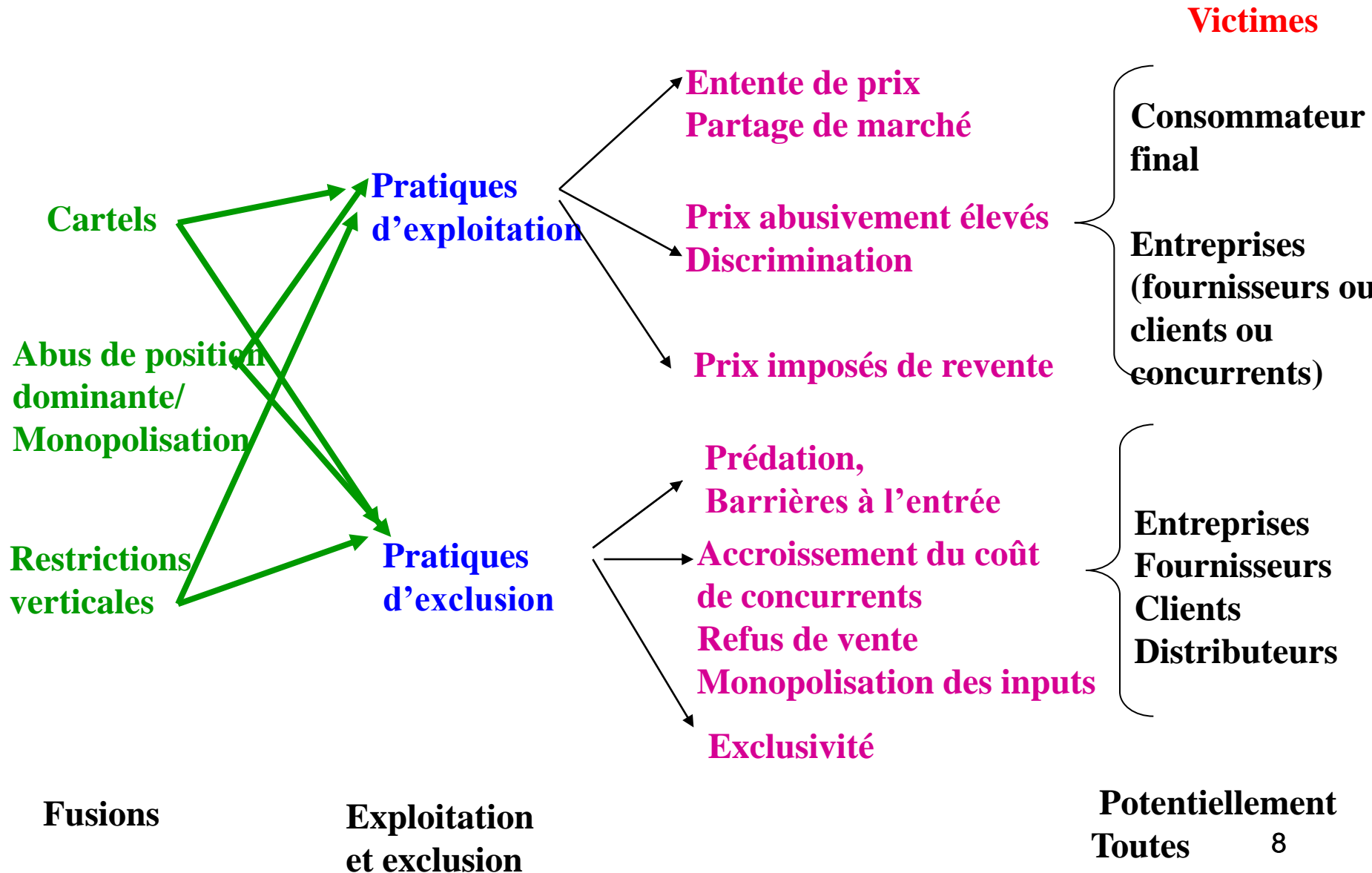
Uganda

United Arab Emirates

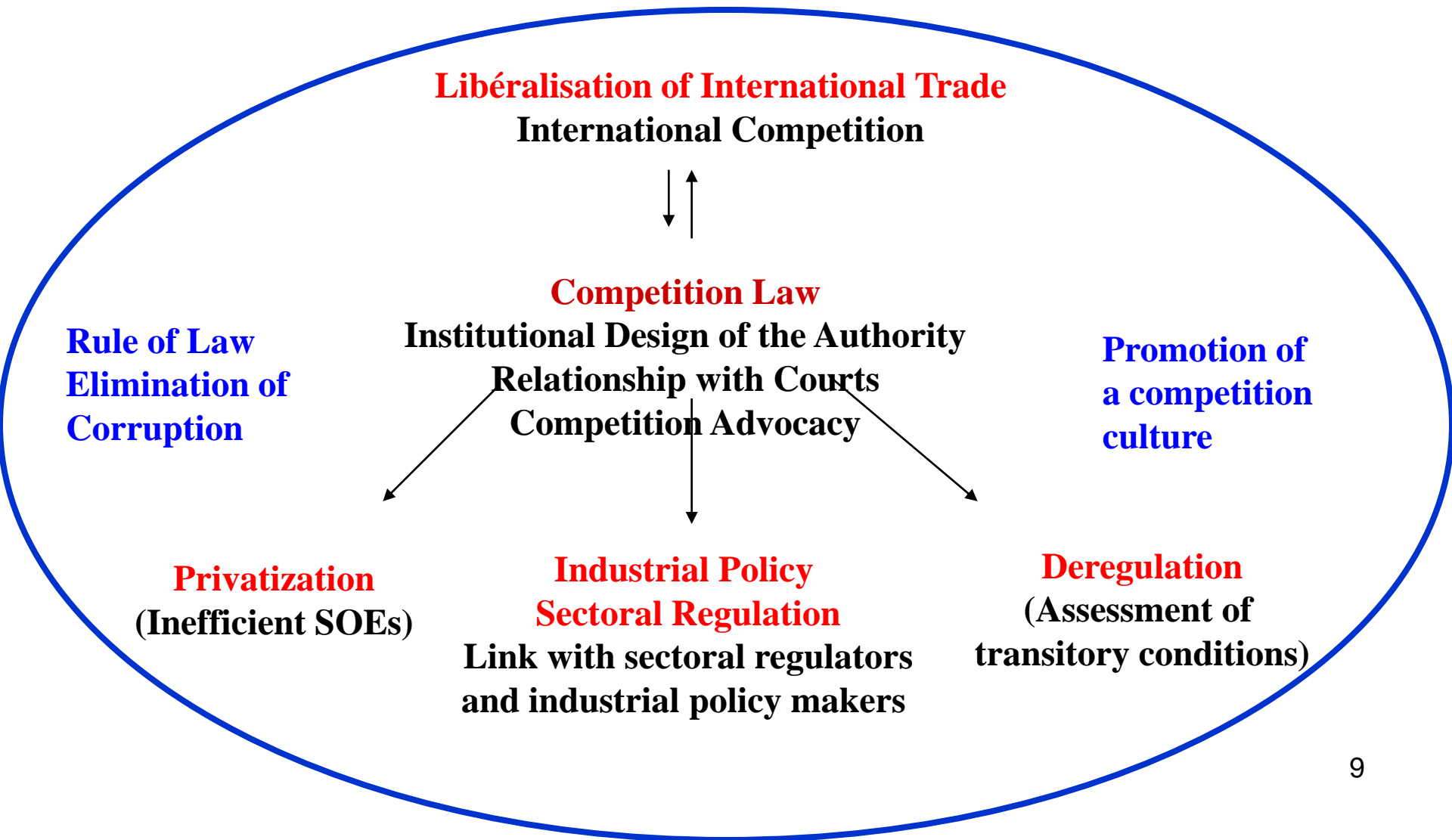
Yemen

2) Competition Law and Competition Policy

Droit de la Concurrence

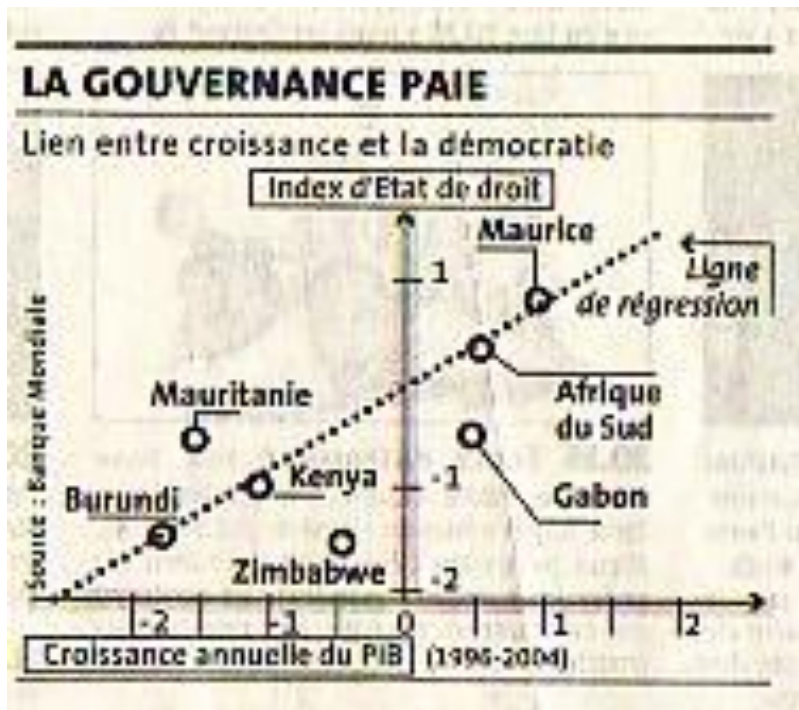


Competition Law and Competition Policy



Rapport de la Banque Mondiale sur la Gouvernance Mondiale (9 mai 2005)

« L'amélioration des conditions de vie est le résultat d'une meilleure gouvernance et non l'inverse »
(Daniel Kaufman Directeur du projet)



Le Monde 8-9 Mai 2005

« L'amélioration des droits, l'efficacité de l'administration, la lutte contre la corruption, l'allègement des juridictions ou le respect des contrats peuvent payer en six ou huit ans.

Sénégal: Infrastructures - Le secteur BTP Inventorie les Difficultés, (Dakar),le 5 Juin 2008

Le Syndicat national des entreprises de bâtiments et travaux publics (Snbtp) a organisé une après-midi de réflexion sur le thème « Politique des infrastructures au Sénégal : état des lieux et perspectives ». Ils ont dressé un inventaire approfondi sur les difficultés rencontrées dans la réalisation des infrastructures au Sénégal. Il s'agit: de l'absence d'un code de la construction et d'un système de normalisation dynamique et performant', a relevé M. Abd'El Kader Ndiaye (...) des faiblesses majeures dans l'élaboration des cahiers de charges parfois incomplets et inadaptés (...) la sélection restrictive des entreprises nationales (...) et la non-transparence dans l'attribution et la gestion des marchés publics. A ce niveau, il a salué les efforts accomplis avec l'avènement du nouveau code des marchés publics dont la bonne application reste cependant le défi majeur pour tous les acteurs.

3) International Trade, a Substitute or a Complement to Competition in Developing Countries?



Améliorer le fonctionnement des marchés en Afrique de l'Ouest

Février 2008: Le riz au Burkina Faso

Au Burkina Faso, la position dominante traditionnelle de la Caisse générale de péréquation (CGP) qui avait le monopole d'importation jusqu'en 1996 a été prolongée par des barrières à l'entrée de nouveaux importateurs: les volumes minimum d'importation furent imposés à 1000 tonnes, deux tests de qualité étaient nécessaires pour l'obtention d'un certificat phytosanitaire avec un coût de 1500 Fcfa/T dont la couverture nécessite des volumes importants et qui induisaient des délais importants pour qui ne maîtrise pas les rouages administratifs. Il a fallu attendre une conjoncture favorable de baisse des prix mondiaux au début de 1997 pour que quelques privés investissent le marché en profitant de coûts d'exploitation plus faibles que la CGP.



Améliorer le fonctionnement des marchés en Afrique de l'Ouest

Février 2008: Le riz au Burkina Faso

Par la suite, avec le retour à la normale des prix, ces commerçants ont du s'entendre pour maintenir leur avantage et ne pas baisser leurs prix de vente alors que les prix mondiaux baissaient. L'objectif affiché de la libéralisation qui était l'instauration de la concurrence et l'ajustement des prix n'a pas produit le résultat attendu.

Un oligopole se maintient alors favorisé par des barrières à l'entrée et les avantages dont jouissait la CGP de la part du gouvernement pour assurer, dans les meilleures conditions sa privatisation. Les principaux privés, dorénavant seuls acteurs parvinrent à contrôler les grossistes des centres urbains en leur accordant crédit et participation dans leurs autres activités.



Améliorer le fonctionnement des marchés en Afrique de l'Ouest

Février 2008: Le riz au Burkina Faso

C'est par la suite l'ensemble des circuits de distribution du riz qui furent ainsi pilotés. Ce fonctionnement imposait le traitement de volume importants et une surface financière conséquente pour pouvoir être compétitifs. Ceci excluait de fait les petits et moyens opérateurs du marché du riz qui n'ont, de surcroît, généralement pas accès au crédit bancaire. Ces modes de coordination non concurrentiels expliquent la stabilité des prix à la consommation et sa déconnexion par rapport à l'instabilité des prix internationaux et des prix caf obtenus par les différents opérateurs.

4) Anticompetitive Practices in Developing Countries

Competition and Development

In all countries, lack of competition results in two types of abuses:

-**Exclusionary practices** such as refusal to give access to essential facilities, tying, predatory pricing (thus **depriving potential competitors from legitimate economic opportunities**)

-**Exploitative practices** such as abusively high prices, price fixing, tying, lower quality/price ratios (thus **depriving consumers from the benefits of competition**)

Developing countries are often the victims of such practices:

-Because of the **high level of concentration in some sectors** (due to the small size of the economy);

-Because of the **small size of the business community** and lack of incentive to compete domestically;

- Because they are exposed to **transnational anticompetitive practices**

-Because, often they **do not have a competition law to sanction abusive practices or lack enforcement means.**

Sectors Affected by Anticompetitive Practices in Developing Countries

At the domestic level

Fertilizers : input for agriculture

Oil : input for agriculture and manufacturing

Construction and construction materials : input for manufacturing

Transportation (buses, trucks, airlines, maritime transport):
input for all production activities

Telecommunications input for all production activities

Banking and Financial Services: input for all production activities

Wholesale and Retail Trade

At the international level

Steel, heavy electrical equipment, aluminium etc.....

Exploitative Cartels Hurting Consumers

Cartel of Wholesalers and Importers in Yemen

SANA'A, Jan. 18 2009— Although the price of wheat has dropped almost 60 percent on the international level since early 2008, **Yemeni importers and wholesalers are creating price hikes to increase their profits, say retailers.**

Last week, the price of wheat witnessed an unjustified increase. In two weeks, the price of a 50-kilo sack of wheat has increased from YR 4,200 to almost YR 6,000, four times its price in 2007. People accuse the government of carelessness and of not taking strict measures against powerful merchants who play with the price of this important commodity.(...) . In remote villages, the high price of food has led families to regularly skip meals and spend over two-thirds of their income on food, forcing some to pull children out of school because they cannot afford it, according to a recent assessment by the World Food Program.²⁰

Cartel of Wholesalers and Importers in Yemen

"Increases of wheat prices are because of wholesaler's monopolization of food commodities such as **wheat, flour** and **sugar**," said Hamid Al-Ruzaiqi, foodstuff retailer.

(...)

"The country is careless because it does not fix suitable prices for commodities and does not punish merchants who play with prices," added Al-Ruzaiqi.

(...)

"The price of **cooking oil** for example, despite being low internationally, sometimes also fluctuates [in Yemen] to sell it faster," he added to illustrate how the same tactic is sometimes also used to better market other commodities.

Ramadan in Yemen

Monopoly Causes Price-Rise

The Yemen Society for Consumer Protection attributed price-rise during Ramadan to traders' monopoly and increase of demand. It added that the consumers may be in control of the situation by purchasing only the basic necessities.

Ramadan in Yemen: Market Boost & Income Increase

Meat Cartel in Jordan

« Jordanian lamb providers had year after year colluded to raise the price of lamb during the Eid Al Adha when demand for lamb would be at its highest. (...). With the competition in place, imports were allowed to enter the local market and for the first time ever, lamb prices actually dropped for the Eid sales. International competition discourages collusion and price fixing (...) ».

The Jordan Times Wednesday may 25 2005 (quoting EJADA Director Bill Winning at the opening of the first national Competition Day).

Cartels in the Transportation Sector in Kenya

Monday November 3, 2003 Douglas Okwatch and Otsieno Namwaya

« The shadowy face of the mysterious cartel that has held the matutu industry in its deadly grip for years has been unmasked. Simon Kimutai and Stanley Gatonye, both from the Matutu Owners Association (MOA) gave an insight into the operations of the cartel. **The cartel comprises a group of city matutu owners who want monopoly over lucrative routes, the police and militia gangs.** Mungiki, an outlawed sect and Kamjesh, a band of thugs for hire, make up the vicious, more criminal side of the cartels. »



Cartel Among the Rice Importers in Niger

Février 2008

Au Niger deux importateurs jouent un rôle déterminant dans le fonctionnement du marché du riz. Ils exercent un contrôle sur la plupart des circuits de distribution et les variations de leurs stocks influence celle des prix. Les grossistes seraient au nombre d'une trentaine dont la plupart sont établis à Niamey. Une analyse des marges brutes de commercialisation montre qu'elles sont relativement stables, indépendamment des fluctuations du coût de revient du riz importé. On aurait donc superposition de deux stratégies: celle des importateurs en position d'oligopole, qui maintiennent des marges élevées, permise par un niveau de productivité du riz local faible, et celle des grossistes, en plus grand nombre, mais qui manifestement arrivent à s'entendre pour maintenir leur niveau de marge quel que soient les prix d'approvisionnement.

Anticompetitive Concerted Practices Hurting Farmers or Fishermen



Améliorer le Fonctionnement des Marchés en Afrique de l'Ouest

Février 2008

L'étroitesse des marchés ouest africains favorise **l'apparition d'oligopoles ou d'ententes entre opérateurs**. On trouve ces formes de coordination dans tous les secteurs industriels et commerçants auxquels les agriculteurs font face. Ces derniers sont alors en position de dominés dans leur capacité de négociation.

Nous pouvons l'illustrer dans le cas du marché du riz et des engrais.

Améliorer le fonctionnement des marchés en Afrique de l'Ouest

Février 2008:

Le marché des engrais en Afrique de l'Ouest

Le marché des engrais pour sa part est dominé par deux sociétés filiales de multinationales (Yara ex Hydro-Agri, Norvège et STEPC SSI ex Mines des Potasses d'Alsace). La première est présente au Bénin, au Cameroun en Cote d'Ivoire et en Afrique Australe et la seconde au Cameroun, au Mali, en Côte d'Ivoire, au Burkina Faso et au Sénégal.

Améliorer le fonctionnement des marchés en Afrique de l'Ouest

Février 2008:

Le marché des engrais en Afrique de l'Ouest

Régulièrement la presse fait état de contrats « paradoxaux » ou les prix pratiqués ne correspondent pas aux prix de marché avec des insinuations sur le financement des partis politiques. Par exemple au Bénin en 2005/2006 toutes les sociétés de distribution ont proposé le même prix.

Pénurie de Pommes de Terre au Rwanda

<http://www.syfia-grands-lacs.info> 20 03-2008

La pomme de terre se fait rare sur les marchés rwandais. Estimant qu'ils n'y gagnent rien, les producteurs du Nord ont, en effet, renoncé en masse à cette culture. D'après un revendeur, ce serait une façon pour eux de "gréver contre la CECMA (coopérative des fournisseurs de pommes de terre du Nord-Ouest), " qui dispose du **monopole d'achat et de revente de toute la production du Nord et du Nord-Ouest**. La Coopérative, qui approvisionne les autres régions du pays, paye les agriculteurs 50 Frw (0,10 \$) le kilo et se charge de les revendre à près de 60 Frw. Elle assure l'écoulement de la production, auparavant difficile pour certains producteurs. Mais, pour nombre de villageois, **la CECMA fixe les prix unilatéralement sans tenir compte des coûts engagés par les agriculteurs**. "Le prix donné au producteur reste inchangé depuis quatre ans", affirme un villageois de Nyabihu, ex-Gisenyi. "Ce revenu ne fait que décourager les producteurs vu ce qu'ils investissent dans cette culture", remarque un membre d'Abadahemuka.

Cartel of Fish Processors on Lake Victoria Kenya

« Fish processors and exporters in the Lake Victoria region are being heavily criticised by other stakeholders for allegedly exploiting fishermen. **Fishermen, government officials and local government chiefs accuse the processors of forming cartels to control the industry.** According to Szhabbir Ahmed Sharkeel, the mayor of the lakeside town of Kisumu, the fish processors are making a fortune and investing nothing back to improve the welfare of the people living around the lake. These processors buy fish at Ksh 80 a kilo of fish and sell it at over Ksh 200 (about US\$25) abroad » Sharkeel said.

Price Fixing by Purchasers of Cotton in Malawi

« The National Economic Council expressed the concern that there are very few companies in the business of purchasing raw cotton from growers, one of which is the Agricultural Development and Marketing Corporation of Malawi (ADMARC) and its subsidiary David Whitehead and Sons and Cotton Ginners, these companies collude over the terms and prices they offer to farmers ».

Anticompetitive Practices Hurting the Competitiveness of Other Industries

Cement Cartel in Abu Dhabi

Wednesday, 30 Apr, 2008

Cement prices have escalated by more than 30% over the past few months with many of the biggest contracting names in the country alleging that cement prices are being manipulated by a cartel formed by the cement suppliers within the industry. However, cement companies have dismissed the allegation.

Cement Cartel in UAE

DCCI critical of cement cartel

A survey by the Dubai Chamber of Commerce and Industry has identified a monopolising of the cement market by some traders as the **major reason for the recent cement price hike**, reported Gulf News. Last month the UAE authorities brokered an agreement to fix cement prices at Dhs15 a bag.

Zawya, Monday, July 12 – 2004

Trucking Cartel in Nepal

« While bus fares are still regulated by the government, truckers are free to charge “market determined” price truckers are charging more after the formation of syndicate.

One example in Kaski (West Nepal)

Pre-syndicate fare = Rs. 1,600/trip

Post-syndicate fare = Rs. 2,200/trip

No incentive for transport entrepreneurs to upgrade the quality of their services. The syndicate members could even physically threaten “unauthorised” plying of buses »

Ratnakar Adhikari, Executive Director, South Asia Watch on Trade, Economics & Environment (SAWTEE), Kathmandu, « Anti-competitive business conduct in Nepal », Regional Conference on « Competition Policy, Competitiveness and Investment in a Global Economy: The Asian Experience », Colombo, Sri Lanka, May 19-21, 2004.

Hike in Shipping Tariffs Worries African Council

Libreville, Gabon (PANA) March 2, 2004 - The Union of African Shippers Council is opposed to increase in tariffs for North-South shipping services that goes into effect 1 March 2004, arguing that the measure penalises its members and the economies of the region. The Europe-West Africa Trade Agreement (EWATA) (EWAC) conference had agreed to increase freight rates, and shipping agencies that are members of the cartel are required to implement the decision. Prominent among the shipping lines are Delmas, Maersk Sealand, Nlle Dutch Africa Line, OT Africa Line, P&O Nedlloyd, Safmarine and West Afrika Linien Dienste. But the African Shippers Council vice president, Roland Meza Kangatima of Congo, said here at the weekend that the Council was "once again concerned about these increases which undoubtedly penalise our shippers and the economies of the sub-region. » He stressed the need for contacts with the EWATA to examine a framework of cooperation on issues relative to freight and servicing African seaports. Authorities here insist that a rise in the shipping rates would have an attendant increase the price of goods and shipping related services.

Abuse of Market Power

Exclusionary Practices in the Cable TV in Nigeria: Tying

Boss of Communication Trends Ltd [CTL], Engr Uzo Udemba has vowed to stay in the cable TV business and continue to provide cheaper and more convenient alternative package for entertainment and information despite anti-competitive elements from certain quarters.

At a press meet in Lagos last week Udemba said, "CTL will remain. It is one company that will not be intimidated out of business". He had **reflected on continental happenings where one company in an unbridled monopoly, is harassing every other operator out of business by tying programmes down through satellite and terrestrial exclusive deals. With this practice, most local Cable TV operators in some parts of Africa have had to leave the business or be bought out and eventually be given employment. CTL is one of the few broadcast stations in the land that has been able to withstand the obtuse competition in that sector**

Abuse of dominance: Predatory Behaviour in Air Transport in Nigeria

An airline in Nigeria had to abandon a lucrative international route because upon entry a rival airline dominant on this route slashed its fare to that route and introduced a bigger aircraft. The fare of course was revised upwards as soon as the potential rival was forced out. With a Competition Law, that strategy would have been disallowed. The ensuing competition would have been of enduring benefit in terms of not only lower fares, but lower cost of goods from this mainly trading destination as a result of the transport element of costs being reduced.

Exclusivity Clauses in the Gas Supply Industry (South Africa)

13 December 2002, Business Day (South Africa)

The Competition Commission said earlier this week it found no evidence Afrox had behaved in an anticompetitive way, but secured an undertaking from the company to make substantial amendments to its gas-supply contracts. **Several clauses in Afrox's contracts had raised concern (...). Afrox (...) undertook to change some of the clauses in its contracts. (...)**

One clause required certain customers to **buy their entire gas supply exclusively from Afrox**. This would be waived, and instead **Afrox would be given a right of first refusal to other gases the customer may require**. The waiver, therefore, holds no real pro-competitive benefit for customers, says Shield Stain. Another clause allowed customers, under certain circumstances, to seek prices from Afrox's competitors, but required them to present the details of the lower quote to Afrox, which had the choice to match the offer.

Abuse of Dominance in Telecom (South Africa): Targeted Discounting

Orion Telecom is seeking the documents as evidence in its litigation against Telkom, where **the company has accused Telkom of abusing its monopoly position to unfairly target Orion's clients and lure them away.** Two of Orion's major clients, Standard Bank and Edgars, chose not to renew their contracts, after Telkom "made them an offer which they could not refuse". **According to Orion's Don Tredoux, part of the deal appears to have included lucrative discounts for the clients, but only if they took their cellular traffic from Orion's network in order to take them past the threshold required for the new deal.** "This isn't just about Orion Cellular and its clients. It's about the way Telkom continues to treat the telecommunications industry as its own personal fiefdom,".

Abusively High Prices in the Steel Sector in Morocco

Les **promoteurs immobiliers** sont très remontés contre la Sonasid, principal fournisseur du marché en fer destiné à la construction, communément appelé rond à béton. Ils **estiment que le leader de la sidérurgie marocaine profite de la protection douanière dont il bénéficie pour fixer des prix largement au-dessus de ceux des pays voisins. Conséquence immédiate : leurs coûts de production deviennent intenable**s. A la Sonasid, ces accusations sont fermement rejetées. Selon Mohamed Habbal, directeur général adjoint chargé de la Restructuration et de la diversification, «la protection est bien prévue par le cahier des charges de la privatisation intervenue en 1997 et a pour objectif de permettre à l'entreprise d'améliorer sa compétitivité à l'horizon 2012».

Cement Monopoly in Madagascar

« (A Madagascar) les constructions aussi bien de maisons que de bâtiments publics ou privés ainsi que les chantiers de reconstruction routière sont tellement nombreux que le ciment produit localement ne suffit pas à satisfaire le marché local.

De ce fait, **par le truchement de la loi de l'offre et de la demande, les prix deviennent excessifs.**« Pour nous il est complètement illogique que les prix du ciment augmentent alors que le régime avait justement décidé de la détaxer pour en faire baisser les prix » annonce un opérateur immobilier qui trouve par ailleurs **anormal que le coût du logement reste difficilement accessible en raison de la situation de monopole dans la distribution du ciment.** »

Cement Monopoly Madagascar

« Le prix du ciment influe d'une manière considérable sur les charges de construction d'un logement et si son prix venait à baisser ce serait un grand pas vers les efforts pour faciliter l'accès au logement » explique-t-on dans le milieu de la construction immobilière. Bref il est temps de casser définitivement le monopole qui empêche les prix de baisser. En tout cas, **le ministre Radavidson Andriamparany n'a pas hésité à déclarer à Toliara que c'est l'insuffisance de production due au monopole qui est à l'origine de ce prix jugé trop cher du ciment (...) en précisant au passage que les grands groupes mondiaux de production de ciment font tout pour régner sur le marché mondial de distribution de ciment. Une démarche qui rend difficile l'entrée en lice d'autres opérateurs. Et comme l'investissement pour la création d'une unité de production de ciment demeure très importante, seule l'importation pourrait régler ce problème ».**

Anticompetitive Mergers

Transnational Market Sharing/Merger in the Beer Industry (Kenya and Tanzania)

Competition looks set to break out once again in the Tanzanian and Kenyan beer markets with the possible dismantling of the joint venture arrangement between two of the world's largest drinks groups, SAB Miller and Diageo.(...) A key aspect of the agreement was that TBL undertook to brew and distribute EABL's products under licence in Tanzania and EABL closed down its brewing and distribution operations in Tanzania. SABMiller closed its operation in Kenya. (...) **The 2002 alliance between SAB Miller and Diageo ended a price war that had kept beer prices in the two countries stagnant for five years. SAB Miller's decision to take action against Diageo seems to have been prompted by news that EABL had reached a conditional agreement to buy Serengeti for an undisclosed sum.**

Transnational Market Sharing/Merger in the Beer Ind (Kenya and Tanzania)

Beermaker East Africa Breweries yesterday moved to consolidate its grip of domestic beer consumption by entering into a deal with its rival, Castle Brewing, that allows it to assume total control of the market.

In the deal, East African Breweries cedes 20 per cent of the shares of its local subsidiary, Kenya Breweries, for a similar stake in Tanzania Breweries, which is owned by South African Breweries International. This amounts to the two parties entering into a gentleman's agreement to keep out of each other's turf, with South African Breweries taking control of the Tanzania market and East African Breweries retaining its hold on Kenya. The deal, announced yesterday, brings to an end the price wars between the rivals that have kept beer prices stagnant for the past five years.

Diageo
↓ (50,03%)
East African Breweries

South African Breweries
SABI

Kenya
Breweries
LTD (KBL)

Castle Brewing Kenya
Thika

Stops manufacturing
in Kenya

Kenya

Kibo
Breweries
Moshi

Tanzania Breweries

Stops manufacturing
In Tanzania

Tanzania

(52,83%)

Diageo
↓ (50,03%)
East African Breweries

South African Breweries
SABI

20%

20%

(52,83%)

Kenya Breweries LTD (KBL)

~~**Castle Brewing Kenya Thika**~~

~~**Stops manufacturing in Kenya**~~

Kenya

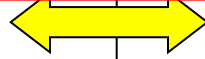
Tanzania Breweries

~~**Kibo Breweries Moshi**~~

~~**Stops manufacturing in Tanzania**~~

Tanzania

Limited Cross Licence



East African Breweries

South African Breweries

SABI

20% stake

20% stake

**Kenya
Breweries
LTD (KBL)**

Tanzania Breweries

Thika

Moshi

Kenya

Tanzania

The Deal is Approved in Kenya

The (Kenyan) Government has approved the takeover of the Thika-based Castle Brewing Kenya Ltd by East African Breweries Limited (EABL). **Finance Minister Chris Obure said in a Kenya Gazette notice dated June 20 that he had authorised the takeover.** About 1,000 workers lost their jobs mid last month when CBK's parent firm, South African Breweries International (SABI), reached an agreement with EABL for shares exchange.

The Deal is Approved in Tanzania

Tanzania's Fair Competition Commission Thursday approved a merger of Tanzania Breweries Limited (TBL) and its main rival, KIBO, after initially halting the deal on technical grounds. **Industries and Trade Minister Juma Ngasongwa's approval endorses a market sharing arrangement consummated in May between their parent companies, South African Breweries International (SABI) and Kenya's East African Breweries Ltd (EABL).** Tanzania was initially cagey about the deal, arguing that it could lead to price increases and job losses and the regulatory authority said its earlier fears had been allayed. **"After careful consideration of the transaction and its impact to the economy, the Minister of Industry and Trade has duly approved the takeover as applied,"** Ngasongwa said in a statement.

Public Outcry

The merger has been severely criticised with cynics protesting that under the deal, TBL would control more than 90 percent of the beer market in Tanzania, with the only competition left coming from the less popular Associated Breweries of Dar es Salaam and imports. "The implication of such monopolies is obvious. Breweries end up with a free hand to hike prices at will, which is unacceptable under the liberalised economy that encourages fair trade practices," one analyst said. More disturbing, the analyst said, the merger was carried out clandestinely without the knowledge and authorisation of the minister responsible.

5) Competition and Small Economies

Does a Small Open Economy Need Competition : the Case of Lebanon¹

« The trade deficit was always quite high as the Lebanese people continue to rely on imports for most of its consumption. (...) Although the Lebanese economy is quite open to the rest of the world as its balance of trade shows, it has been insulated from it as far as its impact on the economic indicators. **When prices outside of Lebanon go up, the price of imported goods in Lebanon certainly go up too, but not necessarily by the same proportion. When prices outside Lebanon go down, the price of imported goods in Lebanon do not necessarily follow, due to the lack of competition in the most important sectors »**

1) From « Competition Issues in Lebanon », by **Louis G. Hobeika**, presented at the Expert group on Competition Laws and Policies: Identification of Common Ground in ESCWA Member Countries Abu Dhabi 28-30 January 2002

The Cost of Not Having a Domestic Competition Law: Lebanon¹

« (...) lasting growth can only result from investment in the real economy i.e. in agriculture, manufacturing and all kinds of productive services. Lebanon was not able to attract (this) type of investment due to the internal and regional situation and due to its weak public, legal, economic and social institutions and infrastructures .»

« **Economic growth in Lebanon has been hindered partly by weak competition in most sectors** ».

1) From « Competition Issues in Lebanon », by **Louis G. Hobeika**, presented at the Expert group on Competition Laws and Policies: Identification of Common Ground in ESCWA Member Countries Abu Dhabi 28-30 January 2002

Some Relevant Features of the Mauritian Economy in an Effects Based Approach to Competition

- small size of the overall domestic market,**
- network effects of certain large holding companies that are active in virtually all sectors of the economy**
- small number of enterprises in many of the important markets combined with a large number of small enterprises in certain markets,**
- mixture of private and public enterprises,**
- interaction between the domestic market and the international market.**

6) Transnational Competition Issues and Development

Strategic Alliance between SAB and Castel

South African Breweries plc (SAB) and the Castel Group, Africa's two largest beverage companies, have joined into a strategic alliance to rationalise and strengthen their operations on the continent.

SAB will acquire a 20% stake in CBB, whilst the Castel Group will acquire a 38% stake in SABI Africa, effectively by way of share exchange.

SABI Africa has operations in 12 countries, including Angola, Botswana, Uganda, Ghana, Kenya, Malawi, Tanzania, Zambia and Zimbabwe. Castel Group has beer, carbonated soft drink and mineral water interests, in Francophone Africa, including Angola, Benin, Burkina Faso, Cameroon, Central African Republic, Chad, Cote d'Ivoire, DRC, Ethiopia, Gabon, Mali, Tunisia, Morocco, Niger, Senegal and Togo.

Transnational Anticompetitive Market Sharing ?

Castel subsidiaries have varying degrees of profitability; all are high performers. According to SAB Miller, Castel sold 13.4 million hectoliters of beer in 2007 (+ 5,5 %). These sales figures were made possible by a market sharing agreement, made in 2001, that enabled both groups to protect their preferred zone, without fierce competition. A monopoly in progress ?


« This agreement enabled us to develop opportunities », justified, Najil Fairbass, SABMiller Communications Director. Before adding : « There may be antitrust laws at the national level, but none covering the continent. I don't see what the problem is. »

Pierre Castel, Tireless Globe Trotter

(...) He (Pierre Castel) travels to **Africa** at least once a month. **«It's where I feel most at home»**, as **he says repeatedly**. It's also where this business owner can best express his talents as a diplomat and a negotiator. With remarkable results. (...) His knowledge of Africa has enabled him to become a major brewer on the home turf of Sab-Miller, the South African brewer that is the world's number 2 beer producer.

To avoid going head on against a competitor producing 450 million hectoliters of beer per year, the French entrepreneur decided to negotiate an exchange of shares with his major competitor in countries like Mozambique, Angola and Botswana. **«It's better to have an undisputed monopoly than to be weakened by competition »**, argues the CEO.

International cooperation can help competition authorities regain part of their operational sovereignty

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- **Scope** Bilateral (EU/USA USA/Can. Aust/NZ)
Regional (UEMOA)
Plurilateral (OECD)
Multilateral (Unctad, WTO?)
 - **Levels** Consultations
Exchange of non confidential information
Positive and negative comity
Joint investigations
Exchange of confidential information
 - **Types** « optional » (ex bilateral)
« commitments » (ex WTO)

Conclusion

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1) Competition Law Enforcement is a Necessary Complement to Trade Liberalization and Deregulation in Developing Countries.

2) Even if Competition Law is Not the Only Tool of Economic Development, it Plays a Useful Role in Promoting Growth by Eliminating Exclusionary and Exploitative Practices By Firms Having Individual or Collective Market Power.

3) An Effectively Enforced and Fair Competition Law is a Necessity for Developing Countries Both Because it Signals Their Willingness to Eliminate Exclusionary Practices by Domestic Firms and Because It Allows Them, When Necessary, to Remedy the Negative Consequences of FDIs on Consumer's Surplus.

4) International Cooperation in Competition Enforcement Against Transnational Anticompetitive Practices is Crucially Important for Developing Countries.