

**ACCELERATING IMPLEMENTATION OF EAC¹ COMPETITION
POLICY AND LAW**

(EAC COMP PROJECT)

**OPERATION STRATEGY NOTE
(OSN)**

CUTS Centre for International Trade, Economics and Environment

Yaya court, Rm, No 5

P.O. Box 8188-00200,

Nairobi

Email: nairobi@cuts.org /

¹ East Africa Community

1.0: Introduction

1.1: Background

In 2006, the Heads of State assented to the EAC Competition Act 2006. The Act seeks to promote and protect fair competition within the Community, to provide for consumer welfare, and to establish the East African Community Competition Authority. If implemented effectively, evidence suggests that the Act would promote private sector development, economic growth and poverty reduction in the EAC integration process.

There has been slow progress in implementing the regional competition policy and law despite the importance of the EAC competition. The inadequate progress in the implementation of the EAC competition Act 2006, raises a concern across the region, especially, at this stage where the region is implementing a Common Market, which seeks to increase cross-border trade and investments and present consumers with an expanded market and choice.

One of the key reasons attributed to the slow progress in the implementation of competition policy and law in the region is the limited awareness among key players/stakeholders on the importance of such policy. Other reasons include political economy and capacity constraints. Key stakeholders, including civil society, business community and policymakers therefore need to be convinced about the benefits of effectively implemented competition legislations so as to raise their demand for the requisite competition reforms at the national and regional level. Such initiative would create the foundation for effective evolution and enforcement of the EAC competition regime.

It is against this background that CUTS International (<http://www.cuts-international.org/>), Nairobi with support from Trade Mark East Africa, intends to implement a project on ***'Accelerating Implementation of EAC Competition Policy and Law'***. The project seeks to

assess the challenges in the implementation of EAC Competition Policy and Law in each of the EAC Partner State; document evidence on Anticompetitive Practices (ACPs) and their negative impacts among the EAC economies and use such evidence to promote an enabling environment to support the effective implementation of the various competition legislations at national and regional level through multi-stakeholder engagement.

1.2: Project Objectives

The **EAC COMP** project would be implemented to accomplish the following objectives:

- (a) Evaluate impediments to evolving national and regional competition regimes and identify the best way for addressing such impediments through a participatory process involving multiple stakeholders in the EAC region.
- (b) Develop the capacity of national stakeholders including policy makers, regulators, civil society organisations, particularly consumer groups, academics and media persons to understand and appreciate competition concerns from national and regional.
- (c) Disseminate information materials in order to mobilise public support for competition Policy reforms.
- (d) Help build constituencies for promoting competition and consumer awareness by identifying a representative group of national stakeholders and transforming them into a core cadre (nationally) on competition policy, regulatory issues and consumer protection.

1.3: Expected Project Outcomes

- (a) Increased alignment of national legislations to the EAC Competition Law.
- (b) Improved understanding among the stakeholders on the link between effective competition regime and benefits to consumers and producers
- (c) awareness & understanding by business community of competition laws

1.4: Indicators

- (a) Movement towards adjustments/refinements in national competition laws including their implementation processes to better align them with the EAC competition law’.
- (b) Partner states (especially, those which have been procrastinating competition enforcement) show signs of fast-tracking the process.
- (c) Number of pronouncements against policies, agreements and practices hindering competition in the EAC.
- (d) Business community establishing competition compliance programmes.
- (e) identification of anticompetitive practices(ACPs) in some key sectors
- (f) Expressed interest among the national stakeholders (especially CSOs) in research and discourse on competition issues in the EAC region.
- (g) Discussions linking competition in key sectors with consumers and producer welfare in the project countries.

1.5: Expected Outputs

- (a) A Country Research Report (CRR) (Country-specific ‘State of Prevailing Competition Regime’ report) produced.
- (b) Training Modules on Competition Issues produced.
- (c) Advocacy documents (research report synthesis) produced.
- (d) Sensitisation and advocacy workshops undertaken in each partner state to create and deepen public awareness on EAC Competition Policy and Law, ACPs and benefits of competition reforms.
- (e) *Competition Champions* constituted in each partner state.
- (f) Capacity building workshops undertaken in each partner state to create and deepen public awareness on EAC Competition Policy and Law, ACPs and benefits of competition reforms

1.6: Project Beneficiaries

EAC secretariat ,Private sector Organisations/Business Management Organisations ;Ministry of EAC,EALS,Consumer organisation; Other civil society organisations with demonstrated interest in economic issues; Research institutions, academia, experts (economists and lawyers);Chambers of commerce; Media; Competition Authority /Competition Departments; Politicians and/or Parliamentarians; Sectoral Regulatory Authorities; Local Representatives of Donor Agencies

2.0: Project Activities

2.1: Project Launch Meeting

One day launch meeting would be organised in each country to introduce the participants to the project; discuss the project objectives, activities and the proposed implementation process. Various stakeholders such as the relevant government ministries; private sector organizations; Legislators; media; consumer groups ;competition authority officials;regulators;academia and CSO organisations will be invited to participate in the workshop. A separate briefing meeting of the National Reference Group (NRG-1) will be organised on the sidelines of the launch .The Launch meeting will also cover the following key areas;

- (a) Discuss the Role of the NRG members.
- (b) Discuss the draft questionnaire for the interview
- (c) Present the Draft research methodology.

2.2: Research and National Dialogues

A 'research guidance note' explaining the various tools/methods to be used for the purpose of executing the research methodology would be prepared to provide guidance to the partners to undertake the various components of the research phase of the project. The research phase will include the literature survey, opinion seeking, and the perception survey. The opinion seeking phase would involve the partners having targeted interviews with key stakeholders to supplement the information gathered on a specific component of research. CUTS would provide a list of questions to be used for the partners to moderate these interviews, in order to maintain consistency with what is expected from these interviews.

CUTS would also develop the 'perception questionnaires' to be sent to the partners undertaking the perception survey. An additional note would also be shared with the partners to help them analyse the information gathered from the perception surveys.

A Country Research Reports would be produced on the basis of field research, which range from empirical/case studies, field surveys and scanning of media reports or analysis of any relevant cases, etc. The Country Research Report (CRR) to be prepared by each project (research) partner in each of the project countries will include the following key Elements:

- (a) a mapping of various aspects of the macro-economy, broad policy environment, and overall trends of economic development, as the context of competition;
- (b) a survey of the legal and institutional framework which has a direct impact on competition, for example, relevant economic laws and regulations, sectoral regulatory system, the law enforcement and dispute settlement system, especially those competition provisions in the current legal economic framework;
- (c) an analysis of the prevalence of anti-competitive practices and particular concerns and issues that arise out of them; hence the need for, and the potential role of a competition legislation (to inform subsequent advocacy);

- (d) An analysis of the Political Economy constraints in implementing the competition regimes in the EAC
- (e) An analysis of the progress made by the project countries in operationalising competition regimes.
- (f) Understanding the level of perception on competition issues in the EAC.

2.3: National Reference Group Meeting (NRG-II) and Finalisation of the Draft Research report

A one day Multi-stakeholder workshops will be organised in each of the project countries to present the draft research findings. The meeting will be used to gather inputs/comments from the key actors (policy makers and business association). The meeting will also assist in the identification of the national advocacy agenda based on the emerging issues from country research reports. A representative of CUTS would participate in these meetings and assist the partner in dealing with the comments received from the NRG members, so that the Draft research report can be finalised.

The finalised Research report from the partners would be reviewed by CUTS and the comments to be shared with the researchers, for them to incorporate the comments and finalise the research reports. **A *Synthesis Report*** would be prepared by undertaking a comparative analysis of the 5 research reports (especially in terms of 'common' challenges and opportunities for competition reforms), so that a regional perspective on competition reforms can be constructed.

Country Advocacy Plan would be prepared on the basis of the preceding analysis and inputs provided by both the research and the advocacy partners in each of the project countries. The overall purpose of the 'Advocacy Plan' would be to address concerns and needs in each of the project country.

2.4: Advocacy Stage and Dialogue Meeting²

2.4.1: National Advocacy Workshop and National Reference Group (NRG- 111);

One day National advocacy workshop will be organised in each of the project countries where the final research findings from the country research reports will be shared in each of the project countries. Constraints and recommendations to competition policy reforms in the respective partner states will be presented and attention given to the relevant authorities for future action.

The advocacy workshop will cover sessions on how the business community can enhance competition Law compliance. During these workshops, the stakeholders will discuss and agree on strategies to tackle challenges to competition reform in their respective economies. Advancing these strategies will be the basis of further advocacy by CUTS, EABC, MEACs, EAC Secretariat and EALS. The meeting platform will also be used to identify competition champions from the business community in each of the EAC partner states. *The National advocacy workshop and the NRG-III to be 'piggy backed'*

2.4.2: National Training Workshops (NTWs)

A two day training workshop will be organised in each of the project countries. NTWs would be held in each of the project countries for a heterogeneous group of national stakeholders. The partners would select and invite the stakeholders from the NRG and outside, depending on their interest on competition issues and relevance for receiving this training. Training manual will be developed based on the key competition elements with reference to some of the existing anticompetitive practices in the EAC region. Apart from covering the subject related issues, some of the sessions will also include strategies

² The structure of the Advocacy process may change, depending on the findings/emerging issues from the research.

for conducting effective advocacy on competition issues like media advocacy; formation of competition consultative group.

2.4.3: Regional Advocacy Workshop

A two day regional advocacy workshop will be organised in **Arusha** to enhance regional advocacy on competition issues. A synthesised report (with outputs from all the EAC partner states) on state of play research will be presented in the regional advocacy workshop. The recommendation from the respective national advocacy workshops will be presented in the regional Advocacy workshop.

The Key advocacy mechanisms will also be presented. Such mechanism will include Adopting Intra-governmental advocacy; Formation of competition consultative group; Adopting Media Advocacy; Competition Advocacy to staffs and adopting a national Competition Day. Participants will be drawn from the respective EAC partner states. A total of 35 participants will be invited to participate in the meeting.

3: Project Implementation Plan

The overall project implementation plan is represented sequentially as follows:

| Phase(s) | Main activities | Period (Months) | CUTS Activities | Partners Activities |
|---------------------------|----------------------------|--------------------------------------|--|---|
| Phase 1 | Preparatory work | Months I to III | <ul style="list-style-type: none"> • Preparation of Operational Strategy Note (OSN) • Preparation of Draft TOR Country studies. • Organising Launch Meeting+NRG 1 | <ul style="list-style-type: none"> • Formation of NRG Members • Organising Launch Meeting+NRG 1 |
| | Research | Months 111 to VIII | <ul style="list-style-type: none"> ▪ Preparation of the draft Country Research Report (CRRs) | Preparation of the draft Country Research Report (CRRs) |
| | National Dialogues | Months XI to XV | <ul style="list-style-type: none"> ▪ NRG Meetings III+ National Advocacy Workshop (five, one in each country) | <ul style="list-style-type: none"> ▪ NRG Meetings II (Five, one in each country) NRG Meetings III+ National Advocacy Workshop (five, one in each country) |
| phase 2 | Training Workshops | Month XVIII | <ul style="list-style-type: none"> ▪ National Training Workshop(five ,one in each country) | National Training Workshop(five ,one in each country) |
| | Regional Advocacy Workshop | Month XXIII | <ul style="list-style-type: none"> ▪ Regional Advocacy Workshop(one to be based in Arusha) | |
| Information dissemination | Information dissemination | Throughout the period of the project | Dissemination of reports and other project outputs | |

4.0: GANTT chart

| Activity | 2013 | | | | | | | | | | | | 2014 | | | | | | | | | | | | 2015 | | | | |
|--|------|---|---|----|---|---|----|---|---|----|---|---|------|---|---|----|---|---|----|---|---|----|---|---|------|--|--|--|--|
| | M | J | J | A | S | O | N | D | J | F | M | A | M | J | J | A | S | O | N | D | J | F | M | A | M | | | | |
| | Q1 | | | Q2 | | | Q3 | | | Q4 | | | Q1 | | | Q2 | | | Q3 | | | Q4 | | | | | | | |
| Phase 1 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Developing the Operation Strategy Note(OSN) | ■ | ■ | ■ | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Formation of NRGs | ■ | ■ | ■ | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Developing Draft TOR for country studies | ■ | ■ | ■ | | | | | | | | | | | | | | | | | | | | | | | | | | |
| National Launch inception meeting(NRG-1) and brief Meeting Round 1 | | | ■ | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Literature /Desk review | | | ■ | ■ | ■ | | | | | | | | | | | | | | | | | | | | | | | | |
| Field Work | | | | | | ■ | ■ | | | | | | | | | | | | | | | | | | | | | | |
| Data analysis and report writing | | | | | | | | ■ | ■ | | | | | | | | | | | | | | | | | | | | |
| Draft Country Diagnostic report(state of play research) | | | | | | | | | | ■ | | | | | | | | | | | | | | | | | | | |
| NRG Meeting 11;FGD with policy makers and national business associations | | | | | | | | | | | ■ | | | | | | | | | | | | | | | | | | |
| Finalisation of the Country Reports | | | | | | | | | | | | ■ | | | | | | | | | | | | | | | | | |
| Internal Project Review | | | | | | | | | | | | | ■ | | | | | | | | | | | | | | | | |
| Phase 2 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Preparatory Work for advocacy | | | | | | | | | | | | | | ■ | ■ | | | | | | | | | | | | | | |
| National Advocacy workshops | | | | | | | | | | | | | | | | ■ | | | | | | | | | | | | | |
| National training workshops | | | | | | | | | | | | | | | | | | ■ | | | | | | | | | | | |
| Compilation of country specific Advocacy messages(synthesized report) | | | | | | | | | | | | | | | | | | | ■ | ■ | ■ | | | | | | | | |
| Regional advocacy workshop | | | | | | | | | | | | | | | | | | | | | | | ■ | | | | | | |
| Project review and final reporting | | | | | | | | | | | | | | | | | | | | | | | | ■ | ■ | | | | |
| Media advocacy and e-discussions | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | | | | |

5.0: Project Management

5.1: Project Team

A project team comprising of the following members would be responsible for implementing this project;

(a) Project coordinator ;

Roles:

- Develop the Operation Strategy Note (OSN) for the project
- Manage the overall project implementation process, and lead the Project Team.
- Work closely with the country Researchers.
- Participate in activities in project countries and work closely with the partner organisations and other entities in the project countries.
- Finalise the NRG members in countries, from the list provided by partners.
- Manage activities of the partners (develop MoU and monitor their performance), and be in close contact with them.

(b) Country Researchers (one in Each country) :

Roles:

- Be responsible for undertaking all the necessary research work to be done.
- Undertake the necessary literature review based on the Terms of reference.
- Work hand-in-hand with the country partner organisations in undertaking all research activities, linking it with the ultimate goal of the project and the anticipated outcomes
- Prepare research reports, briefs, etc. Country Partner Organisation

5.2: Country Project Partners

CUTS would identify a local organisation (See table below) in each of the project countries and engage them in coordinating the country-specific activities. CUTS would enter into contracts with each of these entities for undertaking specific activities and be responsible for managing them effectively and in a timely manner;

Table 1: Project Country Partners

| Name of the Organisation | Contact Person | Country |
|---|--|----------------|
| CUTS | Samson Odhiambo, Email : soa@cuts.org | Kenya |
| SEATINI | Jane Nalunga , Country Director Email : jnalunga09@gmail.com | Uganda |
| REPOA | Prof .Samwel Wangwe , Executive Director Email: swangwe@repoa.or.tz | Tanzania |
| ADECOR, Association of Rwanda Consumers | NDIZEYE Damien Executive Secretary Of ADECOR ASBL. Telephone ; Email ; ndizeydamien2000@yahoo.fr | Rwanda |
| Burundian Consumer's organization (ABUCO). | Mr: Amédée NDAGIJIMANA, Executive Director, Association Burundaise des Conso Abuco , Burundi. Telephone ; +25722237686 Email : karikurubucome@yahoo.fr | Burundi |

One person in each of the country partner organisations shall be appointed, who would be responsible for the coordination of specific project activities for each of the project partner in the respective country. It is also envisaged that the partner institutions may engage a researcher from outside due to either lack of appropriate capacity or availability of time for the said activity. Apart from CSOs, CUTS would also be open to engaging other entities (government agencies, business associations, etc.) to enhance the utilization of the project outputs. These institutions will include;

- East African Business Council (EABC) and its members
- EAC Secretariat, Directorate of Trade
- Ministries responsible for East African Community (MEAC)

5.3: Project Coordination Mechanism and Formation of National Reference Group (NRG)

The country partner organisations would be oriented on the overall project implementation process. The main tasks of the country partner organisation in the Phase-I would be identification of members of a multi-stakeholder group of experts and practitioners (e.g. government departments/agencies, competition agencies, sector regulators, business chambers, media organisations, etc.) referred to as the **National Reference Group (NRG)**. The project partners would be required to engage the following category of organisations/persons as members of the NRG;

- Ministry of EAC in the respective partner States.
- Consumer organisation, where existing and having the capacity
- Other civil society organisations with demonstrated interest in economic issues
- Research institutions, academia, experts (economists and lawyers)
- Chambers of commerce
- Media
- Competition Authority (wherever existing)
- External Trade Department
- Internal Trade and/or Consumer Affairs Departments
- Politicians and/or Parliamentarians
- Sectoral Regulatory Authorities

- Local Representatives of Donor Agencies

The NRG members would be carefully chosen by the partner organisation, such that they can provide guidance and support to the process of project implementation in each of the four project countries. The NRG members would also review important project findings, etc.

5.4: Monitoring and reporting

- a) During the time span of the project, monitoring and reporting will be done on a frequent basis.
- b) The partners are required to report by writing (quarterly progress reports) on a quarterly basis for monitoring purpose by CUTS, and the reports will be fed into synthesised Progress Reports, highlighting main achievements.
- c) The progress of the project would be evaluated, after the completion of a year of the project activities.
- d) A Project Terminal Report will be prepared at the end of the project, which will assess the project's overall performance, the outputs/outcomes produced against its initial targets, the impact it has brought about or would likely bring about, its relevance to the national/project-wide context and management efficiency.

5.5: Evaluation and reporting

- a) Evaluation of the achievements of the project in terms of raising awareness and building capacity will be on qualitative basis. In addition to the quality of publications and records of events held:
- b) After all project meetings (Launch, NRGs, Interim and Final), there will be a consistent programme to accumulate evaluation feedback, which will then be

compiled to provide an insight into the achievements of the events, as well as the effects on the audience

5.6: Risk Management

There are various ways by which CUTS envisage managing the risks in this project. Though, it is difficult to enumerate all the risks at this moment and their possible management, the following is a list of some of the main risks and their management;

- a) National Reference Group (NRG) would be identified and engaged with the process of project implementation in each country. This would help enhance the acceptability and local ownership of the project activities
- b) In addition to a set of primary responsibilities, each project team member would also need to handle certain secondary responsibilities. This would help, especially in case of staff turnovers.
- c) It is a practice at CUTS to document all discussions and activities, so that there is an institutional memory which helps when carrying out mid-course corrections; and to counter challenges if project staff leaves the organisation mid-stream.
- d) MoU would be entered into between CUTS and the partner organisations, and these would clearly indicate the responsibilities and deliverables of the partner organisations.
- e) The donors supporting this project have already laid down clear-cut and periodic reporting requirements in their respective contracts, which would be complied with.
- f) There could be cultural problems working in different countries. This may be mitigated by involving local partners and local contractors who understand the local culture very well.
- g) If a key person leaves, CUTS would not let the project implementation process suffer. CUTS has a sufficient number of research and programme staff who would serve as backup and be willing to take up the responsibilities if some key member leaves in between.

h) The project would depend on measures explained in the table below to mitigate risks (strategic, tactical and operational) that may adversely affect the project from deriving the anticipated outcomes.

Table 2: Risk Management Strategy

| Risks | Probability of occurring | Likely impact | Mitigation |
|--|---------------------------------|----------------------|---|
| Country partners are unable to produce quality research outputs | Low | Medium | CUTS would be closely engaged with the project partners, involving them right from the beginning in designing the outline of the research output(s) and continuously guiding them in the process |
| Project is unable to elicit support from other key stakeholders (like government departments, regulators, policymakers and business community) | Low | Medium to High | Some of the key stakeholders (the relevant institutions) would be involved in undertaking project activities in partnership with the local partner organisation. This would ensure greater ownership of the project and its outputs |
| Low level of interest among policymakers about the project outputs | Medium | Medium | Key actors would be included in the NRGs in each country, especially those who have an advantage of engaging with key policymakers. |
| Project activities are not completed on time | Low | Low to Medium | A process of review of the activities would be done periodically by the project team. Necessary inputs/resources needed would be facilitated on time for implementation of activities |
| Departure of key project staff | Low to Medium | Medium | Experienced staff would be available to be engaged, in case this happens |

5.7: Financial Management

The Project Team at CUTS would engage closely with the Finance and Administration Team at CUTS for issues pertaining to financial management of the EAC COMP project. The Finance and Administration Team (CUTS) would maintain records of the project expenditures and shall be responsible for preparing periodic financial reports together with the EAC COMP project team. All payments under any project would be recommended by the Project Coordinator and then approved by the center Director as per the Project Budget.

CUTS has adopted certain policies (e.g., general accounting policy, CUTS procurement policy, CUTS HR policy) for maintaining transparency and accountability of its operations. These policies would be appropriately applied in the EAC COMP project.

5.8: Project Publicity

The project announcement and other related announcements regarding project-events would be carried out in various e-circulations etc, especially to the local media in project countries to generate awareness and interests. The partners would be motivated by CUTS to write articles (summarising findings from the project) periodically for the national newspapers in the project countries. These articles would also be uploaded in the project webpage