SOCIO-ECONOMIC CONSTRAINTS AFFECTING COMPETITION AND REGULATORY REFORMS IN DEVLOPING COUNTRIES

More than 100 countries in the world are known to have adopted competition laws, and many others, particularly developing countries are actually considering adoption of such laws. However, for many countries, adopting such laws is a very slow and difficult process, often resulting in the adoption of heavily amended or truncated legislation, for example after having been forced to abandon provisions dealing with merger control.

Even after such laws have been adopted, developing countries often face great difficulties in setting up the right type of Competition authority, having sufficient capacities, powers and political support to enforce the law effectively. Ideally, competition laws must come in parallel with major market-oriented economic reforms, including deregulation and privatization of State-owned enterprises, to unleash market forces and a dynamic private corporate sector. Continued support by the Government is essential for such reforms to be successful. Too often the competition law is reluctantly adopted after considerable alteration in Congress or Parliament, followed by insufficient resources allocated for the new Competition authority and finally a fall in grace, once the Government changes, and the new executive assigns new priorities and lower priority to competition.

This note purports to examine more closely why competition law and policy are often misunderstood or even rejected by government officials and by the private sector, and even by public opinion in some countries. To this end, after examining more in detail the motivations of the main constituencies, or players, involved in competition law and policy to determine their attitude towards competition and regulatory reforms, this note devotes special attention to the gamut of different types of economic systems in existence and the role of competition therein; reviews the constraints resulting from prudential rules limiting competition and from the main characteristics of underdevelopment; draws attention to the fact that market forces can help realize development objectives, by relieving the State from duties it does not necessarily perform efficiently, to concentrate rather on correcting market failures. It also considers exogenous reasons for adopting regulation such as trade agreements. On the basis of these considerations, important conclusions can be drawn as to how best ensure that the competition law and regulatory reforms have an effective beneficial impact on the economy of developing countries.

The main constituencies involved in competition law and policy.

It may be useful to start by considering the motivations of the main market players with respect to regulatory reforms. The market being constituted by suppliers on one side and demanders on the other, let us first consider the motivations of the supply side. Often the main supplier in a developing countries is the State itself, as a producer of goods and services either directly, through Ministries responsible for delivering such goods or services (Energy, Health, Transport, etc) or indirectly, through its ownership or participation in State-owned enterprises (SOEs) or “parastatals”, involved in various sectors of the economy, such as banking and finance, main utilities and some essential

sectors, which may include mining, construction material or even tobacco and alcoholic beverages.

Depending on the type of economic system, (see below), the public sector is accompanied by a smaller or larger private sector. The private sector is composed of domestic private companies, foreign-owned multinational corporations (MNCs), small and medium-sized enterprises (SMEs) and, especially in developing countries, micro-enterprises and small outlets, such as street vendors, temporary night market shopskeepers, etc.

Obviously, the motivations of all these groups of interest with respect to competition will be very varied. The public sector is usually supported by a strong constituency of civil servants, eager to defend their acquired rights, who will easily consider economic reforms and competition law and policy as attempting to reduce their existing prerogatives. For them "competition" may mean more work for lesser pay, worsening conditions of employment and the risk of losing their job. They will usually oppose, or be reluctant towards market-oriented regulatory reforms and competition. On the other hand the Government may be reluctant to accept reforms which might create political unrest. It may, however, depending on its political agenda, be interested in reducing the role of the Government in production and especially to pass on to the private sector loss-making SOEs.

For private domestic firms, who are the main beneficiaries of deregulation and market-oriented reforms, the introduction of competition law may easily be considered as a new attempt by the State to control a sector that has just recently been liberalised. In particular, business circles might be suspicious towards attempts by Government officials to interfere in their daily decisions and suspect the competition authority of being biased against business, having a political agenda, or simply of being incompetent and at worst, corrupt.

Similar suspicions can be expected from MNCs, which in addition may fear discrimination against them. It has often been the case that MNCs under investigation for alleged anti-competitive practices lobbied their government to exert political pressure on the host country, claiming unfair discrimination. It should be noted however, that for authorities with established credibility, MNCs might consider that market-oriented regulation and competition law may ensure that markets in which they operate will not be foreclosed by anti-competitive practices of domestic firms.

SMEs are the very firms that should benefit from competition. They are often dependant of larger, dominant firms, as subcontractors or as smaller actors on the economic scene; they might also find their means of expansion limited by practices of exclusion or other anti-competitive actions by larger groups. They should benefit from active implementation of competition law and opening of markets, but are usually ill-informed about competition policy and are even sometimes unaware of the existence of a competition law in their country and how they can obtain redress for infringements. It should also be noted that manufacturers' associations in which SMEs participate are

usually headed by the large, dominant firms in that sector who will impose their views, which are not systematically those of the smaller players. For example, while competition law might work in favor of SMEs and against the dominant firms, it is the latter's view against the introduction of a competition law which will most likely prevail. It is also their views which will be represented in Congress or Parliament in the debate leading to the adoption of a new law, as representing the position of the private sector as a whole.

On the supply side in developing countries, there are also numerous micro-enterprises engaged in production and essentially small family or individual shopkeepers and street vendors who can find new outlets and means of employment from market liberalization. Given their small size, they can easily suffer from abusive conditions and anti-competitive practices from larger suppliers or loan providers; but again, their views are hardly represented and they usually are fully ignorant of the possible advantage of competition law. In many cases, also, the law makes it impossible for single-person or family micro-enterprises to even lodge a complaint. They also would fear retaliation from the part of their dominant suppliers if they dared to lodge a complaint..

On the demand side, there is a great difference often made between the external sector (exports) and the domestic sector, the latter being usually sacrificed to the advantage of the foreign-exchange earning exporters. Big foreign-exchange earners often get better terms and special attention from the Government in obtaining priority inputs and imported components for their production. The State itself as a consumer, often acts in anti-competitive manner. It should be aware of competition law, but it often ignores it when it suits its interests to do so, for example in favoring some local taxpayer firm to the detriment of a more competitive offer from a firm located in another town or abroad. As has been said once and again, the State is the main countervener of competition rules. For this reason, it usually demands to be exempted from competition laws.

The real beneficiary from competition law and policy is the individual consumer, who obviously gains from more choice, better service and lower prices resulting from domestic and import competition. However, it is surprising to note to what extent consumers are reluctant to demand more competition. One often hears that competition is a new concept which is unfamiliar in many developing countries, where cooperation is preferred to rivalry. Educating the public generally, and consumers in particular, especially in developing countries, is part of the very important competition advocacy tasks the new competition authority should undertake .The media could play an important educative role here, with the support of academia, to help create a "competition culture" in the public opinion.

Special mention must be made of low income consumers, especially the poor in developing countries, where urban transport and essential necessities such as bread or rice and cooking oil, and in some countries petrol are heavily subsidized. The very poor also in some countries get the possibility to obtain free electricity and gas from illegally (and very dangerously) tapped electric lines and even pipelines. Obviously, when such markets are liberalized and privatized, State subsidies are dismantled and prices rise abruptly instead of falling as a result of reform. There have been serious uprisings as a

result of such abrupt policy changes in a number of developing countries. It should be noted, however, that subsidies distort competition, and whenever the State, -for the best of policy reasons- favor one sector of the economy, it is taking from another, which might be loosing in competitiveness on its own markets. Ideally, such distortions should be limited as much as possible and gradually eliminated after a transitory period. Across-the-board subsidies, while aimed at helping the very poor, are taken advantage by higher-income earners who free-ride on scarce public resources. A better solution to subsidizing lower prices for commodities would be to accord direct subsidies to the poor. Of course, this is a system which is more difficult to implement especially if corruption gets in the way in very poor countries.

Other constituencies, while not directly part of the "marketplace", have important leverage on the adoption or rejection of regulatory reforms, including competition law. Academic circles, as mentioned above, the civil society and consumer groups may also exert substantial influence in the process. University professors may be favorable to competition rules because they constitute an element of economic liberalization. Others, however, might resist market-oriented reforms for ideological reasons. NGOs and consumer groups in developing countries have sometimes been reluctant to recognize the potential benefits of competition policy and law for consumers, because they consider that free-market policies and competition, especially from abroad, tend to worsen conditions of employment and are often the cause of massive layoffs in failing domestic firms. A case in point is also the arrival of large foreign distribution chains, which tend to impose very stringent conditions on their domestic suppliers, including farmers. While such large chains create employment they also are accused of worsening the conditions of farmers by abusing their dominant position and of eliminating local domestic distributors, who are unable to offer matching discounts.

Types of economic systems.

We are often rightly reminded that all countries are different, even among developing countries, and that "no one size regulation fits all". In a rough simplification, two opposing types of economic systems come to mind: central planning versus market economy. Looking more closely however, there is a full range of different degrees of mixed economy possible, between the public and private sectors. This ranges from full State ownership and intervention in all aspects of the economy, to mixed State owned enterprises (SOEs) with some private sectors; private sectors fully subsidized or supported by tax holidays or other interest-rate facilities offered by the State; to more fully private economies with a few exempted sectors in which the State intervenes for specific socio-economic reasons; and economies with minimal or no State ownership or State intervention, with or without competition law and policy.

In the case of State command economy, it is clear that competition between Ministries or SOEs is considered as a waste of limited resources, and there is a clear preference for monopolies with suspicion against any form of competition. In this case, it is only competition in the external sector that is looked upon with interest; especially with a view to maximizing the competitive edge of domestic SOEs in international markets and with

respect to foreign multinational corporations (MNCs). The traditional approach would seek ways to strengthen domestic firm's position of market power, including through concentration and creation of, or participation in, international cartels, while at the same time denouncing abuses of dominance or other anti-competitive practices by foreign firms.

In the case of mixed economy, which characterizes most of the so-called "market economies", it is important to examine the extent to which the State controls the economy. In many developing countries, including "emerging countries", specific sectors are owned by the State, or by State-related organizations, such as, for example, the pension fund of the Army or specific associations related to civil servants of the State, or some "parastatals", which are closely pampered by the State. It is common in countries where capital is scarce, that if it is not the State or related organizations who invest, nobody will be in a position to take advantage of business opportunities, unless foreign investment is attracted.

In many developing countries, the government is close to the business oligarchy, who own the major private sector firms of the country. This is so because in poor countries scarce wealth is often concentrated in a few hands and the executive and economic powers are interwined. Accordingly, the government will be closely associated with the large enterprises, and willing to encourage the creation of "national champions". They will look at competition policy with suspicion and easily accuse those who want to promote competition law to be undermining national interests. Ill-informed public opinion may easily buy nationalistic arguments aimed at claiming the need to protect national champions from"unfair" competition. One often heard argument is that it is necessary to concentrate domestic markets, irrespective of domestic consumer interests, so that the domestic firm can be more competitive on international markets. Hence, there might be fierce opposition against inclusion of any form of merger control whenever any potential competition bill is proposed in Congress or Parliament. In passing, one can say that consumers are usually the economic actors most easily sacrificed on the altar of higher economic interests (e.g. government or private producers). This is somewhat surprising, since everybody is a consumer.

Moreover, it should be well understood that except for standard primary commodities, the higher capital value-added of the product or service, the more it will need to be familiar with competition at home if that product or service is to compete successfully on international markets. Therefore, the common idea that having a monopoly at home will allow a national champion to gain market shares abroad is an unsustainable policy in the medium to long-term. Protection of local firms may be warranted while the firm is in the "learning-curve" phase, but this should only be temporarily allowed in exceptional cases, when the State has good reason to believe that a specific sector will be successful on its own after a given period of time. It should also be reminded that any incentives in favor of one sector is inevitably to the detriment of another sector; and in developing countries, especially in LDCs, where resources are scarce, any distortion of resources may have highly damaging effects if they are ill-conceived.

Developing countries often look at Asian-type highly integrated private conglomerates closely supported by the State as possible development models for their own economy. The Japanese and Korean experiences are most often cited in this respect. However, it is striking that these countries, which obviously benefited from this type of economic organization in the sixties no-longer believe they can still benefit from them today without paying special attention to competition.. (Seon Hur, et al). In any event, they insist that it is the fierce rivalry between these conglomerates at home, supplemented by high levels of competition in world markets that have allowed them to succeed. Often, State intervention in the form of lower interest rates for specific sectors, tax holidays or subsidies were seen as ill-conceived, favoring some sectors while placing more burden on others, was more a result of cronyism or nepotism than substantiated economic reasoning.

In most cases, in large national champions in which the State has a role to play, either because of ownership or joint-ownership including though golden share participation, or because of support of one sort or another, it is the government that names the CEO and high-level members of the board. Such practice, which is current also in some developed countries, does not always guarantee the most efficient management of these firms. Problems can arise in all sorts of corporate governance, but where independent shareholders have the upper hand, inefficient managers may be removed more swiftly than when it depends on political decisions by the Governent..

Coming now to economic systems that are more independent from State interference, in countries where income distribution is more widespread, economic reforms may be opposed for reasons of tradition or culture: we have lived well until now, why change? We need all professions to earn a comfortable living, competition will make life more difficult. Historically guilds have protected professions from unfair or "destructive" competition, why do we need to de-regulate and open markets to outsiders? Traditionally in small countries, cartels were considered a reasonable thing to do to protect a particular sector. "Gentlemen's agreements" were to be found in many professions, including banking, insurance and in the liberal professions such as lawyers, doctors and architects.. For all of these reasons, notions such as competition are often new in developing countries, and even consumers, who should be the big beneficiaries of competition policy often have difficulty to accept anything else than administrative, regulated prices. To have to hunt for lower prices and compare different price tags is sometimes taken as a useless, unwarranted burden.

Prudential rules limiting competition.

In the same line of thought, many opponents to deregulation, argue that competition may endanger economic stability or human safety. These are among the main arguments to protect banking, air transport and other sectors from "excessive rivalry". Competitive pressure, which would result from opening banking to outsiders, would increase the number of banks, reduce market shares and profitability and force those in place to reduce margins, engage in more hazardous operations and in the end, increase the risk of insolvency and endanger the financial system as a whole. On the other hand, a more stable environment, where the market is limited to a few players, comfortably entrenched

in "gentlemen's agreements", with the blessing of the government and the central bank, may ensure a more stable, more secure financial system. This was the view not so long ago in smaller developed countries and it may well still be the view in some developing countries. The same goes, for example for air transport, where the market is kept closed to one or a few airlines, for fear that competition would squeeze profit margins and hence reduce maintenance expenditure and reduce safety. For countries less able to regulate and effectively control safety standards, this may well be a real problem.

Characteristics of underdevelopment

It is important to remember that most developing countries suffer from some or most of the following characteristics of underdevelopment, which facilitate the proliferation of anti-competitive practices:

-Low capital formation and lack of sufficiently developed capital markets. As a result, interest rates are higher than in developed countries, and this situation may still be aggravated by the formation of "genlemen's agreements" of the prudential type described above. Local firms, if they find capital, are hampered by high costs of debt, compared with foreign multinationals which can borrow on international markets. Other local firms, less secure, or unknown newcomers, simply do not get any credit to enter the market as competitors.

-Uneven income distribution and economic power concentrated in the hands of a few families. Often close to the government, they are the ones who benefit from State support, with the justified pride of trying to develop a national champion. They will obviously not be enthusiastic at efforts to pass a competition law. Moreover, knowing the difficulties surrounding low paid government civil servants, whom they are used to bribe, they will be doubtful that a competition authority would do much more than create another layer of red tape and bribery.

-Inadequate infrastructure. Ports, roads, transport, telecommunications, other utilities such as energy, electricity and gas, which play an essential role for the rest of the economy to develop, will be poor and limit the competitiveness of firms depending on them for production and export. On a wider scale, health services and education are poor and inefficient, which weighs on the capacity of development of the population for the younger generations. Social welfare and safety nets are weak or inexistent, which increase the precarity of the population.

-Poverty and slums affect a high proportion of the population which does not have necessary standards of education skills to allow them a decent living. Most depend on State subsidized essential necessities such as foodstuffs and cooking oil, charcoal or petrol. Electricity is often "borrowed" illegally by tapping lines. Drinkable water is available at limited spots and most of the population needs to pay for bottle water which cost more than tap water in higher-income districts. All of these market deficiencies call for reform, but reforms are impossible when the right price would be higher than at present and the State does not have the means for reform.

-Weak State institutions and inadequate application of rules. Deficient justice, widespread corruption in the police forces and some quarters of government, create an atmosphere of general mistrust towards official authority. No doubt then, businessmen who are used to have to bribe their way through are reluctant to accept the creation of a competition authority with high discretionary powers, able to enter premises, organize hearings and impose heavy sanctions on businesses for practices which were considered "normal" way of life until then. Even to the point that, in some command economies, enterprises were obliged to fix prices or face severe sanctions!

Free- market forces can help realize the objectives of development

In countries that have weak institutions and that suffer from high levels of corruption, sole reliance on laws and public enforcement of such laws is close to impossible, and certainly inefficient. Wherever possible, market forces can regulate markets, on the condition that competition is present both on the supply side and the demand side and acts as powerful checks and balances. This means that given the many problems of underdevelopment discussed above, market-oriented economic reforms, on the condition that competition prevails, could resolve numerous endemic problems without having to rely on ineffective or unreliable police forces. In order for competition to prevail in deregulated markets, it is not sufficient to adopt a policy of laissez faire. There is need to ensure that once a market has been liberalized, free competition prevails as a result of active implementation of competition rules. Without the action of an effective competition authority, liberalized markets may easily concentrate or cartelize, negating the benefits liberalization was expected to bring in the first place. Government's effort need only be focused on maintaining open, competitive markets, where it is competitive market forces that will act as a natural regulator. For achieving this objective, Governments need to provide full political support to create a highly efficient, qualified competition authority acting with integrity.

Market-oriented reforms aiming at deregulating and privatizing utilities and essential sectors of the economy, while ensuring that competition still prevails, will also strengthen the competitive edge of all enterprises obliged to utilize such essential services as telecoms, electricity, banking, insurance to be able to compete on a more level playing field with foreign firms where the cost-effectiveness of such essential services is taken for granted.

It is only if the beneficial results of such a policy, including visible results of the action of the competition authority, whose integrity should never be questionable, that public opinion will understand and support competition policy and accompanying regulatory regimes. Transparency and explanation of the decisions of the competition authority are essential in this respect. The media and academics can play an important role in publicizing and supporting the action of the competition authority.

Market failures and need for some "safeguard clauses".

While competition works in most markets, there are some important exceptions, where free competition would not automatically result in socially or politically desirable results. Free markets where competition prevails, normally aim at finding the most economical way to bring supply to satisfy demand on a given market. The problem is that not all immediate desires of consumers are socially or politically desirable. For example, if consumers do not see the need for ecological efforts to fight pollution, or even if the public conscience is in favor, but individually most people or industrialists chose the cheapest solution, which disregards protection of the environment, market forces will not give the desired result. The government will need to correct such market failures either by offering incentives of one sort or another (market distortions) or by imposing police force.

Hence the need or a certain number of exceptions to competition laws, which exist in most legislations and need to be maintained to the strict minimum required (see Shyam Khemani, UNCTAD,2002).

Of course, the main discussion will revolve around the issue of industrial policy in certain sectors which free-markets would not automatically select, but for which the government wishes to make an exception. Should we have a national automobile producer, although the market forces would tell us we'd better import cheaper cars and focus on some other sector where our competitive advantage is higher. Should we distort competition to ensure national production of essential defense weapons?

Do we need to subsidize sunset industries to defend employment against all odds? Would we not better utilize those funds for ensuring the transition of the workforce to other, more promising sunrise industries where we have better comparative advantages? These are the types of questions all governments, developing or developed are faced with.

External trade-related reasons for adopting competition rules

It is important to note that several developing countries that have adopted competition rules or other market-oriented regulatory reforms in recent years have done primarily to comply with conditions related to accession to WTO, or to bilateral or regional free-trade agreements. While in most cases these decisions are followed by genuine application of these rules, nevertheless, it is not the belief that these reforms were essential for development that were the main motivation, but rather that such laws were part of the necessary entry ticket to the agreement.

This might explain in certain cases the lack of enthusiasm in implementing laws which were not adopted for their recognized merits for the country in question, but as an ancillary obligation.

Concluding remarks: how to deal with socio-economic constraints in developing countries?

We have seen that, for numerous reasons, market-oriented regulatory reforms, and especially competition law and policy are met with apprehension by most constituencies in developing countries. Even those who should clearly benefit from open markets and competition, in particular consumers and new businesses created after deregulation of previously foreclosed markets, are reluctant towards reforms and often unaware of their rights and potential benefits. Obviously, any reform will be met by resistance**,** especially if it is an essential reform, touching on the structure of the economy and having direct, sometimes painful effects on the economy and its citizens.

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Reforms which provoke immediate hardship such as job layoffs, for the sake of longer-term benefits, will not be accepted easily, even if the long-term benefits largely surpass the immediate hardship. It is usually the case that when, because of competition, firms are obliged to layoff employees or close plants, the news immediately gets front page attention, as do related strikes and protests. But when new firms are created and hire more employees, the news goes hardly unnoticed, even if many new firms replace a single SOE that has failed any many more posts are created than those that were lost.

A first important remark, is that in many developing countries, competition law and policy were introduced as an afterthought, long after deregulation and privatization had taken place, often resulting in anti-competitive structures which are later impossible or at least very difficult to remedy. Public outcry against the constitution of private monopolies after privatization of State monopolies could have been avoided had the regulatory reforms been preceded by the introduction of appropriate competition law, including merger review. The public itself, easily misunderstands the difference between liberalization without appropriate competition rules and the same with such rules, considering that "competition is bad", when in effect what they are relating to is deregulation and privatization without the safeguards brought by appropriate competition law and watchdog. As a result, it is imperative that in the future, no deregulation and privatization be implemented before a competition law and policy is effectively implemented.

Market-oriented reforms coupled with competition policy are also essential because they maximize transparency in the corporate decision-making process and therefore also help in reducing corruption. Provided competition law exists and the competition authority can keep markets open and competitive, the role of the State will be minimized and markets will not be plagued by excessive supply or by chronic shortages as is almost inevitable when the State regulates prices with a political agenda in mind. Free markets where competition prevails are also at the core of individual liberties and hence, of democracy. In a market-oriented economy where competition prevails, the State action, freed from intervention in the productive sector where the private sector can act more effectively, will be able to concentrate only on correcting market failure where they occur, and ensuring that the good functioning of markets is left to the responsibility of the competition authority.

Critics of globalization and of market-oriented reforms, usually confusing competition with laissez-faire, accuse competition of being at the source of their ills. However,

competition policy and law are meant to do just that: to cure the abuses that inevitably occur after some time in a "laissez-faire"market economy. In too many instances so far, where they have been adopted in developing countries, competition laws have not been effectively implemented or implemented long enough so as to have had a significant impact over the economy. It is therefore a mistake many critics make when they condemn outright a system which is only starting to be put in place and has not been properly tested.

We have seen that consumers are often those who suffer from most of the competition-distorting policies. It is necessary therefore to empower consumers, including the poor to defend their rights. The second important remark, therefore, concerns the special efforts that should be directed to protecting and empowering consumers.

A first effort in this respect, is for the competition authority to ensure that its actions are well understood by consumers, and that the benefits for consumers are made clear. Advice in this respect starts with the choice of issues to be investigated by the new competition authority. It obviously does not have unlimited resources and must make a selection of cases which have to be dealt with as a matter of priority. Moreover, the new competition authority has to establish its credibility within the public. It should therefore carefully select its first cases among those that will be understood best by the general public, which benefits in favor of the public, preferably including the poor, are easy to demonstrate. A second important consideration in the choice of cases, is that they should be relatively easy to resolve, in order to establish the credibility of the competition authority's actions. Nothing would be worse for a young competition authority than to have its first cases drowned in the meanders of local jurisdiction, suffering from excessive delays or reaching inconclusive results.

A third remark concerns the often recommended independence of the competition authority from the powers of the politicians. We have seen the extent to which lobbying politicians can exert pressure on competition authorities. It is important to preserve as much as possible the independence of those in charge of making the decisions of a competition authority. This can be done by guaranteeing the tenure of the chairman and the members for a given period, ensuring the budget is not under direct control of the Ministries, etc. However, it should not be forgotten that in most developing countries real independence of the competition authority is an illusion. The truth is if the Government disagrees with the actions of the competition authority, the latter will have every difficulty in pursuing its action correctly. While it is better to obtain every possible guarantee that the decisions of the competition authority will not be reversed by the Government, it is still essential to make every effort to ensure that the same Government supports the competition authority's decisions.

Differences of views may also emerge as between the competition authority and regulatory authorities. In many countries the competencies of both types of organizations with respect to competition matters are not clear. Often both regulators (such as energy, telecoms or public transportation) and the competition authority have concurring, sometimes conflicting jurisdiction on competition issues regarding the regulated sector. It

is important that the law should specify precisely each one's prerogatives. In the same line of thought, it is often not specified in new competition laws which legislation prevails in case of conflicts of jurisdiction with other legislation. If competition law is to get all the support it merits, then its prevalence over other laws should be made very clear. In some countries, the responsibilities of the competition authority or its chair involve advising Government or Congress about the competition related aspects of proposed new legislation. In other countries, the competition authority is entrusted with undertaking competition impact analysis of existing legislation, leading to amendments of eventual anti-competitive aspects of existing rules. It is important to give maximum advisory powers to the competition authority in this respect.

A fourth remark concerns empowering the consumer in this process. We have seen that consumers, especially the poor, are generally the last to be served in their interests and rights in developing countries. Educated consumers should be the natural allies of a competition authority. Unfortunately, often the law ignores them, provides them with limited rights if any, and does not afford them individual means of redress. Competition laws should include specific means of redress for anti-competitive damages suffered by individual consumers. Receivability of consumer complaints should not be restricted as is often the case in competition laws (laws usually limit those who may lodge a complaint to associations of a given number of members), as such complaints could serve as useful hints or whistle-blowing to the competition authority.

In order to empower consumers and to allow them to lodge proper complaints, the competition authority should undertake consumer education programmes in the area of competition law and policy. Consumers should be made aware of prohibited anti-competitive practices and how they may take action if they are affected by such practices. They should also be able to obtain redress through small-claims courts or eventually through "class actions" whereby a judge undertakes to represent in court numerous small claims for damages suffered by consumers from providers of a given "class" of goods or services (eg taxi customers suffering from an alleged price-fixing cartel among taxi-drivers).

Educating and training should also be addressed to the public and private enterprise sectors. Public officials should be made aware of prohibitions related to Government procurement, in particular of illicit nature of bid-rigging and collusion of Government officials with private parties involved in the bidding process. Entrepreneurs should be made aware of the exact meaning of competition law and trained to understand why anti-competitive practices damage the economy. SME directors should understand the advantages they may derive from better implementation of competition law, especially with respect to abuses by dominant firms and their means of lodging secret complaints should be made possible, since as potential or actual subcontractors they may refrain from complaints for scare of retaliation by established big firms or members of a cartel. The same facilities should be made available for micro-entreprises as well, because they are in a similar position of dependence with respect to larger competitors or contractors.

Creating a "culture of competition" is also a long-term process, which should ideally start at school and especially at high-school and university. Competition authorities, with the help of international organizations and interested donors could help forge the opinion of the leaders of tomorrow by instituting competition courses and training material with the cooperation of academic circles. Forging the public opinion is an extremely important endeavor also in limiting distortions of fair-competition by the Government. Creating a well-informed press and having the support of the media is an essential factor in favor of effective competition policy. Hence it is of the outmost importance to train the media and journalists about the benefits of competition policy and law for the public interest. The media in forging public opinion in favor of competition policy may act as a strong balancing factor against powerful private interest groups lobbying members of the Government.

A final remark concerns the need to provide special attention to the poor, should they be suppliers as micro-enterprises or demanders as low-income consumers. In developing countries, both on the supply and demand side the poor count for a very substantial part of the population. It is obvious that poor developing countries usually have very limited means to undertake in-depth educative programmes, especially if they were unable to afford the poor with basic education in the first place. The Government should make every effort to promote consumer associations to defend the interests of the poor. In this respect, consumer protection law should be adopted in developing countries as a matter of priority. Consumer laws would supplement competition law and be mutually supportive in defending the interests of the lower-income fringe of the population.

In conclusion, we could say that perhaps the best advocate for market-oriented regulatory reform and for introduction of competition law and policy is the comparison which should be made with foreign countries where such policies have been implemented successfully.