Free Trade and Competition Policy in Africa

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1. INTRODUCTION

This paper focuses on the effect of free trade and competition policy in selected African countries. Using a comparative analysis of countries' trade and competition policies, the paper investigates the contributions of these policies in the development of these countries' economies. The success or failure of the introduction of trade and competition policies will be analyzed in the light of economic performance of the respective countries.

Liberalizing trade and competition policies are complementary, since by removing trade barriers that may inhibit foreign firms from competing in African national markets, trade policy enhances competition. The introduction of trade and competition policies might, however, curtail economic growth and poverty reduction in least developed countries.

This paper examines the links between competition and trade policies in African countries. The paper further scrutinizes the economic rents, if any, in countries where trade and competition policies have already been implemented, compared to those that have not adopted liberalizing policies. The paper also takes note of the fact that the economic performance of Africa countries is not solely dependent on these policies, it rather aims to ascertain whether development in countries with competition and trade policies has surpassed that of countries without such policies.

2. THE RELATIONSHIP BETWEEN FREE TRADE AND COMPETITION

There is little doubt that considerable thrust for persisting development in international commerce stems from trade liberalisation. Similarly, globalization and liberalization of the world economy have brought to the forefront deliberations on issues of fair competition in global trade. It has also been acknowledged that competition and trade policies are complementary in nature.

Whist competition policy is undeniably concerned with the realization of economic efficiency, encompassing allocative, productive and dynamic efficiency, trade liberalization also contributes to these efficiencies by eliminating barriers that may thwart foreign firms from competing effectively in national markets. This in turn would be reflected in the quality of products or services and competitive prices that the consumer would ultimately pay. The crux of the relationship between trade and competition policy is that, in an environment where firms are increasingly organizing their operations on a global scale and where trade barriers between nations are falling, firms are more exposed to the regulatory systems and business practices that exist in the economies of their main trading partners.

On its own, trade policy is not sufficient to deal with the conflict between the economic systems of different countries. By incorporating the application of competition principles to the policy fraternity balanced, favourable and desirable outcomes can be achieved.

In Africa, competition policy creates an enabling environment for the development of new enterprises, particularly SMMEs, by reducing entry barriers.

3. FREE TRADE, INDUSTRIAL AND COMPETITION POLICY IN AFRICA

During the past twenty years, a number of Least Developing Countries (LDCs), including those in the African continent, have implemented development strategies based on trade liberalization, (UNCTAD and Commonwealth Secretariat, 2001: 1; United Nations, 2004:54). In an attempt to meet the requirements of the Bretton Woods system (e.g. World Bank), LDCs have introduced domestic economic reform measures to complement trade liberalization. Amongst these reform measures are privatization, deregulation and financial sector liberalization. In addition, most LDCs have also adopted some form of competition policy over the past decade. In a number of instances, trade

liberalizing measures have been part of an exercise to get financial aid and have therefore not been as effective in being able to achieve the purpose they were intended to serve, namely the installation of competition principles.

In some African countries, greediness, corruption and poverty have resulted in politicians delaying the introduction of competition policy. This is mainly due to conflict of interest as most of those in power are also active participants in the domestic economy. The feeling is that by adhering to globalization and liberalization policies, their wealth, and the protected nature of their inefficient businesses would be eroded by the entry of big, efficient and well-managed multinational companies. Nevertheless, the situation seems to be changing, as the need for LDCs to adhere to world policies increases.

3.1. DEVELOPMENT CHALLENGES IN LEAST DEVELOPING COUNTRIES ECONOMIES

There's no doubt that economic challenges faced by the developed and LDC economies are different. Whilst developed countries brace themselves for new technological development, developing countries are still under pressure to provide basic needs to society. Amongst the developmental challenges facing LDCs are poverty and unemployment, lack of infrastructure development and an insignificant inflow of foreign direct investment. The list is endless. Cernat and Holmes (2004) have summarized these challenges as: employment generation, promoting investment, enhancing competitive ability, and removing supply side constraints. These issues are discussed below.

(a) Job creation

The biggest problem for most LDC's is the lack of employment opportunities. In addition, a large part of the population in these countries is dependent on agriculture for survival. However, the volatile and unpredictable nature of this sector has some negative implications to LDC communities. The industry is not

immune to price fluctuations. Moreover, lack of market access minimizes chances for success. A major objective of these countries is, therefore, to create and facilitate the growth of viable industrial and service sectors. This will aid the process of diversification into secondary and tertiary sectors and thus, amongst others, help to alleviate the high unemployment levels prevailing in these countries.

(b) Enhancing investment

To create sustainable job opportunities and speed up economic growth, LDCs have to encourage inward investment. This is possible, only if most of the tariff and non-tariff barriers are eliminated within these economies. On the African continent, South Africa has surpassed most other countries when it comes to offering incentives for purposes of attracting foreign direct investment.[2] Whether these incentive programmes have produced the expected FDI inflows, remains to be seen.

The African continent is lagging behind the rest of the world in terms of domestic investment, which in turn limits the continent's ability to attract more FDI. Gross fixed capital formation as a share of total output in Sub Saharan Africa declined by 13% from the period 1980 – 1989 to 1990 – 1999, compared with an increase of 3% for all developing countries (Asiedu, 2004).

(c) Improving productivity

The global nature of markets requires that LDC companies equip themselves so that they can compete with multinationals. This implies that companies have to rely strongly on competitive advantages such as economies of scale, technology, marketing strengths, efficient production processes, distribution systems and affordable labour (Adhikari and Ghimire, 2001:7). Amongst the limitations

[2] See Department of Trade and Industry website: www.thedti.gov.za

suppressing the performance of African companies is low labour productivity. This can be attributed to, amongst others, poor health conditions, illiteracy and a shortage of relevant skills. Jordaan (2005: 90) has found that in Africa output per worker during the period 1960 to 1973 was slightly higher than that of South Asia (1.9 compared to 1.8). The figure fell to –0.6 compared to 2.6 in South Asia during the period 1973 to 1994 resulting in lower total factor productivity.

In South Africa, in particular, the rigid natures of labour laws have also been blamed for lack of productivity in the country. The prevalence of central bargaining powers and the inflexibility of the Basic Conditions of Employment Act and other labour laws have been recognized as the main factors hindering economic development. The seriousness of the problem is also evident from the ruling party's attempt to relax part of the labour legislation. However, its tripartite alliance partners COSATU and the South African Communist Party are strongly against the relaxation of these legislations.[3]

(d) Eliminating supply-side limitations

The ability of LDCs to pursue and specialize in critical productive sectors is limited by poorly developed infrastructure (e.g. transport, power and storage facilities), support services (e.g. telecommunications, financial services and other technical support service institutions). The general lack of trade facilitation measures also limits their ability to compete in a globalising world. This is prevalent in most African countries, including South Africa, wherein strategic infrastructure, particularly ports infrastructure, is more than 500 Kilometers away from the sectors it serves. This therefore increases logistical costs, as companies have to spend exorbitant amounts of money on transport.

In most LDCs, African countries in particular, rail systems are not a viable means of transporting bulk loads. The excessive use of road/land transport further

[3] www.polity.gov.za

deteriorates the conditions of countries' already damaged roads, implying that roads have to be, but are not, maintained continuously.[4] Telecommunications services are also blamed for the minimal level of FDI in LDCs. As a comparative example, the number of telephones per population in Sub-Saharan African countries increased by 71% between the periods 1980 1999. This increase was considered insignificant compared to a 490% for East Asia and 158% for all developing countries (Asiedu, 2004). What aggravates the problem further are the low levels of entrepreneurial and technical skills prevalent in most African countries (Jordaan (2005:63). The elimination of these supply-side constraints will help facilitate exports, as LDCs will be able to take advantage of market access opportunities (United Nations, 2004: 85).

(e) Diversification of export profiles

LDCs are susceptible to international market instability and have not been able to spread the risk by diversifying their domestic production profiles. A World Trade Organisation report (WTO 2001), states that: " of the 4 162 products exported by LDCs to 30 major trading partners in 2000, only 127 accounted for 90 per cent of their total export trade." The report also found that on average, the top three commodities exported by each LDC usually account for over 70 per cent of its total exports (WTO, 2001). These export concentration ratios[5] have remained high and unchanged since 1980 for all the LDCs reviewed.

Chandrasekhar and Ghosh (2000:4) concur with the WTO's findings. They state that African countries do not supply enough of certain products, minimizing their ability to influence world prices to their benefit. In other words, they are price takers in most cases. This is understandable, considering the limited number of products that they export, with the same commodity accounting for a large share of their export basket (Chandasekhar & Ghosh, 2000:4). The solution to the

[4] For example, the road that links Nairobi and Mombassa (Kenya) makes doing business expensive for investors in that country.
[5] Defined as the share of the principal export product in the total export value

problem identified above would require LDCs, and African countries in particular, to start diversifying their export scope. This will ensure that they have a role to play in the determination of world prices, particularly internationally traded commodities.

3.2. COMPETITION POLICY IN AFRICA

Writers such as Adam Smith (1776:1) and Alfred Marshall (1890) emphasized the benefits of free entry to and exit from markets. The theory of "contestable" markets has acknowledged this insight, whereby it has established that the dynamic benefits of competition are obtained when it is relatively easy for new and more efficient firms to enter a market while older, less efficient ones are forced to upgrade or leave. Consequently, competition ensures that prices are kept as low as possible for consumers whilst opportunities are created for new firms, including small firms, to enter markets. In addition existing firms are under pressure to innovate. In the long run, this would lead to a wider variety of products and services and more efficient management techniques which would help to alleviate having to incur expensive research and development (United Nations, 2004:10)

Developing countries might be significantly affected by the monopoly power of large international firms, exercised either unilaterally or collusively, if such power is not properly regulated (UNCTAD, 20025a: 11). Competition law is thus an important part of market reform. It ensures that social welfare is increased and that developing countries can enjoy at least some of the benefits of world markets. However, the conditions for perfectly competitive markets in most developing countries are far from being realized. Therefore, the potential benefits of competition do not necessarily always translate into additional growth. A good competition policy is a basic requirement for market-based reforms. Competition enhances consumer welfare and economic efficiency. It also enables

governments to keep in check issues around market concentration and power (Gachuiri, 2001: 61).

The underlying objectives of competition policy in Africa do not differ from those in developed countries, whereby they largely relate to the promotion of free and fair markets for the ultimate benefit of consumers. A complementary effect is that competition policy encourages transparency in trade practices.

In addition to the benefits associated with the application, or implementation, of trade and competition policy it is also important to look at the main hindrances that may impede the effective execution of these policies. In the international arena, researchers and leaders have generally acknowledged that competition policy and law is required for all the countries regardless of their level of economic development.

Laffont (1999:1) summarized the concerns of developing countries regarding competition policy and law: “Competition is an unambiguously a good thing in the first-best world of economists. That world assumes large numbers of participants in all markets, no public goods, no externalities, no information asymmetries, no natural monopolies, complete markets, fully rational economic agents, and a benevolent court system to enforce contracts, and a benevolent government providing lump sum transfers to achieve any desirable redistribution. Because developing countries are so far from this ideal world, it is not always the case that competition should be encouraged in these countries.”

The United Nations, (2004: 57-62) and the Economic Commission for Africa (1999: 11-12) lists the problems and constraints that African countries and other LDCs experience. While some of them are unique to LDCs, others are also experienced in other countries. These issues are discussed below:

(a) Conflict with other policy objectives

Governments in Africa tend to be opposed to the idea of implementing competition policy. There is the extended belief that applying competition policy unnecessarily constrains the ability of governments to achieve other "genuine" policy objectives. For example, LDC governments are reluctant to expose their small and medium enterprises (SMEs) to foreign competition because they doubt the latter's potential to create job opportunities. A counter argument would be that the opening up of national markets, through trade liberalization, would further facilitate foreign investment. As new efficient and productive firms enter the territory and erect new production centers, more job opportunities will be created for local citizens. In certain African countries, such as South Africa, the issue of local participation in the domestic economy is one of the objectives of competition policy. In South Africa the evaluation of public interest issues, such as Black Economic Empowerment (BEE), is an important consideration in merger proceedings and has not been received adversely from foreign firms: they have entered the country's market through joint ventures with BEE accredited individuals or firms and have thus provided increased opportunities for previously disadvantaged individuals to enter the mainstream economy.[6]

(b) Resistance from vested interests

The issue of vested interests, or resistance to competition, within LDCs and developing countries in Africa seem to surface from both business firms and politicians. Opening up borders to competition is seen as dangerous for the survival of national firms. It is understandable that change is uncomfortable or even threatening; as a result, business would definitely try to avoid competition as far as possible (Lachmann, 1999: 19). It is however important for policy makers to demonstrate and weigh the long-term costs and benefits of competition policy and law implementation, so as to get business support.

[6] See Broad Based Balck Economic Empowerment strategy for South Africa, 2003-2005

(c) Lack of good governance

One of the reasons that the governments of many African LDCs do not implement competition policy measures is the lack of good governance. Governments provide concentrated benefits to a small favoured organized group of the population, e.g. a business lobby. In the process the widely dispersed and unorganized groups, e.g. consumers, forfeit the benefits of competition. These types of activities can be linked to the corruption activities prevalent in some African countries. The politics-business relations are exacerbated by the attitude of people in power, who make decisions based on their personal preference and connection, rather than on the merits. In the smaller LDC economies, where people tend to know each other fairly well and there is a strong cultural tradition to favour the relatives, friends and cadres, it is almost impossible to root out corruption and mal-governance.

The International Country Risk Guide (ICRG) indicates that the quality of corruption and bureaucracy in institutions in sub-Saharan African countries increased in the 1990's. In contrast to this, corruption in developing countries as a whole declined and the quality of bureaucracy improved (Asiedu, 2004:47).

(d) Tension with sector-specific regulators

In most instances, competition authorities are put in place to regulate the overall economic activities within a country, including those sectors under the ambit of sector-specific regulators. However, competition authorities cannot explicitly deal with issues such as redistributive policy and universal service obligations (Tirole, 1999). In this regard, sector-specific regulators will continue to play the role for which they were created: to make optimal arrangements for the supply of public goods, while insuring that natural monopolies do not abuse their position in the market. Confusion sometimes exists between competition and other regulators

as to who has jurisdiction over certain matters. To avoid conflict and confrontation between a general competition authority and a sector specific regulator, a Memorandum of Understanding (MOU) is often entered into.[7] This aims to ensure that an industry is not subjected to duplicative or conflicting intervention by regulators.[8]

The South African Competition authorities have had to deal with a number of concurrent jurisdiction issues. This led to the review of the South African Competition Act in 2001.[9]

(e) Capacity constraints

Capacity constraints seem to accelerate some of the challenges faced by LDCs. This is exacerbated by the financial crises that most of these countries face, but is also due to the lack of political backing of competition policy. Because competition regulators are exclusively dependent on state for funding, competition authorities' independence is undermined (Adhikari and Knight, 2003).

In South Africa great efforts have been made to develop the skills and education of existing staff members. The South African Competition Commission's commitment to a culture of continuous learning is reflected in the number of

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[7] Refer to South Africa's Competition Commission newsletter articles: www.compcom.co.za. The South Africa Competition Authority has entered into MOUs with the country's telecommunication regulator, ICASA and the National Electricity Regulator.

[8] In Zambia, a clear overlap exists between the tasks of the Zambian Competition Commission (ZCC) and the Securities Exchange Commission (SEC). In a case where the ZCC required the shares of the acquired entity to be floated on the stock exchange in order to prevent the concentration of stock in the hands of the acquirer, the SEC allowed the acquirer to offer the shares to the minority shareholders. Although this resulted in the acquirer having total control over the company with negative implications for competition, the ZCC could not prevent this as the SEC's decision prevailed. Basant (2001)

[9] The initial conflict arose when the authority was analyzing a takeover within the financial service sector. The issue of who has jurisdiction on the takeover/merger led to a squabble between the Registrar of Banks and the general competition regulator. The Minister of Finance thereafter decided on the matter, after having considered findings and recommendations by both the sector regulator and the competition authority.

hours spent by their employees on training, as well as the percentage of the budget being invested in academic development.[10] The South African Commission has invested in the training of its staff through its collaboration with international organisations like the OECD, UNCTAD, and the EU. Agreements have also been signed with foreign Competition Authorities like the US Department of Justice, US Federal Trade Commission, Australian Consumer and Competition Commission and Norwegian Competition Authority where staff from these agencies has been seconded to the South African Commission, as mentors. South Africa has also entered into an agreement with the Kenya's Monopolies and Pries Commission, whereby staff are seconded to this institution for capacity building purposes.[11]

(f) Lack of political will and independence

The absence of political support and interference on the activities of competition authorities undermines the institution's independence as custodians of competition. A list of criteria for independence in this regard is provided by CUTS (2003b) and includes, amongst others, the following:

- Legal independence, whereby members cannot be removed without proper justification and the competition agency is not a part of any government department.
- Financial independence.
- De facto independence, whereby the competition agency would have the support of other government agencies to enforce its decisions.

(g) Low participation in multilateral trading negotiations

While Multilateral Trade Negotiations (MTNs) have facilitated radical improvements in international trade relations. There are arguments that Africa's

[10] See the Competition Commission's Annual report
[11] See Competition Commission News Letters, 2004

participation in these forums has been minimal. By 1997, only thirty-two countries had received membership of the World Trade Organisation. It is also said that the existing members' participation in the Uruguay Round of negotiations, leading to the establishment of the World Trade Organization, was marginal. Furthermore, existing members are not able to effectively follow daily discussions within the framework of the WTO, as very few countries constituently maintain delegations at the headquarters of the GATT/WTO in Geneva. The bargaining power of the African countries, as a group, in the Uruguay Round of Multilateral Trade Negotiations was not strong as very few sub-Saharan African countries participated. Unity amongst Africans countries themselves would give them the authority to influence deliberations within various international forums.

(h) Persistence of natural monopolies

By regulating mergers, competition policy aims to reduce concentration and market power. However, a simultaneous implementation of competition policy and trade liberalization may at times inhibit LDCs ability to achieve minimum efficient scale. Therefore, the use of interventionist policy should be allowed to a certain extent to help so-called up-and-coming enterprises to attain economies of scale. Lachmann (1999) is of the view that the "the initial costs of protection [not competition] will be outweighed by the long-run benefits of increasing competitiveness and participation in international trade"

Amongst some of the deliberations and compromises reached within WTO and UNCTAD negotiations on trade and competition policy have been that certain activities, or institutions, within LDCs be exempted from the application of competition policy. This compromise is aimed at giving national economic institutions ample time to fully establish themselves so that they can operate and compete effectively once their national markets are fully opened to competition. The exemption of certain host countries' economic institutions from the ambit of competition policy has restrained effective implementation of the policy, as it

lends itself to abuses in both developed countries and LDCs. There are concerns that some countries tend to misuse the protection afforded to them by haphazardly picking national champions, or keeping infant industries protected far too long (Raghavan, 1996)[12]

The use of the infant industry strategy has been recognized by Porter (1998). He points out that amongst the reasons that warranted the acceptance of this concept has been that industrialized countries took over a century to develop their laws and procedures. Developing countries should, therefore, be given the opportunity, space and time to reach to a comparable stage, rather than get a "one size fits all" jacket, which would place them at a distinct disadvantage. However, protection should only be given to deserving countries within acceptable time frames.

3.3 AN ANALYSIS OF POLICY CHANGES IN INDIVIDUAL AFRICAN COUNTRIES

During the 1980s and 1990s many developing country governments shifted their economic development strategies from that of government intervention to market oriented or non-interventionist (Gachuiri, 2001: 61-66). According to some analysts, these restructuring processes had some negative impacts on some African countries. An UNCTAD economist, as quoted by Raghavan (1996, March:1)[13], states that trade liberalization policies have resulted in de-industrialization in many of the least developed countries. In actual fact, the predicament that continues to face these countries is how to react to the intrinsic inequalities of the world trading system, which basically arises from an unbalanced distribution of economic power between the developed and developing countries.

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[12] WTO Competition Policy ignores political economy, by Chakravarthi Raghavan, 1996. http://www.twnside.org.sg/ign-cn,htm

[13] Trade liberalization causes de-industrialization, by Chakravarthi Raghavan Geneva 7 March, 1996.

As part of the general trend towards implementing reforms, several African countries have established relatively open trade regimes. These countries introduced competition laws and reduced unnecessary trade barriers. In countries such as Ghana, Egypt and Malawi competition legislation is in the preparation phase. The following paragraphs provide some insight into the developments in selected African countries. It is, however, important to note that though some African countries have introduced competition law in their national markets, the effectiveness, success and independence of these institutions is questionable, with a few exceptions. The structure of some of these institutions is outlined below.

3.3.1 Autonomous competition regulatory bodies

From the list of African countries with competition policy, Zambia and South Africa are the only two countries, with autonomous competition regulatory bodies. The autonomy of a competition authority ensures that the institution is immune from political intervention.

3.3.1.1 South Africa

South Africa's new competition legislation was promulgated in 1998. The Competition Act, no 89 of 1998, provided for the establishment of the Competition Commission, the Competition Tribunal and the Competition Appeal Court to replace the Competition Board which had been responsible for the implementation of the Maintenance and Promotion of Competition Act of 1979 (Trade and Industrial Policy Strategies: 2002, p1). The Competition Commission is the investigative body, responsible for investigating mergers, exemptions and complaints although it does take decisions on intermediate mergers. Once it has conducted its investigation, the Commission refers its decisions on complaints, exemptions and large mergers to the Competition Tribunal. It is important to note

that the Commission is an autonomous institution, with the rights to initiate investigations.

The Tribunal is regarded as the Court of First Instance. It handles appeals on intermediate mergers and complaints non-referred by the Competition Commission. The Competition Appeal Court considers appeals of Competition Tribunal decisions. The Appeal Court has the status of a High Court.

3.3.1.2 Zambia

In the Republic of Zambia, the Competition and Fair Trading Act is the only legislation in Zambia giving the courts jurisdiction to review a code of conduct, which is "anti-competitive" or "unfair". The Act considers anti-competitive trade practices as "any category of agreements, decisions and practices which have as their object the prevention, restriction or distortion of competition to an appreciable extent in Zambia" Part II of the Act establishes an enforcement machinery: The Zambian Competition Commission is mandated to implement the Act. It is responsible for monitoring; controlling and prohibiting acts or behaviour, which are likely to negatively affect competition and fair-trading in the country. The Commission is an autonomous institution and, has power to initiate investigations or at the request of any person investigations in relation to the conduct proscribed by the act.

3.3.2 Non-autonomous regulatory bodies

Whereas Zambia and South Africa are the only two countries with autonomous regulatory bodies, the next paragraphs provide a discussion on those countries, which have Competition bodies that are not autonomous in the execution of their mandates. Amongst these countries are Kenya, Malawi and Tanzania. Botswana has recently accepted the importance of competition legislation. Developments in this regard are also described below.

3.3.2.1 Kenya

The Monopolies and Prices Commission (MPC) is mandated to enforce Competition Principles and Rules in accordance with the provisions of the Restrictive Trade Practices, Monopolies and Price Control Act, Cap 504 of the Laws of Kenya. The Act was enacted in 1988 and came into force in February 1989. It covers restrictive trade practices, mergers and takeovers, unwarranted concentrations and price control. The MPC staff comprises of 37 people, the majority of whom are economists. The institution investigates cases and recommends to the Minister.[14]

Competition law was introduced in Kenya to curb unfair market prices, ensure that consumer welfare is not violated and reduce direct Government controls and regulations in all economic activities within the country.[15] The main objective of the Act is to encourage competition in the Kenyan economy by: prohibiting restrictive trade practices; controlling/regulating the activities of monopolies controlling the concentration of economic power; controlling of prices of some commodities believed to be essential to economic development and to enhance the welfare of low income consumers.

3.3.2.2 Malawi

In Malawi, competition policy has not been implemented as yet, however, the government has adopted a competition policy framework. With this competition policy framework, the Government is endeavors to adopt a competition policy and law aimed at further economic liberalization, which will lead to greater competitiveness in domestic markets.

[14] This means that it is not an autonomous institution.
[15] Restrictive Trade Practices, Monopolies and Price Control Act, Cap 504 of the Laws of Kenya

The major goals of competition policy include the protection of consumer interests and the promotion of economic efficiency. Government envisages achieving these goals essentially through lowering barriers to entry and eliminating restrictive business practices. Three primary areas have been targeted including business behaviour calculated to eliminate or reduce competition; market structure which permit abuse by an entity in a position of market power; and government legislation, both existing and proposed, which may impact on operation of free market in the country. In addition, a Competition Policy Tribunal is expected to be established to resolve contentious issues in specific fields.

3.3.2.3 Tanzania

Tanzania's competition legislation takes the form of the Fair Practices Act of 1994. The Act does not contain any "per se"[16] prohibitions. It provides for the imposition of restrictions of restrictions where monopolies are not in the public interest. The Act also contains provisions relating to consumer protection whereby it, prohibits misrepresentation and misleading advertising. The Tanzania Commission investigates restrictive practices and makes recommendations to the Minister.

3.3.2.4 Botswana

Of late, the Government of Botswana has announced its intention to promulgate a policy that regulates competition in Botswana's economy. It acknowledges that it is critical that the policy adopts a clear language that spells out specific actions that government will take to address inequities in the economy. These developments are currently at an infancy stage, but are also welcomed by its trading partners within SADC. Proposals to have the policy clearly show that

[16] "Per se" is an outright prohibition.

Botswana is keen to embrace best economic practices. The draft policy seeks to enhance economic efficiency, thereby maximizing consumer benefits.[17]

4. IS THERE EMPIRICAL EVIDENCE THAT COMPETITION POLICY PROMOTES ECONOMIC GROWTH?

The discussions on this paper have reiterated the important role that competition policy has for development. It has been evident that through market liberalization and the introduction of effective competition authorities, African countries may be able to attract FDI and improve the performance of domestic economies. Dutz and Hayri (1999) (in Teo, 2003:8) studied the strength of association between intensity of economy wide competition and growth. They constructed three types of variables, related to policy, structure and mobility, to capture intensity of economy wide competition. Policy measures capture the quality of the microeconomic incentive regime and the enabling legal and regulatory framework in areas that directly promote competition. Structure variables reflect the extent to which market structure is concentrated from an economy wide perspective. Mobility variables capture the ease with which new enterprises can enter and grow in any market. Their results indicated a strong correlation between the effectiveness of competition policy and growth. They concluded that the effect of competition policy on growth is strong and goes beyond that of trade liberalization, institutional quality and a generally favourable policy environment.

Bee San and Changfa Lo (2002) (in Teo, 2003:8) examined the social and economic impact of the implementation of the Fair Trade Law (FTL) on the economy of Taiwan. They used a multi-equation system and took the FTL's statistics on decision with sanctions, together with key macroeconomic indicators into account. According to their results, Taiwan's international competitiveness and exports would be significantly enhanced by the implementation of the FTL. Their results also showed that the implementation of the FTL would also create

[17] Competition Policy long over due, The Reporter, August 12 2005.

more job opportunities and stimulate more innovation efforts.[18] The section below attempts to compare the economic performance of a set of countries believed to have effective and efficient competition policies (autonomous regulatory bodies) against those without an autonomous regulatory body. Although several variables will be considered, the main ones are foreign direct investment and trade flow. The objective of this study was not to provide an empirical analysis of the impact of competition policy on the economies of African countries. While taking cognisance of the fact that numerous factors have an influence on economic indicators of countries, it is interesting to note the following[19]:

- ✓ Foreign direct investment (net inflows) in countries with autonomous competition policy is on average 50% higher than countries with non-autonomous competition authorities and those without competition policy.[20]
- ✓ From the sampled African countries, it was found that on average trade in goods, as a share of GDP for countries with competition policy (including those non-autonomous regulatory bodies) was slightly higher than the figure for countries without.
- ✓ The study also found that on average there is no significant difference in the gross capital formation between countries with or without competition policy.

From the above, it seems as if competition policy should have a positive impact on the economic development indicators of the African countries sampled. However, the causality between development and competition policies is not known. The accurate impact would have to be assessed through a more detailed empirical study, which falls beyond the scope of this paper.

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[18] Competition Policy and Economic Growth, Chadwick Teo, Ministry of Trade and Industry, Singapore Government.

[19] See Appendix 1 for complete data on economic indicators for sampled countries.

5. CONCLUSION

The paper explored the positive and negative impacts of competition and free trade policies. The overall conclusion of the report is that these policies do contribute to enhanced performance in all countries, regardless of the stage of development. However, one size does not fit all. This is due to the fact that developmental challenges facing developing and developed countries are different. It is therefore imperative that each country formulates its own policies to address its own specific needs. In order to more fully assess the impact of competition on African countries it is recommended that an in depth econometric study be undertaken.

[20] Note that the figures mentioned apply to countries sampled in this paper as listed in Appendix 1.

6. APPENDIX

Table 1: Countries with Autonomous Competition Policy			
Country	**1999**	**2002**	**2003**
Population growth (annual %)			
Zambia	2.1	1.7	1.5
South Africa	2.4	1.2	1.1
Average	2.25	1.45	1.3
GDP growth (annual %)			
Zambia	2.2	3.3	5.1
South Africa	2	3.6	1.9
Average	2.1	3.45	3.5
Gross capital formation (% or GDP)			
Zambia	17.6	23	26.1
South Africa	15.9	15.9	16.8
Average	16.75	19.45	21.45
Fixed lines and mobile telephones (per 1,000 people)			
Zambia	11.1	21.2	29.4
South Africa	248.1	410.5	**
Average	129.6	215.85	29.4
Trade in goods as a share of GDP (%)			
Zambia	60.2	59.1	56.4
South Africa	40.7	55.5	48.5
Average	50.45	57.3	52.45
Foreign direct investment, net inflows in reporting country (current US$ millions)			
South Africa	1,500	735.2	819.6
Zambia	162.8	82	100
Average	831	408.6	459.8

Source: World Bank Economic Indicators: www.worldbank.org

Table 2: Countries with a Non-Autonomous Competition Policy			
Country	1999	2002	2003
Population growth (annual %)			
Botswana	2	1	0.6
Tanzania	2.4	2.1	2
Namibia	3	2	1.5
Malawi	2.1	2	2
Lesotho	1	0.9	0.9
Kenya	2.4	2	1.8
Gabon	2.4	2.2	2.2
Average	2.19	1.74	1.57
GDP growth (annual %)			
Tanzania	3.5	7.2	7.1
Botswana	5.4	4.4	5.4
Malawi	4	1.8	4.4
Namibia	3.4	2.5	3.7
Lesotho	0.2	3.8	3.3
Kenya	1.3	1.1	1.8
Average	2.97	3.47	4.28
Gross capital formation (% or GDP)			
Lesotho	48.6	32.5	29.8
Botswana	28	28	27.5
Namibia	23.3	17.2	22.7
Tanzania	15.5	19.1	18.6
Kenya	16.2	13.4	12.9
Malawi	14.8	12.5	8.1
Average	24.40	20.45	19.93
Fixed lines and mobile telephones (per 1,000 people)			
Botswana	134	328.5	371.9
Namibia	79.7	144.8	182.5
Kenya	11.4	51.8	60.5
Tanzania	6.3	24.1	29.5
Malawi	6.3	15.2	21

Lesotho	15.9	55.7	**
Average	42.27	103.35	133.08
Trade in goods as a share of GDP (%)			
Lesotho	104.6	155.9	131.5
Namibia	84	86.2	76.4
Botswana	96.7	77.3	70.6
Malawi	62.2	57.2	68
Kenya	43.3	43.9	42.7
Tanzania	24.3	26.2	33.2
Average	69.18	74.45	70.40
Foreign direct investment, net inflows in reporting country (current US$ million)			
Botswana	36.7	403.4	86.3
Kenya	42	27.6	81.7
Lesotho	163.3	80.8	41.9
Tanzania	516.7	240.4	248
Malawi	58.5	5.9	23
Namibia	**	**	**
Average	163.44	151.62	96.18

Source: World Bank Economic Indicators: www.worldbank.org

Table 3: Countries without Competition policy			
Country	1999	2002	2003
Population growth (annual %)			
Uganda	2.8	2.8	2.7
Swaziland	2.9	1.9	1.6
Nigeria	2.5	2.4	2.4
Mozambique	1.9	2	1.9
Gabon	2.4	2.2	2.2
Average	2.5	2.26	2.16
GDP growth (annual %)			
Nigeria	1.1	1.5	10.7
Mozambique	7.5	7.4	7.1
Uganda	7.9	6.8	4.7
Gabon	-6.2	0	2.8
Swaziland	3.5	3.4	2.2
Average	2.76	3.82	5.5

Gross capital formation (% or GDP)			
Mozambique	36.7	30.3	27.9
Gabon	28	28.4	23.9
Nigeria	23.4	26.1	22.7
Uganda	19.4	19.7	20.7
Swaziland	18.7	17.9	19.4
Average	25.24	24.48	22.92
Fixed lines and mobile telephones (per 1,000 people)			
Gabon	39.2	239.7	253.1
Swaziland	46.3	95	128.5
Uganda	5.1	18.1	32.7
Nigeria	4.4	19.2	32.5
Mozambique	5.5	18.6	**
Average	20.1	78.12	111.7
Trade in goods as a share of GDP (%)			
Swaziland	145.7	161.8	104.9
Gabon	74.3	61.2	59.7
Nigeria	64.5	48.5	53.3
Mozambique	35.2	56.5	52
Uganda	31.2	26.5	28.8
Average	70.18	70.9	59.74
Foreign direct investment, net inflows in reporting country (current US$ million)			
Gabon	-156.6	123.2	53
Swaziland	100.4	45	43.5
Mozambique	381.7	347.6	336.7
Uganda	140.2	186.6	194.2
Nigeria	1,000	1,300	1,200
Average	293.1	400.5	365.5

Source: World Bank Economic Indicators: www.worldbank.org

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