



Terms of Reference (TOR)

External Evaluation of UNCTAD's Development Account 7th Tranche Project - Strengthening capacities in developing countries for the effective enforcement of competition law to minimize constraints to economic productivity

1. Introduction and Purpose

The project implemented by the United Nations Conference on Trade and Development (UNCTAD), entitled: “Strengthening capacities in developing countries for the effective enforcement of competition law to minimize constraints to economic productivity” will be completed in December 2013. In compliance with the requirements of the Development Account, which supports this project, the project will undergo an external terminal evaluation.

This evaluation should assess, systematically and objectively, the project framework and design, project management, and project performance. The evaluation should both provide assessments that are credible and useful, and also practical and constructive recommendations in order to enhance the work of UNCTAD in this area.

The primary audiences of the evaluation report are UNCTAD management and programme officers, the Capacity Development Office/Development Account of DESA, project stakeholders, UNCTAD's member States and other stakeholders.

2. Background

The objective of UNCTAD's work on competition policies is to ensure that partner countries enjoy the benefits of increased competition, open and contestable markets, private sector investment in key sectors and ultimately that consumers achieve improved welfare.

A country's competition framework can play a direct and important role in promoting economic growth and reducing poverty. However, anticompetitive practices are common, with two root causes:

- i) Business conduct that restrains competition. This includes agreements between businesses not to compete (which are typically illegal), through cartels, price fixing and territorial divides for example. Businesses may also make formal, legal groupings such as marketing boards and cooperatives, which can in effect operate as cartels.
- ii) Government policies that burden competition. Governments often have restrictive licensing regimes for certain sectors and products, such as for agricultural inputs (e.g. seeds and agrochemicals).

Developing economies are particularly vulnerable to anticompetitive practices - poor business infrastructure and complex regulatory and licensing regimes make it harder for companies to enter these markets; their policies, laws and regulations are often not sufficiently robust, while

their enforcement agencies lack the capacity to effectively detect and tackle many instances of anticompetitive behaviour; citizens, and businesses are less aware of the importance of competition and do not exercise their rights or fulfill their responsibilities.

Competition policy aims to overcome this anticompetitive environment by applying a set of market rules that guarantee a level playing field for all businesses. The successful implementation of competition policy results in the elimination of anticompetitive regulation and unnecessary barriers to competition imposed by government policies.

To this end, the objective of this project to be evaluated is to strengthen the capacity of national competition authorities to effectively enforce competition law and to make recommendations for the improvement of their legal and institutional frameworks.

In order to achieve this objective, the project involves the following activities:

- Producing a peer review report for each beneficiary country;
- Organization of a peer review round table discussion at a session of the Intergovernmental Group of Experts on Competition;
- National seminar to disseminate the results and recommendations of the peer review;
- Awareness and capacity-building workshop; and
- A study tour.

The project covers a period of four years during which four countries were initially targeted for review, but at the close of the project, 11 countries have been involved in the project. This includes 6 Peer Reviews that have been completed, and 5 Peer Reviews that have been initiated¹.

Some of these additional activities have been enabled in part by the ability to attract additional funding from bilateral donors to undertake more peer reviews based on the results of earlier work. In particular, the additional funding enabled two more peer reviews as well as a follow-up on the implementation of the peer review recommendations.

The project has been executed by UNCTAD, in collaboration with UNDP, and with relevant national stakeholders including the national competition authorities and ministries of trade.

3. Scope of the Evaluation

The evaluation will consider all activities that have been implemented under the project and should address the following issues:

a) Relevance and project design

- Whether the project design and choice of beneficiaries and activities have properly reflected and addressed the needs of the beneficiaries, taking into account UNCTAD's mandates, and alignment with the objectives of the Development Account;
- Are the planned outputs and results relevant and appropriate? Do they need to be adapted to specific needs or conditions?
- Is the intervention logic coherent and realistic? What needs to be adjusted? How well do they link to each other?

¹ Armenia (2010), Serbia (2011), Tripartite Peer Review involving three countries: Tanzania, Zambia and Zimbabwe (2012), Mongolia (2012), and Nicaragua, Pakistan, Seychelles and Ukraine coming up in 2013.

b) Effectiveness

- To what extent does the project contribute to the objective of strengthened capacity of national authorities to effectively enforce competition law?
- To what extent are project stakeholders satisfied with the quality of the outputs? Have the countries used the reports/outputs produced? How?
- Have there been any unintended (positive or negative) outcomes of the project? What were the main factors influencing the outcomes of the projects?

c) Efficiency

- Were the activities carried out within the foreseen timeframe? If not, what led to the delays?
- Have project management and implementation modalities been adequate?

d) Sustainability

- Have the project activities been designed and implemented in such a way to ensure maximum sustainability of their impact, for instance, whether beneficiary country stakeholders and development partners were actively involved in the initiation, design and implementation of the project;
- To what extent do the national counterparts assume ownership of the Peer Review process and report and have the capacities and willingness to continue the necessary follow-up actions?

e) Impact

- What long-term developmental changes have occurred or are likely to occur via the effective enforcement of competition law in the countries supported by this project?

4. Deliverables and Expected Output

The evaluation, on the basis of its findings and assessments made on the above criteria, should draw conclusions, make recommendations and identify lessons learned from the implementation of the project.

More specifically, the evaluation should:

- Highlight what has been successful and can be replicated elsewhere;
- Indicate shortcomings and constraints in the implementation of the project while, at the same time, identifying the remaining challenges, gaps and needs for future courses of action;
- Make pragmatic recommendations to suggest how UNCTAD's work in this area can be strengthened in order to deliver better results; and
- Draw lessons of wider application for the replication of the experience gained in this project in other projects/countries.

Three deliverables are expected out of this evaluation:

- 1) An inception report;
- 2) A draft evaluation report; and
- 3) The final evaluation report.

The inception report should outline the evaluator's understanding of the issues under evaluation including an evaluation framework, and a detailed work plan with the timeframe. The evaluation framework should include a matrix relating evaluation issues and questions to evaluation criteria, indicators, sources of information and methods of data collection.

The first draft report should be presented to the Evaluation and Monitoring Unit and relevant stakeholders for quality assurance and factual corrections, if any.

The final output of the evaluation is a report that must compose the following key elements:

- 1) Executive summary (maximum 3 pages);
- 2) Introduction of the evaluation, a brief description of the projects, the scope of the evaluation and a clear description of the methodology used;
- 3) Findings and assessments according to the criteria listed in Section 3 of this ToR;
- 4) Conclusions and recommendations drawn from the assessments.

The evaluation report shall follow the structure given in Annex 1.

In the evaluation report, all the assessments made must be supported by facts and findings, direct or indirect evidence, and/or well-substantiated logic. It follows that all the recommendations made should be supported by the assessments made.

The evaluator is required to submit a separate final list of those interviewed, for the record. If necessary, the report may be accompanied by a supplement including supporting materials. If English is not the native language of the evaluator, he/ she is requested to ensure that the final report be copy edited before submission to UNCTAD.

5. Methodology

The evaluator must use a mixed-method approach to triangulate all available data sources to reach conclusions and findings. Such evaluation methodology may include but is not limited to the following:

- Desk review of relevant project documents and relevant materials;
- Face-to-face interview and/ or telephone interviews with relevant UNCTAD staff;
- Face-to-face interview and/ or telephone interviews with direct beneficiaries and other relevant stakeholders;
- Surveys of project stakeholders;
- Content analysis.

All relevant materials will be provided to the evaluator including but not limited to:

Project documents and reports; mission reports; progress reports, self-assessment reports, publications, documents and/or reports produced through the project, material used for activities; training materials; resource-use information; list of beneficiaries and workshop/meeting participants, counterparts and resource persons; existing feedback (assessments, letters, surveys, etc.).

6. Description of Duties

The evaluator reports to the Chief of the Evaluation and Monitoring Unit. He or she will undertake the evaluation exercise under the guidance of the Evaluation and Monitoring Unit and in coordination with the project manager. The evaluator will be responsible for the evaluation design, data collection, assessment and reporting. The evaluator must take full responsibility for the contents of the report generated and ensure its independence and accuracy.

The evaluator should observe the United Nations Evaluation Group (UNEG) guidelines,

standards², and norms³ for evaluations in the UN system, as well as UNCTAD's Evaluation Policy⁴, in the conduct of this assignment.

7. Timetable

The total duration of the evaluation is equivalent to 30 days of work and will take place primarily between 1 November to 31 December 2013.

8. Monitoring and Progress Control

The evaluator must keep the Evaluation and Monitoring Unit informed of the progress made in the evaluation on a regular basis. The evaluator will also present the draft report to the Evaluation and Monitoring Unit and the project manager before the final submission, giving sufficient time for the verification of factual findings as well as its compliance with the ToR (approximately 1 week).

The contract concludes, and payment issued, upon satisfactory receipt of the final report.

9. Qualifications and Experience

- **Education:** Advanced university degree in economics, or related field.
- **Experience:** At least 5 years of experience in conducting evaluations, preferably on interventions in the areas of capacity-building and policy advocacy. It is also desirable that the evaluator has prior experience working in the area of competition policy.
- **Language:** Fluency in oral and written English.

10. Conditions of Service

The evaluator will serve under a consultancy contract as detailed in the applicable United Nations rules and regulations. The evaluator will not be considered as staff member or official of the United Nations, but shall abide by the relevant standards of conduct. The United Nations is entitled to all intellectual property and other proprietary rights deriving from this exercise.

11. Applying for the consultancy

Applicants are required to submit an expression of interest to undertake the assignment/consultancy and include the following:

- Cover letter stating why you are suited for this work, your available start date and work experience, especially evaluation experience;
- Detailed CV

A sample of a recent evaluation report should be submitted as a reference.

Applications with the above details should be sent to evaluation@unctad.org

The deadline for submitting the applications is 30 October 2013.

² "Standards for Evaluation in the UN System" by UNEG, UNEG/FN/Standards (2005);

³ "Norms for Evaluation in the UN System" by UNEG, UNEG/FN/Norms (2005);

⁴ "Evaluation Policy" of the United Nations Conference on Trade and Development (UNCTAD), December 2011.

Annex 1.

Template of evaluation report

I. Executive summary

- Not more than three pages focusing on the evaluation approach and the most important findings and recommendations

II. Introduction

- Information on the evaluation: why, when, by whom, etc.
- Description of methodology employed including information sources and availability of information
- Project summary (including project structure, objectives, donors, counterparts, timing, cost, etc)

III. Project context and planning

- Project identification (stakeholder involvement, needs of target groups analysed, depth of analysis, etc.)
- Project formulation (stakeholder involvement, quality of project document, coherence of intervention logic, etc.)
- Description of the underlying intervention theory (causal chain: inputs-activities-outputs-outcomes)
- Positioning of the project (other initiatives of government, other donors, private sector, etc.)

IV. Project Implementation

- Financial implementation (overview of expenditures, changes in approach reflected by budget revisions, counterpart organisation(s), project partners, etc.)
- Management (in particular monitoring, adaptation to changed circumstances, etc.)
- Outputs (inputs used and activities carried out to produce project outputs)
- Outcome, impact (what changes at the level of target groups could be observed, refer to outcome indicators in prodoc if any)

V. Assessment

- Relevance;
- Efficiency
- Effectiveness
- Sustainability
- Impact

VI. Conclusions

VII. Recommendations

- Recommendations must be based on evaluation findings

VIII. Lessons learned

- Lessons learned must be of wider applicability beyond the evaluated project but must be based on findings and conclusions of the evaluation