

Unclassified

CCNM/GF/COMP/WD(2002)18



Organisation de Coopération et de Développement Economiques  
Organisation for Economic Co-operation and Development

07-Feb-2002

English - Or. French

CENTRE FOR CO-OPERATION WITH NON-MEMBERS  
DIRECTORATE FOR FINANCIAL, FISCAL AND ENTERPRISE AFFAIRS

CCNM/GF/COMP/WD(2002)18  
Unclassified

## OECD Global Forum on Competition

### CONTRIBUTION FROM IVORY COAST

*This note is submitted by Ivory Coast as a background material for the second meeting of the Global Forum on Competition, to be held on 14-15 February 2002.*

JT00120508

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## I. - CONTRIBUTION BY COTE D'IVOIRE

During the two years 2000 and 2001, the activities of Côte d'Ivoire's competition authorities diminished significantly because of the social and political situation in the country.

This situation led to Côte d'Ivoire's cooperation with a number of international economic institutions being put on hold.

As a result, we were not able to properly complete the questionnaire on international cooperation in investigations into cartels or mergers.

In any case, even in the previous period, Côte d'Ivoire did not sign any formal cooperation agreements with other countries in respect of cartels or mergers.

However, Côte d'Ivoire is a member of several sub-regional integration organisations, notably the West African Economic and Monetary Union (WAEMU) and the Economic Community of West African States (ECOWAS), some of whose States have competition law.

With the resumption or normalisation of cooperation relations with international organisations, and consolidation of competition arrangements in the member countries of sub-regional organisations, it is likely that cooperation in the area of mergers and cartels will intensify in the coming years.

Côte d'Ivoire, it should be emphasised, opted for economic liberalisation back in the 1960s. However, it was not until 1978 that the first legislation on competition appeared.

In 1991, under pressure from donors, the Competition Act was passed, Law No. 91-999 of 27 December 1991.

This Act was amended by Law No. 97-10 of 6 January 1997 to extend powers of prosecution to private companies.

In Côte d'Ivoire, there are two bodies responsible for implementing competition policy:

- the Competition Commission, created by the Act of 27 December 1991; and
- the Department of Competition created by decree of the Council of Ministers.

The Competition Commission's responsibilities mainly involve supervision, regulation of procurement to prevent anti-competitive practices (illegal cartels, abuse of dominant position, excessive economic concentrations).

The Department of Competition specialises in cases involving individual restrictive practices and their suppression.

Following its creation in December 1991, the Competition Commission only became operational in January 1994. It has undertaken 24 prosecutions and issued 21 opinions, 7 of them advisory and 14 in litigation. Several prosecutions are currently in progress.

Every year, the Commission prepares a report of its work which is published in the Official Journal of the Republic of Côte d'Ivoire.

The combined actions of the Competition Commission and Department have had a significant impact on the national economy, which can be seen at several levels:

- The fall in the price of major consumer goods despite the devaluation of the CFA franc in 1994;
- The restoration of a climate of confidence reflected in the disappearance among economic operators of the fear of being crushed by the strongest;
- The creation of an environment favourable to investment promotion, which encouraged the Government to set up the Centre for the Promotion of Investment in Côte d'Ivoire (CEPICI) for better coordination of investment policies.
- The birth of consumer movements.

Unfortunately, the military coup of 24 December 1999 brought this progress to a halt.

With the establishment of a civilian government after the October 2002 elections, new staff were appointed to revitalise the competition bodies in Côte d'Ivoire.

In practice, however, the need for training of these staff has become apparent, hence the need for Côte d'Ivoire to seek assistance.

## **1. TECHNICAL ASSISTANCE NEEDS**

As with the questionnaire on international cooperation concerning cartels and mergers, it should be noted that Côte d'Ivoire did not receive any assistance in 2000 and 2001.

In the years before that, especially with the launch of the Competition Commission in 1993-1994, it received assistance in training for its staff, a number of courses run by the French Competition Board, and missions to the Belgian competition authority and UNCTAD.

With the provision of new staff, other training issues arise.

Any form of assistance is worthwhile, but our current preference for our institution is:

- Upgrading of newly-appointed reporters;
- Retraining of existing staff and the Secretary-General of the Commission

Rather than conferences and seminars, we think courses more useful because they are longer and the training can cover several aspects.

As for advisers providing in-house training, their presence may allow the acquisition of knowledge on specific issues and up-to-date techniques. It is regrettable, however, that their arrival does not always coincide with the time when they are requested.

**2. AREAS WHERE OUR NEEDS ARE URGENT**

- Upgrading of new reporters;
- Retraining of existing staff including the Secretary-General of the Competition Commission;
- Provision of computers and vehicles;
- Assistance with subscriptions to journals, studies and other publications to provide documentation on competition law and policy;
- Training of trainers to meet on-going training needs, given the high staff turnover in government departments.

It should be noted, however, that Côte d'Ivoire has already made approaches to UNCTAD in this connection.

## II. - NOTE

This note covers three topics:

- International cooperation in cases of mergers and cartels;
- Concerns relating to competition policy and economic development;
- Technical assistance in competition policy.

### 1. INTERNATIONAL COOPERATION IN CASES OF MERGERS AND CARTELS

This note relates to Annex A of the questionnaire on international cooperation in investigations into cartels and mergers.

This questionnaire, as mentioned in the annex, covers the two years 2000 and 2001.

During the two years 2000 and 2001, the activities of Côte d'Ivoire's competition authorities diminished significantly because of the social and political situation in the country.

This situation led to Côte d'Ivoire's cooperation with a number of international economic institutions being put on hold.

As a result, we were not able to properly complete the questionnaire on international cooperation in investigations into cartels or mergers. The same goes for specific experiences of international cooperation in cases of mergers and cartels, since Côte d'Ivoire has not signed any formal cooperation agreements with other countries in respect of cartels or mergers, even prior to these two years.

It should be remembered, however, that Côte d'Ivoire is a member of several sub-regional integration organisations, notably the West African Economic and Monetary Union (WAEMU) and the Economic Community of West African States (ECOWAS), some of whose States have competition law.

With the resumption or normalisation of cooperation relations with international organisations, and consolidation of competition arrangements in the member countries of sub-regional organisations, it is likely that cooperation in the area of mergers and cartels will intensify in the coming years.

### 2 CONCERNS RELATING TO COMPETITION POLICY AND ECONOMIC DEVELOPMENT

Côte d'Ivoire opted for economic liberalisation back in the 1960s.

However, it was not until 1978 that the first legislation on competition appeared.

The decision to go for a policy of open markets meant establishing bodies whose task was to ensure that economic sectors functioned properly.

This led to the creation of:

- the Competition Commission, under the Competition Act, Law No. 91-999 of 27 December 1991; and
- the Department of Competition by decree of the Council of Ministers.

The Competition Commission's responsibilities mainly involve supervision, regulation of procurement to prevent anti-competitive practices (illegal cartels, abuse of dominant position, excessive economic concentrations).

The Department of Competition specialises in cases involving individual restrictive practices and their suppression.

Following its creation in 1991, the Competition Commission only became operational in January 1994.

It has undertaken 24 prosecutions and issued 21 opinions, 14 of them in litigation and 7 advisory.

The results of these eight years of operation may be seen as rather poor, even if the years 2000 and 2001 are regarded as like crossing a desert.

The poor results can be explained by obstacles to the performance of the tasks of the Competition Commission, which are mainly of two kinds:

- sociological burdens;
- the institution's lack of independent decision-making powers.

With regard to the sociological burdens, the Competition Commission, in the eyes of economic operators, is a body mandated by the government authorities to "judge" and punish those among them guilty of breaches of the rules on free competition.

Thus a company that is the victim of an anti-competitive practice would hesitate to complain to the Commission for fear of reprisals, paradoxically seeking to protect the cause of its misfortune.

This state of affairs shows that Côte d'Ivoire is one of those economies with competition law still in a transitional stage. The country retains the features of a strict centrally planned regime. One can see the marks on a monopolistic structure in which there are very few competitors in the same sector and where complaints of horizontal anti-competitive practices are rare.

With regard to the lack of independent decision-making powers, it should be pointed out that the Ivorian Competition Commission is only an advisory body to the Government. The power of decision belongs exclusively to its parent body, the Ministry for Trade, and the Commission can only issue opinions following each prosecution.

The problem is that the Minister's decision often comes late or even not at all.

This prevents the parties from exercising any recourse.

These weaknesses are such as to discourage complaints to the competition authorities. They undoubtedly remain one of the reasons for the scarcity of prosecutions, despite the amendments to the 27

December 1991 Act introduced by the Act of 6 January 1997 extending the power of prosecution to private companies and associations of companies.

Unfair competition is the area where cases are most numerous and complaints most common, but these are a matter for the ordinary courts.

Despite the difficulties in performing their tasks, the law and policies applied by the competition authorities have noticeably affected the transition and have had a perceptible impact on economic development at several levels:

- the fall in the price of imported capital goods and the injunction to retailers to ensure that prices are systematically displayed;
- the birth of consumer movements;
- the implementation of the main privatisation projects;
- the establishment of a climate of confidence reflected in the disappearance among economic operators of the fear of being crushed by the strongest;
- the creation of an environment favourable to investment promotion.

The main difficulty lies in the intensification of advocacy measures aimed at economic operators. Assistance in this area is a necessity.

### **3. TECHNICAL ASSISTANCE IN COMPETITION POLICY**

As with the questionnaire on international cooperation relating to cartels and mergers, it should be noted that Côte d'Ivoire did not receive any assistance in 2000 and 2001.

In the absence of any experience in this area, we are unable to reply to the questionnaire in annex B.

With respect to 2002, requests for assistance are in hand, primarily for:

- training of the staff of the competition authorities;
- training of trainers;
- equipment (computers, vehicles);
- subscriptions for documentation

The areas in which our economy has the greatest needs for assistance in competition law and policy are:

- intensification of advocacy measures in the form of seminars for economic operators;
- adequate training for public relations staff in the competition authorities.

In conclusion, it should be stressed that it is more necessary than ever for the competition authorities in Côte d'Ivoire to raise their profile among economic operators. Events to publicise the existence of these bodies and the importance of their role are a must.

The granting of decision-making powers to the Commission is crucial to the institution's credibility.

The extension of the Commission's powers to the area of unfair competition is crucial for the future of this body.

Appropriate training of competition authority officers, with a guaranteed career structure are essential tools for the performance of the tasks assigned to these institutions.