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COMPETITION AND POVERTY REDUCTION

Contribution from Congo

-- Session I --

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-- Congo --

1. Socio-economic background

1. The Republic of Congo, with a population of approximately 4 million, has made significant progress in economic and social affairs as well as legal reform over the past ten years.

2. This progress is evidenced by:

- A trade surplus, with 84% of exports derived from oil and 6.5% from lumber;
- GDP growth of around 6%, one of the highest rates in sub-Saharan Africa;
- GDP per capita of approximately USD 3 500 per year;
- Successful culmination of the Heavily Indebted Poor Countries Initiative (HIPC) with implementation of the final Poverty Reduction Strategy Paper;
- The construction of basic infrastructure, including the road connecting Congo's political and economic capitals (Brazzaville – Pointe-Noire);
- Improvements to basic infrastructure through the implementation of the rotating accelerated decentralisation policy which consists in hosting celebrations to mark the country's independence in each *département*.

3. However, the economy remains polarised by the juxtaposition of the informal sector and the formal or structured sector, the latter being dominated by the civil service, which accounted for 78 200 employees out of a total of 125 137 in 2007.

4. The majority of civil servants are employed in the education, defence and security sectors, which together account for 68% of the public payroll.

5. With the exception of pay for the armed forces and magistrates, public sector salaries remained constant between 1992 and 2011:

- XAF 146 000 (Central African CFA francs) (EUR 222.40) for the top salary in category I;
- XAF 97 000 (EUR 147.75) for the top salary in category II;
- XAF 75 000 (EUR 114.25) for the top salary in category III.

6. A new salary scale for civil servants was drawn up in 2011 with a view to a gradual roll-out starting in 2012.

7. Between 2003 and 2007, among the 12 260 registered businesses, 28 (0.23%) large companies employed more than 20 people, 154 (1.25%) medium-sized firms had between 6 and 20 employees, and 12 076 (98.5%) small enterprises employed fewer than 5 workers.

8. Furthermore, since 1994 the Republic of Congo has undertaken a series of legislative reforms with a view to building an efficient and competitive economy. These include:

- The enactment of Law No. 6-94 of 1 June 1994 on price regulation, trading standards and fraud detection and prevention. This law enshrines the general regime of free pricing for goods and services, *i.e.* prices are set by free market competition, although the law does provide for several derogations, the most common being price approval and the taxation of prices.

- The enactment of Law No. 6-2003 of 18 January 2003 on the Investment Charter, which grants specific advantages indistinctly to economic operators without jeopardising competition.

- Moreover, with the assistance of UNCTAD and support from the European Union through the Commercial and Entrepreneurial Capacity-Building Project (PRCCE), the Ministry of Trade and Procurement has drawn up two draft bills – one on competition and the other on consumer protection – which have been submitted to national institutions for review. The draft bill on competition provides for the establishment of a "National Competition Authority" and the second for the creation of a "National Consumer Protection Board".

- Under this legislation, the National Competition Authority will be a decision-making body, while the National Consumer Protection Board will be an advisory body. The National Competition Authority will work in collaboration with the General Directorate of Competition and Fraud Prevention, as well as with sectoral competition regulation agencies.

9. Against this background of mixed socio-economic conditions and planned legal reforms, we may ask how far the application of competition law can combat poverty in a country in which:

- The agriculture, livestock and fisheries sectors account for 9.3% of GDP while 50% of the population derive their livelihood from the informal agricultural sector;

- The unemployment rate for those aged 25-35 is 34.2%;

- Over 50% of the population are living below the poverty line, and access to water and electricity is still difficult for a significant part of the population.

2. Defining poverty and highlighting its causes

10. Poverty is the situation in which individuals or groups of disadvantaged and highly vulnerable people find themselves when they lack essential goods or have to make great sacrifices in order to obtain those resources that are judged to be essential for a given community.

11. These resources are basic goods and services, *i.e.* water, electricity, medical care, basic foodstuffs and decent housing.

12. This definition also encompasses previously solvent people who have become poor as a result of misfortune in their lives, but whose vital needs are not exactly the same as those living in absolute poverty.

13. Lowering the prices of goods and services is an essential, but not the only, condition for combating these conditions of poverty. Considerations of individual purchasing power seem more pertinent for combating poverty insofar as too great a drop in prices would prevent enterprises from making the profits they need to survive.

14. There are many causes of poverty, and in Congo these include:

- Chronic unemployment;
- Lack of education;
- Lack of maintenance to the road infrastructure to open up remote areas;
- Apathy among the population;
- Lack of a stable income for certain segments of the population;
- Under-exploitation of the agricultural sector;
- Disinvestment in sectors that remain heavily labour-intensive;
- Socio-political conflicts;
- Natural and technical disasters;
- Underperforming enterprises which are forced into closure and liquidation;
- Very high prices of consumer goods and services, etc.

3. Impact of competition on the market for essential goods and services - in theory

15. Competition encourages new enterprises to enter the market, and these firms increase the output and/or imports of goods and services.

16. As long as these enterprises continue to make profits, a significant increase in supply will lead to lower prices and better quality goods and services, provided that the market is accessible, transparent and free of bottlenecks for multiple sellers and buyers.

17. Competition should therefore encourage new players to come into the market to stimulate growth while avoiding cartels, mergers and abuses of dominant positions.

18. In addition to legal and administrative measures, the competition authorities should organise campaigns aimed at informing consumers and businesspeople to make them more aware of the issues at stake. The emphasis should be placed on quality, product safety and prices.

19. Certain practices affecting consumers may reduce competitive intensity, such as the use of unfair procedures, misleading advertising, etc.

20. Strengthening competition prevents enterprises in the same sector from forming cartels or even vertical agreements so as to secure and/or take control of supply chains or distribution channels.

21. Some economists have demonstrated that vertical restraints (vertical agreements) can actually improve the general well-being (greater consumers' surplus and/or producers' surplus). They have also shown that when there are no concerted practices, each company sets its own margins to maximise profits. This results in higher prices for consumers and low satisfaction for enterprises since they sell less.

4. Impact of competition on the market for essential goods and services - in practice

22. Our experience is based on the mobile telephone market.

23. There are currently four operators in this sector: AIRTEL, MTN, WARID and AZUR.

24. Each operator entered the market gradually, and competition came into play as soon as the second enterprise began its operations. This resulted in a slight fall in call charges.

25. Thanks to Congo's telecommunications and postal regulatory authority (*l'Agence de Régulation des Postes et des Communications Electroniques - ARPCE*), a price floor for calls of XAF 60 per minute (EUR 0.09) was introduced.

26. The last operator to join the market, as part of its aggressive strategy, dropped its call charges for almost two months to XAF 7 per minute (EUR 0.01), which it described as a promotional price. The ARPCE ruled that this was predatory pricing.

27. By stepping in, the ARPCE halted this practice and the operator was forced to comply with the regulation.

28. Stronger competition has had a very noticeable effect on the market. With the minimum call price set at XAF 60 per minute, rates are affordable even for the least well off.

29. At the same time, prices of mobile telephones fell substantially, dropping to XAF 10 000 (EUR 15.23) during promotional campaigns. Consumer can now easily afford handsets which are, alas, not always of the best quality. Latest figures show that 92% of households now own a mobile telephone, up from 38% in 2005.

30. Stronger competition in this market has actually benefited consumers living in poverty.

31. Since competition policy is still in an early and less structured phase in our country, the authorities tasked with overseeing competition do not have the full range of powers they need to take all the necessary measures.

5. Competitive markets, public regulation and intervention to help the poor

32. Attempts by the public authorities to intervene in the markets to combat poverty by enforcing price controls or other constraints on the private sector do nothing to boost competitiveness, innovation and growth.

33. Indeed, the guiding principles that are needed to spur competitive practices in the market are neglected. And enterprises cease taking strategic decisions to increase output and improve quality.

34. As a result, supply stagnates, prices remain high and products remain largely out of reach for poor consumers.

35. The public authorities should ensure that the prices of goods sold by enterprises are set via the mechanism of free competition. However, given the specific economic conditions of each country, derogations should be allowed where *de facto* monopolies or oligopolies exist in certain sectors deemed sensitive.

36. In an attempt to correct certain market imperfections, Congo often applies two derogation regimes – price approval for imported essential items and taxation of the prices of common consumer goods and services – which impact the poor. These measures are applied in respect of meat, fresh and salted fish, poultry, flour, tomatoes, cooking oil, salt, rice, corrugated iron, reinforcing steel, beer, medicines, fuel, taxi and minibus fares, stevedoring and cargo handling services at ports.

6. Impact of competition on the poor, small entrepreneurs and jobseekers - in theory

37. Competition increases the supply of goods and services in the market.

38. In a competitive environment, as long as existing enterprises make a profit, new ones will be drawn to the market by the prospect of earning profits themselves. This allows small enterprises to grow, increase the supply of goods and services and create lasting jobs.

39. Creating jobs is a significant aspect of the fight against poverty. Getting a job or moving to a better one is a key factor in improving an individual's economic outlook.

40. In the long term, competitive enterprises increase the quantity of goods available in the market, improve quality and cut prices, thus increasing the purchasing power of consumers, including the poor.

41. Young enterprises are more vulnerable to poor regulation of competition. The introduction of stiffer competition as a result of inappropriate policies may force them out of business and hamper job creation.

7. Using competition to combat poverty

42. If the competition authority wishes to combat poverty, it would be useful to focus more closely on the retail sector rather than links in the production chain. Indeed, distribution channels set up by retailers often generate very high margins and increase the price of goods for final consumers.

43. For the example of a village grocery shop with a local monopoly, there is admittedly little that the public authorities can do to intervene. Nevertheless, in light of the shop owner's profit margin, they may advise him not to sell goods above a given price ceiling.

44. In such a case, the Ministry of Trade and Procurement is faced with the implementation of the 1986 decree on distribution which provides for short channels between the **importer** (wholesaler) and the **retailer,** and between the retailer and the **final consumer**, to avoid the additional costs generated by the longer distribution chain. However, there is a category of traders known as "semi-wholesalers" who are solidly entrenched between importers and retailers. These traders, overlooked by the decree, demand an additional illegal margin which raises the price of frozen foodstuffs (90% of which are imported) that are subject to the price approval regime.

45. To protect the most vulnerable segment of society, the Ministry of Trade and Procurement has introduced a policy with a view to keeping prices low through the importer-retailer channel.

46. In conclusion, in light of the theories outlined above, competition does not seem to be a panacea for poverty. So what additional approaches could be considered to solve the problems of poverty in developing countries where the agriculture and livestock sectors are largely neglected and deprived of subsidies; and furthermore, where more than half of the population works in the informal sector? How can growth be engineered to significantly boost employment, one of the main weapons in the fight against poverty, and foster competition in order to diversify the economy, assuming that the competition law reforms outlined above are adopted?

47. Thank you.

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