

# CUTS LATEST PUBLICATIONS

TRADE AND DEVELOPMENT



## Services Trade and Domestic Regulation in Jamaica

Services has become an increasingly important sector in enhancing national output and generating employment in developing countries. In recent years, Jamaica, like many countries throughout the world, has taken a strong interest in the level and growth of its services sector. This development has generated significant attention on areas such as the increased contribution of services to the national economy as well international trade.

However, given the increased levels of trade in services over the last decade, driven by increased advances in technology and communications and movement of persons worldwide, more countries have been paying increased attention to the developments in this sector. As one of several low-income countries, Jamaica has taken on the challenge of liberalising the services sector in keeping with the General Agreement on Trade in Services (GATS).

This Briefing Paper examines the importance and contribution of services in the economy of Jamaica, while analysing the liberalisation process and regulation in respective service sectors. It also discusses Jamaica's commitment under the GATS.

*This Briefing Paper can be viewed at:  
<http://www.cuts-citee.org/pdf/BP08-WTO-4.pdf>*

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June 2008

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# Evolution of Service Sector in Bangladesh: An Overview

## TRADE AND DEVELOPMENT



The services sector constitutes a significant share of the gross domestic product (GDP) in most of the developing countries in South Asia, Africa and the Caribbean region, since these countries have an important stake in the Doha Round of negotiations on services liberalisation. Among the many issues being negotiated, “Domestic Regulation” has become very important for developing and least developed countries (LDCs), while undertaking liberalisation of their service sectors. The Doha Round makes it clear that the national policy objectives to be a valid concern as long as these are not used to restrict trade. It strives to facilitate trade in services and yet focuses on achieving a level playing field between domestic and foreign service providers.

This Briefing Paper examines the importance of services sector in Bangladesh economy particularly in GDP growth and employment generation. It analyses the impact of liberalisation on the services sector and explains the regulatory framework in various sectors under services and provides for ways how to maximise benefits in the sector.

*This Briefing Paper can be viewed at:*

<http://www.cuts-citee.org/pdf/BP08-WTO-5.pdf>

## TRADE AND DEVELOPMENT



## ‘Energising’ India’s Development through Economic Diplomacy

Since the turn of the present century one issue that has seriously engaged policy makers worldwide is the construction of modalities of regional cooperation for sharing energy, the most vital of all resources.

Regional energy cooperation is a potential means of attaining greater economic cooperation amongst proximate countries; however, it involves various factors which determine the changing scope and dynamics of regional economic relations. India must pursue technologies that maximise energy efficiency involving suitable demand side management and conservation strategies. In short, India has to formulate a domestic energy policy and blend foreign/trade policy with energy diplomacy to develop relationships with foreign energy suppliers.

On the lines of China, many countries, including India, have started pursuing energy diplomacy to seek energy supplies from the energy rich countries of Asia, Africa and South America. This Briefing Paper seeks to find out why and how India should engage increasingly in energy diplomacy. Also, it explores how regional economic cooperation is considered a more fruitful and secure way than bilateral moves

*This Briefing Paper can be viewed at:*

<http://www.cuts-citee.org/pdf/BP08-REC-01.pdf>

# Activism against Low Labour Standards in Developing Countries: *Is It a bane in disguise?*

## TRADE AND DEVELOPMENT



Certain labour standards, such as freedom of association and freedom from forced labour are considered as 'core standards' and are characterised by near universal acceptance by nations. Any detection of violation leads to such universal condemnation that most governments promptly react to undo the wrong. There are others, such as the right to an employment policy, right to tripartite consultation, right to minimum age of employment and rules regarding maximum hours of work, which are not characterised by universal acceptability or consensus. Steps are often taken by developed country NGOs to publicise the 'violation' or 'dilution' of these rights in a developing country even if such dilution is consistent with the labour standards of the concerned country.

The resulting reaction from the 'aware' consumers of developed countries manifests itself in a fall in demand in the developed country and employment in the developed as well as the developing country. Governments who care about the aggregate welfare of labour actually try to arrest this decline in employment by allowing for even more laxity in 'non-core' standards, in order to compensate the employers for the damage done by bad publicity. Thus, such publicity turns out to be counter-productive.

This Briefing Paper tries to speculate on whether activism by NGOs in developed countries to reveal sweatshop practices by multinationals in developing countries has the desired effect, i.e. developing country governments actually raise their labour standards in response to activism.

*This Briefing Paper can be viewed at:  
<http://www.cuts-citee.org/pdf/BP08-DI-10.pdf>*

# The Indian Patent (Amendment) Act 2005 and the Novartis Case

## TRADE AND DEVELOPMENT



The Indian pharmaceutical industry has emerged as one of the major providers of healthcare products and caters to the pharmaceutical needs of over 95 percent of the population in India. This industry is a prominent supplier of generic medicines at affordable price for the poor population in the world and is fondly referred to as pharmacy of the poorer world. There has been a paradigm shift in the policies and programmes governing this sector, which has transformed the once non-existent Indian pharma industry into a whopping US\$6bn industry. It currently ranks 4<sup>th</sup> and 13<sup>th</sup> in terms of global volume and value respectively in the global pharmaceutical business. India's pharmaceutical exports constitute approximately 40 percent of the total production of pharmaceuticals in India and is valued at over US\$3.5bn.

The Indian Patents (Amendment) Act, 2005, introduced product patents in India and marked the beginning of a new patent regime, aimed at protecting the intellectual property rights (IPRs) of the patent holders. The Act was in fulfilment of India's commitment to the World Trade Organisation (WTO) on matters relating to the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPs). However, the multinational companies (MNCs) in pharmaceutical business in India developed an apprehension about the sincerity and intentions of India in implementing the provisions of the newly amended Act in the true letter and spirit of the TRIPs Agreement. Novartis filed writ petitions before the High Court of Judicature at Madras, challenging the legal validity of Section 3(d) of the Act 2005. Section 3 (d) seeks to limit the scope of patent protection in order to prevent patenting of new forms or derivatives of a known substance. Novartis challenged this provision when the Indian Patents Office (IPO) rejected patent application of its drug called 'Glivec'.

The letter and spirit with which India is transitioned into new patent regime has been put to the litmus test by Novartis. Patents granted in India could have implications worldwide, because several developing countries depend on the generic medicines manufactured in India. This Trade Law Brief examines the decision in Novartis case and its implication for India and worldwide.

*This Trade Law Brief can be viewed at:  
<http://www.cuts-citee.org/pdf/TLB08-03.pdf>*

## Regulation of Higher Education in India



While the coverage of higher educational facilities has registered an impressive increase since independence, much more clearly needs to be done. The non-vocational sector, comprising of universities and deemed universities, clearly suffers from lack of competition because of institutionalised barriers to entry created by the Government itself, resulting in both inadequate quality and quantity of higher education. Some deregulation of entry in this sector, coupled with promotion of accountability of institutions to students, is desirable.

Apart from these problems relating to quality and quantity, it is also necessary to consider the trade-offs between the quality of education and equity. Cross-subsidisation has been proposed to reconcile these two objectives. However, the requirements for cross-subsidy might be so large in the case of quality education that the corresponding fees might be unaffordable for large sections of the population.

This Discussion Paper presents a review of the progress made in higher education in India, including the status of regulation. It offers makes recommendations for changes in the regulation to make the higher educational institutions more productive.

*This Discussion Paper can be viewed at:  
[http://www.cuts-international.org/pdf/Regulation\\_Higher\\_Education\\_in\\_India.pdf](http://www.cuts-international.org/pdf/Regulation_Higher_Education_in_India.pdf)*

## Competition Policy and Economic Growth – Is There a Causal Factor?



It is widely accepted that competition policy contributes to economic development. However, the extent to which economies of countries that have adopted competition policies and laws are performing better than those still to adopt is not quite apparent. This lack of clear evidence could be responsible for the reluctance by some developing countries to adopt competition policies, or for the slow pace of adoption of competition reforms by others.

This Briefing Paper attempts to dwell on the issues surrounding the relationship between competition policy/law and economic growth. It discusses various channels through which economic growth and competition policy/law can be interlinked. It also describes some of the empirical research studies done on the subject, including challenges and bottlenecks that could be responsible for the absence of a clear link between competition policy and its intended objective, economic development.

*This Briefing Paper can be viewed at:  
<http://www.cuts-international.org/pdf/CCIER-2-2008.pdf>*

## Dealing With Anti-Competitive Practices in the Indian Pharmaceuticals and the Health Delivery Sector

(C-CIER No 5/2008)



It is an undeniable fact that access to healthcare is one of the most basic needs and an inviolable right of every human being. The right to health has been recognised in a number of international legal instruments. Globally, the drug sector has been known for practices of thwarting the spirit of competition and regulation. Hence, the role of the competition authority is very crucial in placing appropriate restraints. In India too, there are constitutional commitments providing access to healthcare.

However, despite the tall claims, only 35 percent of the people in India have access to essential medicines. Several factors are responsible for such deprivation - malpractices in the market as well as anti-competitive conduct in the pharmaceutical industry and the health delivery system.

Given the grim scenario, CUTS International conducted a study in 2005-06 on "Options for Using Competition Law/Policy Tools in Dealing with Anti-competitive Practices in Pharmaceuticals and the Health Delivery System", supported by the World Health Organisation (WHO) and the Ministry of Health and Family Welfare, Government of India. The study aimed to: identify competition concerns in the pharmaceutical sector and health delivery system; and to examine the scope of competition policy and law in dealing with such concerns.

This Briefing Paper addresses the twin objectives of highlighting the study findings and examining legal and policy options to effectively curb anti-competitive practices in the health sector in the country.

*This Briefing Paper can be viewed at:  
<http://www.cuts-international.org/pdf/CCIIR-3-2008.pdf>*

## Factors Affecting Competition in the Agricultural Produce Markets in India

(C-CIER No 6/2008)



The low incomes enjoyed by Indian farmers are partially due to the capture of the purchasing power of consumers by numerous intermediaries. Therefore, there is a need to reduce the number of intermediaries through proactive measures and methods, such as 'contract farming' and 'direct farming'.

The geographically isolated nature of markets also facilitates the phenomenon of capture by intermediaries. The situation can be remedied by an improvement in the physical connectivity of markets – better roads, rail links and improvement in the freight facilities on trains and trucks, especially those for small farmers. But, it is even more important to improve information flows about markets to farmers.

This Briefing Paper examines the steps to reduce geographical isolation of markets for farm produce and the economic distance between the farmers and the ultimate consumer, and this will help greatly to introduce competition in agriculture and, thereby, facilitate a rise in farm incomes and farm investment.

*This Briefing Paper can be viewed at:  
<http://www.cuts-international.org/pdf/CCIER-4-2008.pdf>*

## Competition Policy in Malawi: A course to development

(C-CIER No 7/2008)



Challenges of sustainable development are often far steeper to address for small, developing and/or least developed countries (LDCs) than others. Each and every step that such countries take have to be carefully assessed and endorsed before being realised. This justifies the reason why some policies spend much longer periods ‘on the table’ in these countries than in others. Every new policy or strategy is critically and carefully scrutinised through the lens of socio-economic development before being passed for implementation.

Malawi is a small LDC that has had a competition policy for almost a decade now. However, the slow pace of implementation of the policy and enforcement of the law testifies the fact that it has had to constantly justify its effective implementation that would help Malawi achieve socio-economic developmental objectives. There has been a fairly long ‘gestation’ period (of 5 years) between the adoption of the competition policy (and law) and its actual implementation in the country.

This Briefing Paper clarifies how an effective implementation of the competition regime in Malawi can help the country achieve its developmental goals. It is useful in raising support and public opinion (among the relevant stakeholders) about speeding up the process of enforcement of the country’s competition policy and law.

*This Briefing Paper can be viewed at:  
<http://www.cuts-ccier.org/7up3/pdf/BriefingPaper03-2008.pdf>*

## ‘Public Interest’ Issues In Competition Analysis

(C-CIER No 8/2008)



‘Public interest’ considerations can be used as the grounds upon which a potentially anti-competitive situation can be allowed to prevail in the market. Many competition laws specifically provide for protection of public interest as part of their objectives.

This Briefing Paper tries to define ‘public interest’ and highlight issues that are normally regarded as relating to ‘public interest’. It also highlights how select Competition Authorities, using different competition laws, deal with public interest issues in their respective countries, and make recommendations on ways of dealing with public interest issues in competition law.

*This Briefing Paper can be viewed at:  
<http://www.cuts-international.org/pdf/CCI-5-2008.pdf>*