

Summary of Conference on Promoting Competition and Creating Contestable Markets in Armenia and Action Plan for Engagement on Competition Reforms

ID: P166748

1. Conference summary

Background

In June 2019, a conference on “*Promoting Competition and Creating Contestable Markets in Armenia*” was held as a follow up activity of the World Bank Group’s Competition Reform Assessment for Armenia (ID: P166748). The conference was co-chaired by the World Bank Group (WBG) and the Ministry of Economy (MoE) and brought together Government of Armenia (GoA) institutions with a mandate on competition topics (including Ministry of Finance, Ministry of Economic Development and Investments, State Commission for the Protection of Economic Competition (SCPEC), National Center for Legislative Regulation, State Revenue Committee, Public Services Regulatory Commission of Armenia, and the Central Bank of Armenia) for discussions on actions that can help to boost competition and market contestability in Armenia. Key development partners such as the EU delegation and IMF also attended.

Key aims of the conference included:

- (i) Providing peer-to-peer learning for GoA based on international experience from countries that have successfully implemented reforms in these areas;
- (ii) Identifying potential areas for engagement between the GoA and the World Bank Group to support reforms in the short/medium term which could sustainably boost competition in Armenia.

The conference agenda is included in Annex 1.

Discussions and outcomes

The topics covered were based on the scoping, conducted under this ASA, of potential measures to address competition constraints across the economy and in specific sectors – and were focused on mechanisms to embed competition policies in public policies, including: -

- **Tackling regulatory barriers to competition**
 - This included (i) integrating competition checklists into regulatory impact assessments and fostering collaboration between competition authority and better regulation officials; and (ii) tackling administrative barriers to competition through powers of competition authorities to sanction public bodies ex post. Participants discussed:
 - Institutional arrangements for integrating competition in RIA in Armenia (given that the revised RIA methodology currently being developed in Armenia is moving towards a centralized model under the PM’s office, it is was discussed what this could mean for the involvement of SCPEC and parallels were drawn with the Mexican system);

- How provisions against administrative bodies that imposed barriers to entry could be enforced (e.g. how cases can be initiated, what sanctions could be imposed, whether raids could be carried out, the need for judicial confirmations) as, for example, SCPEC currently has the mandate on detecting and sanctioning Anticompetitive Actions of Public Bodies but has not yet begun enforcing these provisions;
 - How to build trust and independence of bodies, such as SCPEC, with the mandate to tackle regulatory barriers to competition. Here the need for good institutional design, transparency and communication were highlighted, as well as the need for sufficient staff.
- ***Implementing effective state aid control for a level playing field***
 - Participants discussed precise steps that would be needed to start developing a state aid framework, including questions on the way state aid should be defined and how an initial list of state aid grantors could be developed, using well known schemes as a starting point.
 - There was broad agreement that the best starting point for Armenia would be to develop a state aid inventory. There was some discussion on how this should be operationalized, what type of legal backing (if any) would be needed to begin the collection and publication of information on state aid schemes, and how this agenda could be embedded in the program of relevant agencies. The participants agreed that the inventory required some legal backing and agreed as a key action for follow up to identify whether a decree would be sufficient or if other legislative changes would be required, e.g. through amendments to the competition law.
 - MoE and SCPEC confirmed their willingness to engage with the WBG on this topic and to form a working group for further discussions in the first instance. As major granting agencies are identified, these agencies could be brought into the working group.
 - **Developing and implementing National Competition Policies.**
 - There was some divergence of views on whether a National Competition Policy could be helpful in the context of Armenia, with SCPEC stating that they felt this was not necessary, while MoE was more open to the idea of a holistic program. It was agreed overall that this was a lower priority for Armenia at present.

The section below provides a plan of action building on the policy note and discussions held at the recent conference for short-medium term engagement between WBG and GoA on a set of actions that can help foster market contestability and competition across the economy.

2. [Plan of action for collaboration between World Bank Group and Government of Armenia on competition policy in the short-medium term](#)

Planned collaboration between the GoA and the WBG will support the government to take a holistic approach to competition policy by identifying and improving government interventions that restrict entry, facilitate collusion or create an unlevel field. The objective of the activity is to boost market contestability and foster an environment where firms, including SMEs, are able to enter, access competitively priced inputs and expand based on their merits. This work is intended to be complementary to support provided by other development partners – most notably the EBRD – who will focus on strengthening the enforcement of the competition law to tackle anticompetitive behavior by firms.

The key focus of the technical assistance will be support for the development of a state aid control framework in Armenia and collection and assessment of information on state aid granted. Given that discussions with counterparts focused particularly on confirming a Development Policy Operation prior action on state aid with MoE and since this will be the priority action for follow up technical assistance in the immediate term in FY 2020, the development of a state aid framework will be given particular prominence in the following section. However, other proposed activities include: strengthening assessment of competition impact in Regulatory Impact Assessment (RIA), and support to SCPEC to implement aspects of the competition law related to Anticompetitive Actions of Public Bodies.

Activity 1: Legal and economic support for the implementation of a framework to minimize distortions to competition from the granting of state aid in Armenia¹

The initial stages of the development of a state aid framework generally involves the steps of defining of state aid, designating the public body responsible for establishing/maintaining a state aid database to monitor granted aid for implementation of the framework, promoting transparency in the provision of public resources to the private sector, and establishing the principles of state aid regulation.

Taking into account previous experiences in attempting to implement a state aid legislative package in Armenia², the proposed approach for follow up engagement will be phased in a way that first calls for the establishment of an inventory of state aid schemes to be made publicly available (with this inventory potentially backed by an appropriate legal instrument). Information in the database will be used to inform a future state aid control strategy, including potentially the drafting of a full state aid control legislation to expand the current framework (and/or other options to increase transparency and minimize discretion in granting of incentives and other financial advantages provided to firms). Thus, the following steps are envisaged for this work in Armenia:

- *Step One. Support development of a definition of state aid in Armenia and implementation of mechanisms to collect and publish information on state aid schemes from granting agencies*
 - (i) Define state aid in the Armenian context and consider amendments to Article 16-1 of the Competition Law to include the definition of state aid;
 - (ii) Designate a coordinating body for the collection and publication of information on state aid schemes;
 - (iii) Develop mechanisms for the collection and publication of an inventory of state aid schemes– and for the regular updating of this inventory on regular basis. This requires:
 - a. MoE to collect information on state aid schemes contained in government orders available through central GoA databases. A template for capturing this information is provided in Annex 2.
 - b. WBG, MoE and SCPEC to conduct a mapping of such schemes to identify any state aid schemes that are not available through central government databases and assess

¹ Note that an alternative to developing a formal state aid framework would be to explore other options to increase transparency and minimize discretion in granting of incentives and other financial advantages provided to firms

² A draft Law on State Aid Control was prepared under an EU-funded project for Strengthening the Enforcement of Competition and State Aid Legislation completed in 2013. While the draft is outdated, it could provide some useful directions for the reform and point to available experience and understanding on this area within the Government.

whether legal instruments would be required to mandate provision of missing information from granting agencies³.

- (iv) Consider amending Article 16-1 of the Competition Law to clarify the obligations of granting agencies to notify state aid.
- *Step Two. Conduct a mapping and analysis of information collected on state aid schemes, develop recommendations, and engage in advocacy with granting agencies: -*
 - (i) Identify current practices in the granting of state aid that may affect its ability to distort competition (e.g. assessment of competition effects, degree of selectivity, monitoring mechanisms, availability of award criteria and granting processes);
 - (ii) Develop recommendations for implementing a state aid control framework (and/or other options to increase transparency and minimize discretion in granting of incentives and other financial advantages provided to firms), including legal and institutional required reforms;
 - (iii) Hold advocacy workshops with MoE and SCPEC for granting agencies on i) findings on recommendations for the establishment of a state aid control framework and ii) capacity building for assessing competition distortions linked to state aid.
- *Step Three. Support for the development of an updated state aid control framework*
 - (i) Draft and support the package of an updated legislative package on state aid (where appropriate depending on recommendations developed in Step Two)
 - (ii) Conduct one assessment of a state aid measure using international good practices aligned with the Armenian framework
 - (iii) Develop guidelines on ex ante design of state aid to identify objectives and potential negative effects on competition for state aid grantors / support to optimize the design of current/future state aid schemes

This work would build on current legislation and draft regulations, taking into account current institutional capacity and institutional evolution since the drafting of these regulations, as well as on the WBG's experience on working with partner countries to strengthen their state aid control systems.

Activity 2: Strengthen assessment of competition impact in Regulatory Impact Assessments.

Assessing the impact of market regulations on competition ensures that policy objectives are achieved in an effective manner while minimizing market distortions. Assessment of regulations under a RIA system can help to systematically identify and improve those regulations with the potential to harm competition. While a checklist of competition issues has been applied as part of the RIA system since 2015, the checklist shows room for improvement and the government body/bodies conducting and supervising RIA require enhanced technical capacity relating to competition to implement it. This would also involve fostering closer cooperation and dialogue between the body/bodies implementing RIAs and SCPEC.

³ If so, MoE has stated that they will confirm the appropriate legal instruments.

The sub-activities involved under this activity would include.

- Strengthening the competition checklist used in the RIA process based on the WBG's Markets and Competition Policy Assessment Toolkit checklist and experience in other countries.
- Training relevant government bodies in applying the competition checklist in collaboration with SCPEC (including on the underlying legal and economic principles that inform the checklist).
- Pilot implementation of the revised checklist for the assessment of one proposed regulation.

Activity 3: Technical assistance on measures needed to implement aspects of the 2018 amendments to the competition law related to Anticompetitive Actions of Public Bodies.

Recent amendments have given SCPEC the possibility to identify/sanction “Anticompetitive Actions of Public Bodies” (actions, conduct or legislation by a state body or official that restricts, prevents or blocks competition). However, SCPEC does not currently have experience of implementing this provision. Between 2010 and 2017, SCPEC identified around 221 issues based on its conducted reviews which the institution deemed involved powers of other state bodies. Proper enforcement of this provision could help tackle the mentioned issues and could be an important part of a government-wide strategy to embed competition principles in public policy.

The sub-activities involved under this activity would include.

- Develop guidelines or implementing regulations for the implementation of provisions relating to Anticompetitive Actions of Public Bodies to identify and deter decisions of officials of public bodies that restrict competition.
- Hold a workshop to provide training and capacity building on implementation of this amendment.

The WBG Markets and Competition Policy Team has mobilized to support the GoA on Step One of Activity 1 in the immediate term, with follow up activities for Activity 1 – 3 being pursued later in FY20 conditional on funding becoming available.

ANNEX: DRAFT AGENDA

Conference on Promoting Competition and Creating Contestable Markets in Armenia

4th June 2019

Marriot Hotel, Yerevan, Armenia

MORNING SESSION		
08:30-09:00	Registration of participants and welcoming coffee	
09:00-09:10	Introductory remarks	Sylvie Bossoutrot, Country Manager for Armenia, World Bank Group
09:10-09:30	Introductory remarks and presentation on Government of Republic of Armenia strategy for competition policy in Armenia	Representatives of Ministry of Economic Development and Investment
09:30-09:45	Overview of key findings and topics for discussion from World Bank Group policy note on “Promoting Competition and Creating Contestable Markets in Armenia”: Proposals for Market Regulation and Competition Policy	Sara Nyman, Senior Economist, World Bank Group
<i>Embedding competition policies in public policies</i>		
09:45-10:30	International experience with assessments of regulatory impact on competition – and fostering collaboration between competition authorities, better regulation bodies and regulators	Rodrigo Ríos, Deputy Director General of Promotion of Competition/Director for Regulatory Analysis, Federal Competition Commission, Mexico Francisco Madrigal, Director of Economic Intelligence, National Commission for Regulatory Improvement, Mexico
10:30-10:45	Coffee break	
10:45-11:30	Tackling bureaucratic barriers to competition: Recent experience from Peru	Francisco Ochoa, Technical Secretary for the Regional Technical Secretariat for the Elimination of Bureaucratic Barriers, National Institute for the Defense of Free Competition and the Protection of Intellectual Property, Peru
11:30-12:00	<i>Q&A on embedding competition policies in public policies</i>	All
<i>Effective state aid control for a level playing field</i>		
12:00-12:45	The importance of state aid control frameworks to promote a level playing field	Juan Jorge Piernas López, Assistant Professor of European Union and

		International law at the University of Murcia
12:45-13:00	<i>Q&A on embedding competition policies in public policies on state aid</i>	All
13:00-14:00	Lunch	
AFTERNOON SESSIONS		
<i>Developing and implementing National Competition Policies</i>		
14:00-15:00	International experience in developing and implementing National Competition Policies <i>Focus on a holistic national competition policy to boost productivity</i> <i>Including Q&A</i>	Rod Bogaards, former Director at the Productivity Commission of Australia
15:00-15:15	Coffee break	
15:15-16:15	Roundtable discussion on developing a comprehensive competition ecosystem for Armenia	All
16:15-16:30	Closing remarks	Representative of MEDI, Representative of WBG

Annex 2: Template for the collection of information on state aid

1. Basic information for a state aid inventory (whether part of a program or provided on a case by case basis):

State Aid Inventory Template

World Bank Group for Ministry of Economy, Government of Armenia, June 2019

Please refer to the explanatory notes for definitions and further information of certain terms

Basic information for a state aid inventory (whether part of a program or provided on a case by case basis)														
Granting date (year)	Grantor	Origin (state budget, social security budget, local budget or other sources)	Title of the programme	Legal basis	Type of state aid	Description of objective of the scheme	Does the scheme target a specific geographic region? (Yes/No)	Does the scheme target specific sectors? (Yes/No)	Total amount of aid awarded	Total amount of aid planned (if available)	Number of beneficiary firms	Sector of activity of beneficiaries	Crisis-related measure?	Duration of the aid (if applicable)
Explanatory notes	Year in which the scheme was first granted	Agency that awards the aid	Source of the budget for the scheme	State if the legal basis is: - Primary Legislation (Law, Presidential/Ministerial decree, Directives); - Secondary Legislation (Regulations, implementation laws, letter from President/Minister, Communication from President/Minister); - Other legal basis (Please specify) - No legal basis (If granted outside the framework. Example: cash subsidy is provided to	Type of state aid instrument used. E.g. Grants, credit, tax exemptions, tax relief, tax arrears, subsidies, interest by-guarantees, provision of goods or services on preferential terms or below market rates. See additional sheet with "Examples of types of state aid" for further	Specify the policy objective/goal the incentive is specifically aimed at achieving. For examples see additional sheet "Objectives of state aid"	Choose "Yes" if the scheme is only offered to firms in specific regions/municipalities/states/provinces regardless of their sector or activity. Choose "No" if the scheme is available nation-wide	Choose "Yes" if the scheme is only offered to firms in specific sectors; Choose "No" if it is offered to firms regardless of their sector or activity.	Total amount of aid awarded from inception to date		Number of firms that have received the aid to date according to latest available data	Provide more than one sector, if applicable If possible provide the Nomenclature of Economic Activities (NACE) code of	Was the aid provided in the context of a crisis (e.g. economic or financial crisis)?	For example the duration of a loan, guarantee, etc

2. Other information required for a thorough mapping and analysis of state aid schemes

Other information that will help for a mapping/assessment of state aid					
Was/is an assessment of the comparative costs and benefits or of distortions to competition carried out before granting the state aid under this scheme? (Yes/no)	Is there a mechanism to monitor the use of the aid granted and effectiveness of the scheme ex post?	Were/are clear eligibility criteria available for the scheme? (Yes/no)	Has the scheme been characterised by selectivity?	Has the scheme targeted a specific company in the market?	Has aid been provided on a first come first served basis?
		Choose "Yes" if the eligibility criteria are available publicly for incentives applicants to understand criteria that need to be met. Choose "No" if no criteria are specified or if criteria are not available publicly.	Choose "Yes" if the scheme is available only to companies in specific sector(s), geographic region(s) or firms with certain characteristics. Choose "No" if the scheme is available to any type of company, with any characteristic in any sector or geography.	Note: In this template "Company" can include SOEs or a firm with state holding.	