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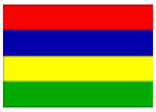

Mauritius[*]

– *Reshma Peerun*[†], *Sunil Bundoo*[††] *and Dr. Kheswar Jankee*[†††]

Discovered by the Portuguese in 1505, Mauritius was subsequently ruled by the Dutch, French, and British respectively, before independence was attained in 1968.

A stable democracy with regular free elections and a positive human rights record, the country has attracted considerable foreign investment and has earned one of Africa's highest per capita incomes.

Recent poor weather and declining sugar prices have slowed economic growth, leading to some protests over standards of living in the Creole community. These past three decades have witnessed significant structural changes.

PROFILE	
Population:	1.2 million***
GDP (Current US$):	5.2 billion***
Per Capita Income: (Current US$)	4,100 (Atlas method)*** 10,810 (at PPP.)**
Surface Area:	2,040 sq. km
Life Expectancy:	71.9 years**
Literacy (%):	84.3 (of ages 15 and above)**
HDI Rank:	64***

Sources:
- World Development Indicators Database, World Bank, 2004
- Human Development Report Statistics, UNDP, 2004

(**) For the year 2002
(***) For the year 2003

Economy

The economy, which, in the 1960s, was heavily dependent on one agricultural commodity (sugar) for the bulk of its income, employment, export revenue, today has a well developed manufacturing sector and a fast expanding services sector, which includes tourism, financial services, offshore services and a Freeport.

Indeed Mauritius is one of the few countries in sub-Saharan Africa to have steadily maintained a real growth rate of around five percent per annum, on average over the last three decades, with per capita GNP reaching about US$3,975 in the year 2000.

With the establishment of the Economic Processing Zone (EPZ) in 1970, and its rapid expansion in the 1970s and especially in the 1980s, the share of manufacturing in GDP increased from 6.5 percent in the early 1970s to stabilise around 23 percent in the late 1980s. At the same time, the relative share of agriculture has been declining rapidly from 34 percent in the early 1970s to 9.2 percent in the late 1990s. This decline has been partly offset by the services sector, whose contribution has stabilised at around 66 percent since the early 1980s.

Services, in fact, make the largest contribution to GDP and to total employment. In June 2000, services contribution amounted to Rs 74,172mn, that is, about 70 percent of GDP at factor cost. The manufacturing sector contributed 24 percent to GDP, whilst the contribution of the primary sector was only about six percent.

A breakdown of the services sector indicates that the three largest sub-sectors are: wholesale and retail trade; restaurants and hotels; Financing, insurance, real estate and business services and transport, storage and communication. Furthermore, Mauritius is getting prepared to position itself on the world platform in the field of information and communication technology (ICT) with the establishment of the cyber city.

Competition Evolution and Environment

Certain competition aspects are currently covered by the 1980 *Fair Trading Act* (as amended in 1988), and the 1998 Consumer Protection (Price and Supplies Control) Act, which replaced the 1991 Act. The Ministry of Industry, Commerce and International Trade is responsible for enforcement of the Acts. The Fair Trading Act aims at ensuring that trade practices do not mislead or confuse consumers that they are not detrimental to consumer interests, and that fixed prices are not exceeded.

* Original paper submitted in January 2005. Revised in February 2006

The Act prohibits agreements, including exclusive sales arrangements or monopolies, likely to prevent or distort competition in the production and supply of goods (branded or not) and services. The 1998 Consumer Protection (Price and Supplies Control) Act deals primarily with monitoring prices and supplies of goods.

Administered by the Price Control Unit (PCU) within the Ministry of Industry, Commerce and International Trade, price controls in Mauritius still consist of a fixed maximum price system and a maximum percentage mark-up system. The mark-up system applies only to imports, and the fixed maximum price system applies both to imports and locally produced goods.

The controlled prices are computed by the PCU and approved by the Minister of Industry, Commerce and International Trade; the Consumer Protection Unit within the Ministry ensures that traders comply with the pricing regulations. According to the authorities, price controls are maintained because of lack of competition; and to protect consumers against unreasonable prices for strategic imports, staple commodities and other 'essential' products. The controls are to be abolished gradually as soon as the competition legislation is enacted and markets become effectively competitive (Trade Policy Review 2001).

Competition Law and Policy

The Competition Act was passed in the National Assembly on April 01, 2003. The objective of the Act is to establish the legal framework for the control of RBPs, with the view to enhance competition in Mauritius, through measures designed to promote efficiency, adaptability and competitiveness in the economy, for the end purpose of widening the range of customer choice in obtaining goods and services at fairer, more competitive prices. The Act covers four types of RBPs, namely, abuse of monopoly power, collusive agreements, anti-competitive agreements and bid rigging.

The Act also establishes an Office of Fair Trading, a Competition Tribunal, and a Competition Advisory Council. However, no regulations have been formulated yet, to set up the new institutions foreseen by the Act. Action has been initiated to fill the post of Director of the Office of Fair Trading (Ministry of Commerce and Consumer Protection, December 2004). The main objectives of the Competition Advisory Council are:

- to advise the minister on matters relating to RBPs, with emphasis upon consumer protection;
- to promote activities to raise the awareness of the business community and consumers on competition and related matters;
- to maintain effective communication with the business community and consumers' associations; and
- to promote research in emerging trends in the field of fair competition and best business practices.

Competition Law at Regional and International Levels

At the regional level, within the COMESA, the establishment of a common competition law and policy is the means to promote further economic integration and development amongst its members. However, in practice, it has proven difficult to have a uniform competition policy, given the disparity in the level of economic development across countries. Mauritius believes that it is not yet ready to abide by the regional competition rules and regulations, given the difficulties it is facing in putting in place institutional mechanisms; and its lack of experience in administration of this subject**.** (Mauritius Chamber of Commerce and Industry, June 2004).

At the WTO level (when the negotiations were ongoing), there is the feeling that Mauritius believes that small countries face institutional and capacity problems in implementing competition policy and, as such, there is a need for special and differential treatment (S&DT) to small economies on this issue.

Anticompetitive Business Practices

Market Concentration

Upon request of the Government of Mauritius, the UNCTAD Secretariat, with the cooperation of the Ministry of Economic Planning and Development, engaged a high-level expert from Australia who undertook a study related to market concentration and RBPs in Mauritius, in 1995. The study found that market concentration exists in many sectors and some types of RBPs may occur. A high degree of market concentration was found in the following industries:

- Public utilities, including telecommunications, electricity (excluding generation), radio and television broadcasting and air transport (airlines and airports operations);
- Manufacture of beer, tobacco products, flour, fertiliser, pharmaceutical products, edible oils, livestock feed, paint, soft drinks, and poultry;
- Import and distribution of cement (the sole private importer and distributor is a consortium of local and foreign investors), and the importation of petroleum products (monopoly of the State Trading Corporation); and
- Services, such as commercial banking, equipment leasing, car rental, and duty free shopping.

Businesses surveyed for the study sold products/services at especially high prices; and/or poor quality of key service in airfreight, telecommunications and insurance, which were attributed to a lack of competition. The introduction of a competition law could be especially beneficial in the services sector, which accounts for over 60 percent of GDP, and in the supply of some intermediate goods for business. Greater openness to new entrants in highly concentrated industries could attract new FDI that will be beneficial for the competitiveness of the economy (Investment Policy Review 2001).

State owned Enterprises (SoEs) in Mauritius

SoEs accounts for about 13 percent of the GDP in Mauritius. SoEs have been set up for a number of reasons. Many of these SoEs have been set up due to the failure of the private sector to provide for certain basic goods and services; for strategic and reasons of national interest; to alleviate the problem of unemployment or to create more competition in some sectors of the economy. They are briefly illustrated below:

- To meet supply deficiencies of certain essential goods led to the establishment of SoEs, like the Agricultural Marketing Board[1] and the State Trading Corporation[2] ;
- The Development Works Corporation (a government-owned contactor of public works) was initially set up to create 'jobs'; and the National Transport Corporation was set up to provide bus transport service, as well as to give employment to the employees of the former Vacoas Transport Corporation;
- To promote more competition in the financial system, the State Bank of Mauritius[3] was set up; and
- Services, which are considered vital to the national interest, such as electricity and water, health care, education, air transport and sea-port operations. [Aubeeluck, (1997)].

The share of the entire public sector, that is, SoEs and Central and Local Government services, in terms of GDP, is around 24 percent. SoEs contribute almost 100 percent of the water output, around 60 percent of electricity production and, about half of the total production in transport and communications; and about a fifth in finance and related activities. SoEs account for some 23 percent of gross domestic investment. They employ about 4.5 percent of the total labour force and around 16.8 percent for the entire public sector. As regards efficiency, basic estimates (output per worker) show that productivity in the private sector is on average higher than that in the public sector (White Paper on Privatisation, Ministry of Finance, Mauritius, 1997).

A number of reasons have been advanced for the performance gap of some SoEs. They include mainly a lack of clarity between financial and social objectives, poor monitoring systems and weak accountability mechanisms, a lack of good management and financial practice, constant bailing-out by the Government to cover operational deficits and to meet capital expenditure and the over-manning of many SoEs. It must be pointed out however, that these criticisms do not really apply to SoEs operating in a competitive business environment (for instance, the State Bank of Mauritius) or those exposed to international competition (such as, Air Mauritius) which, generally, have been profitable.

Box 48.1: Backdoor Commercial Activities

During the last ten years or so, Mauritius has witnessed major changes in the retail market of food and non-food products. Giants from France (Score, Continent, Jumbo, Super U) and South Africa (Spar, Shoprite) have invested in huge departmental stores, where everything is available. This is a cause of great concern to local traditional shops, mainly family businesses.

These foreign companies have brought with them anticompetitive practices, in particular backdoor commercial practices that allow them to sell some products, fast movers, below cost price.

These backdoor practices consist mainly of activities not pertaining to commerce as such. It involves the sale of specific places on the shelves, the sale of advertising space on trolleys, the sale of advertising space on brochures, the printing of coloured brochures on a monthly basis.

Such activities bring in a lot of money, which allow the departmental store to offer some fast moving products below cost price. These practices are known in France as, *'les marges arrie?res'* and are illegal in that country. The sale at below cost price is not illegal here. It is a market strategy to attract buyers into the stores, in the expectation that they would be incited to buy the other products. Impulsive buyers are their targets.

Low price sales, presented as promotional events almost every month, are a threat to traditional shops. The aim is to eliminate these shops and, hence, impose their writ on the retail market. In a large village in the North, Triole, some twelve shops have had to close down following the opening of Winners self-service supermarket. *Winners*, is one of eleven stores operating under the same name. Their huge turnover allows them to offer promotional sales every month. The country has some fifty such stores over the island, against some 3,000 retail shops battling for their survival.

Source: Institute for Consumer Protection, Mauritius

1 It holds monopoly over or still monitors the importation and/or marketing of main agricultural products, such as table potatoes, onions, garlic, maize, tumeric and cardamon.

2 It imports the totality of Mauritian requirements for petroleum products, flour, ration rice and 50 percent of cement requirement. These products are considered as essential goods for which an assured supply is required.

3 It must be pointed out however, that nowadays the State Bank of Mauritius and the Mauritius Commercial Bank account over 70 per cent of the market and are the duopoly-firms in the banking business.

Box 48.2: Do Departmental Stores Promote or Stifle Competition?

One of the backdoor practices of department stores, as mentioned earlier, consists of imposing, on distributors, charges to occupy a prominent spot on the gondola. This may amount to as much as Rs 25,000 per month in order to keep a product at a strategic point where consumers move from counter to counter. These charges may be damaging to some products.

One importer, *Dabydoyal Brothers* tried to launch a new brand of table oil, *Meizan*. They sought to be present in one of the major stores, Jumbo, at that time known as Continent. They succeeded to occupy the strategic spot on the gondola for less than two months, after which they found out that it was too costly. Afterwards, they made efforts to occupy the shelf of the counter that is at consumer's eye level. They were surprised to learn that they had to pay other charges for this. They did so for one or two weeks. As time went by, *Meizan* gradually descended to the last shelf until it disappeared completely.

This is one of the anticompetitive practices that have caused the loss of one operator, and reduced consumer's choice.

Source: ICP-Mauritius

Sectoral Regulation

Telecommunications Sector

Mauritius brought forward the commitment it took with the WTO, to open up its telecommunications market, to January 2003. This includes the ending of all monopoly rights in domestic and international telecommunications services, as of 2003.

Since 1988, the Government has been an active major shareholder in the telecommunications sector and, as such, was indirectly involved in the operations of the sector. However, in June 2000,[4] the Government disposed of 40 percent of its shareholdings in Mauritius Telecom (MT) to a strategic partner, namely France Telecom, for US$265mn. Apart from bringing in capital, strategic partners also bring in managerial expertise, technology, as well as international marketing experience.

With liberalisation, MT will have to be more competitive in the international market, hence, the need to align international tariffs. However, it will still continue to enjoy a substantial monopoly position in the local market, for conventional lines, as the latter, at a first stage, may not really interest international players. As a result, local tariffs will tend to increase, which to a certain extent, would be like a 'regressive tax' on consumers, which tend to make mainly domestic calls.

Moreover, new firms entering the market will most probably, in the short term, use the existing network established by Mauritius Telecom and, as a result, they will have to pay a connection rate to MT, which will directly influence their tariffs. The Information and Communication Technology Authority (ICTA) has the important task of ensuring that the connection rate set by MT does not affect the level playing field and, as a result, keep competitors out of the market.

Central Electricity Board

Electricity in Mauritius is generated from three main sources: from hydropower, from diesel/gas turbines and from coal/bagasse generators. The Central Electricity Board (CEB) currently accounts for around 58 percent of the total production. The balance is produced by the independent power producers (IPPs), from bagasse of the sugar factories.

Nonetheless, the CEB has a monopoly position with respect to transmission and distribution. The first step towards the privatisation of CEB will be 'corporatisation', that is, ensuring that CEB becomes a private company under company law. This will increase management autonomy and speed up decision-making at different levels. To that effect, the *'CEB Transfer Bill'* will soon be passed in the Parliament, together with a '*Utility Regulatory Bill'* and a *'New Electricity Bill'*. The next stage, based on information gathered, will be to open the market, with respect to electricity generation, to competition.

A new regulatory body will be set up to regulate tariffs and to invite tenders (both local and overseas) for the generation of electricity (hence the two new bills). Therefore, the market for electricity generation will be opened to more competition.

However, there has been no mention of the lead-time that will be granted to the CEB so that it can sufficiently prepare itself to face competition from other producers. The CEB will still have a monopoly with respect to transmission and distribution given its existing network and the size of the market. The other producers of electricity will sell their output to the CEB, as is currently the case with respect to the independent power producers. The CEB has power purchase agreements with the IPPs. The purchase agreements will be monitored and approved by the new regulatory body, the Utility Regulatory Authority.

Construction and the Cement Industry

Three of the leading enterprise groups in Mauritius (The Rogers Group, the Espitalier Noel Group and the Hand Group) are shareholders in a major construction company

4 Stakeholders in MT after June 2000 was as follows: Government 10 percent, Other Public Institutions 30 percent, France Telecom 40 percent, State Bank of Mauritius 19 percent and MT employees 1 percent

REHM–Grinaker Construction. Whilst considerable capital is required to establish a successful construction company capable of tendering for very large projects, regulatory barriers to the entry of new firms seem relatively low. Although the market structure may be conducive to competition, the possible existence of RBPs in the industry may inhibit it, leading perhaps to higher tender prices and reduced efficiency in some individual firms. There is a probability of bid rigging in this sector.

A monopoly to import and distribute cement was in the hands of the privately owned Mauritius Portland Cement Co. Ltd from 1957. However, in 1984, the Government decided that the State Trading Corporation (STC) should later take over the importation of 25 percent of the country's cement requirement and, in the following year, the STC share of import was raised to 50 percent. At present, the STC remains responsible for 50 percent of cement imports, which it obtains through annual tenders. These imports are then sold back to the Mauritius Portland Cement Company (MPCC) for distribution. The Ministry of Commerce fixes the maximum prices for cement (Radha, 2003).

Financial Sector

The overall strategy of financial liberalisation pursued in the economy since the late 1980s is based on the premise that market forces lead to more efficient pricing, mobilisation and allocation of financial resources. Diversification and internationalisation of the financial sector are the major objectives of policy makers. The development of the financial sector is a continuous process of institutional changes and policy shifts in order to promote business activities in the financial services industry, maintain public and international reputation confidence. The use of information technology in the financial services industry has significantly improved the competitiveness of financial services organisations.

Consumer Protection[5]

The Consumer Protection Unit operates under the Commerce Division of the Ministry of Commerce & Co-operatives. It is a technical cadre, formed in 1996, when the former 'Enforcement Branch' and the former 'Consumer Education Unit' were merged. The two very important responsibilities, of the consumer protection unit, are consumer education and enforcement of consumer laws.

The Unit caters for the education of consumers on their consumer rights and, responsibilities. The duties falling under the responsibility of the unit are as follows:

- to check trade premises and ensure the enforcement of and compliance with laws and regulations relating to consumer protection (profiteering by traders).
- to monitor the prices of non-controlled commodities, and to report cases of significant increase in prices.
- to conduct surveys and collect data on the costing, supply and distribution of both controlled and non-controlled commodities.
- to conduct enquiries on consumer trade practices.
- to prepare case files in view of prosecution, to be referred to the Director of Public Prosecution for advice and to stand as witness in Court, in cases of prosecution on profiteering.
- to deal with complaints from consumers and from consumer organisations.
- preparing/delivering talks to different groups of people throughout the island. E.g. primary school children; secondary school students; Women's Associations; Old people associations; and youth clubs/centres in urban as well as in rural areas; preparation and delivery of talks on TV and radio; and preparing simple information pamphlets to disseminate information to the general public.

The Unit ensures the strict compliance of the following legislations now in force:

(a) The Consumer Protection (Price & Supplies Control) Act, 12 of 1998.
(b) The Hire Purchase and Credit Sales (Amendment) Act, 2000.
(c) The Fair Trading Act, 1979.
(d) The Consumer Protection Act, 1991.
(e) The Essential Commodities Act, 1991.

Concluding Observations and Future Scenario

The importance of a competition regime is increasingly being recognised in developing countries. Markets need to be regulated, and efficiency promoted, through appropriate competition law and policy. Moreover, the deregulation movement and opening up of sectors of the economy, to private initiatives need appropriate governance to prevent abuses of market power.

Privatisation of public monopolies in the utilities sector has already begun in Mauritius, such as in telecommunications; and the Government has expressed the willingness to privatise other sectors, such as electricity and water. Although this can lead to increased competition, it also implies a transfer of public monopoly into private hands. The case becomes more complex, especially when the private sector involves foreign-based companies as has been happening in Mauritius.

All the more, Mauritius is an open economy where imports and exports form a major share of its national income. With the dismantling of trade barriers and opening of markets to foreign trade, Mauritius further increases its exposure to the world market. The impact of TNCs

5 http://cooperatives.gov.mu/commerce/cpu.htm

becomes important. TNCs can have many positive effects on competition but sometimes anticompetitive practices and abuse of dominant positions, by large corporations, can act as significant barriers to economic efficiency.

In addition, the small size of the domestic market in Mauritius leads to high level of market concentration across many industries in different sectors of the Mauritian economy. The need for an appropriate competition regime is highlighted again to foster greater efficiency in resource allocation and the promotion of consumer welfare. Like in many other developing countries, in Mauritius, competition law and enforcement is a difficult and little-known issue. With the dismantling of trade barriers and phasing out of such preferential agreements, there is an even greater need to develop a competition culture in business, Government, and society, in general.

† ***Reshma Peerun*** *is an Associate Economics Officer, UNCTAD, Geneva April-Aug 1999. Lecturer in Economics and International Trade at the University of Mauritius since October 1999. Research areas: WTO issues and Regional Integration. Convenor for the CUTS 7Up3 project*

†† ***Sunil Bundoo*** *is a Senior Lecturer in Economics & Finance. Been at the University of Mauritius since 1992. Published papers and undertaken projects in the following areas: Financial liberalisation, Privatisation, Stock Market, Micro-Finance and Pro-poor Macroeconomics.*

††† ***Dr Kheswar Jankee*** *holds Ph D in Monetary Economics and a Senior Lecturer in Banking and Finance, University of Mauritius.*