



# CENTRAL AMERICAN COMPETITION BULLETIN

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## CENTRAL AMERICAN AUTHORITIES OF COMPETITION

### **COSTA RICA**

Comisión para Promover la  
Competencia  
[www.coprocom.go.cr](http://www.coprocom.go.cr)

### **EL SALVADOR**

Superintendencia de  
Competencia  
[www.sc.gob.sv](http://www.sc.gob.sv)

### **GUATEMALA**

Dirección de Promoción de  
Competencia  
[www.mineco.gob.gt](http://www.mineco.gob.gt)

### **HONDURAS**

Comisión para la Defensa y  
Promoción de la Competencia  
[www.cdpc.hn](http://www.cdpc.hn) (en construcción)

### **NICARAGUA**

Promoción de Competencia y  
Desregulación  
[www.mific.gob.ni](http://www.mific.gob.ni)

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## HEADLINE NEWS

### ***San José, October 8<sup>th</sup>, 2007 / Competition and Trade***

The Costa Ricans said YES in the referendum concerning the Free Trade Agreement (FTC) with the United States of America, Central America and Dominican Republic

### ***San José, November 6<sup>th</sup>, 2007 / Anticompetitive practices / Rod of construction***

The company "Abonos Agro" was sanctioned by 410 minimum wages, for anticompetitive practices in the sale of rod for construction.

More information: <http://www.meic.go.cr/esp2/noticias/noticias.asp>

### ***San Salvador, November 6<sup>th</sup>, 2007 / Anticompetitive practices / Oil sector***

SC has affirmed the judgment that states the abuses of ESSO and SHELL.

More information: [http://www.sc.gob.sv/Publicaciones/Comunicados/C\\_49\\_07.pdf](http://www.sc.gob.sv/Publicaciones/Comunicados/C_49_07.pdf)

## REGIONAL ACTIVITIES

The Working Group on Competition Policy of the Central American Integration, created during the CDVII Meeting of Vice-ministries of Economic Integration on May 4th, 2006, is executing the first phase of a regional strategy on Central America based on the goals stated on the Guatemala Protocol.

The purpose of the Working Group is to strengthen the competition policy of the countries of Central America, by designing a regional policy and promoting the competition culture.

This Working Group, inside the Central America Integration, with the support of SIECA, has developed the First Central American Forum of Competition, which counted with the speech of friendly countries as the United States of America, Spain, Mexico and international organizations as CEPAL. Mexico.

## CASES INVESTIGATIONS

### **COSTA RICA**

#### ***San José, /Mergers/Financial sector***

#### **Preliminary Investigation concerning the merger between Scotiabank and Corporación Interfin.**

During Ordinary Meeting 21-07, COPROCOM studied the final report of the preliminary investigation of the merger between Scotiabank and Corporación Interfin. The decision taken by the Commission was to adopt the final recommendation of the report, where it states that the merger would not have any major anticompetitive effect concerning the operation of the National Banking System.

### **EL SALVADOR**

#### ***San Salvador, October 5<sup>th</sup>, 2007/Abuse of Dominant Position/Electric sector.***

SC has affirmed the judgment that states the existence of anticompetitive practices in the market of distribution and commercialization of electric energy by the abuse of dominant position for refusing the entry of new competitors.

More information: [http://www.sc.gob.sv/Publicaciones/Comunicados/C\\_37\\_07.pdf](http://www.sc.gob.sv/Publicaciones/Comunicados/C_37_07.pdf)

### **HONDURAS**

#### ***Tegucigalpa, September 25<sup>th</sup>, 2007 / Restrictive practices.***

The Commission for Defense and Promotion of Competition (CDPC), is investigating practices that constraint competition in liquid fuel derived from oil and pharmaceutical products, as is developing studies in the market of sugar and dairy products. In the first two cases it has already results.

## NATIONAL AGENDA



### **September 26<sup>th</sup> to 27<sup>th</sup>.**

Outreach event of the project: "Procedure and Policies of Competition and the Regulation of Public Services".

### **November 29<sup>th</sup>.**

Conference: "Conditions of competition in the sectors of banking, liquefied gas of oil and grants".



### **From December 3<sup>rd</sup> to 6<sup>th</sup>.**

The SC developed the first module of the "Training Program for Competition Law teachers".

### **From October 29<sup>th</sup> to November 1<sup>st</sup>.**

Competition Week was held in El Salvador.



### **October 2007.**

The CDPC will continue training concerning the Law for Defense and Promotion of Competition to different economic agents in the country.

## INTERNATIONAL AGENDA

### ◆ **2007 ICN Cartels Workshop.**

San Salvador, El Salvador, since October 29<sup>th</sup> until November 1<sup>st</sup> of 2007.

### ◆ **5<sup>th</sup> Latin American Forum of Competition.**

Puebla, México, September 20<sup>th</sup>, 2007.

### ◆ **Competition Forum of Iberoamerica.**

Puebla, México, September 18<sup>th</sup> y 19<sup>th</sup> of 2007.

### ◆ **First Central American Forum on Competition Policy.**

Antigua City, Guatemala, since April 9<sup>th</sup> al 11<sup>th</sup> of 2007.

## ADVOCACY ACTIVITIES

### **Costa Rica- November 2007/ Academy.**

During the last week of next November, the 4<sup>th</sup> and last module on the Course about Competition Law and Competition Policy will take place. This course has been executed as part of the project "**Role and importance of the competition policies in investment promotion, growth, competitiveness and poverty reduction in Costa Rica**" and promoted and financed by the World Bank Group and the Canadian Agency for International Development. The course was given by high level professors and the subjects discussed were collusive practices and cartels. The activity was addressed to the academic, public and entrepreneurial sectors of Costa Rica.

### **Costa Rica and El Salvador - October 2007/ Agreements.**

SC and COPROCOM have signed the Cooperation Agreement concerning protection and promotion of competition. The base of the agreement is equity, reciprocity and mutual benefits. The agreement has the objective of cooperation and coordination between competition authorities.

### **El Salvador- September 2007/ Agreements.**

The Competition Superintendence signed a Cooperation and Coordination agreement with the competition authority of Panama. In the agreement both parties recognize the importance of cooperation and coordination among the parties in order to apply effectively the competition law among both countries. Additionally, SC signed a technical assistance agreement with Mexico's CFC considering that technical assistance constitutes a fundamental feature for the creation of the institutional capacities that allow an effective application of laws, and to promote competition.

### **El Salvador- November 2007/ Amendments.**

The Legislative Assembly of El Salvador has recently approved amendments in Competition Law, in order to strengthen the institutional capacity for preventing, eliminating and penalize anticompetitive practices.

### **El Salvador- November 2007/ Studies.**

The Competition Superintendence finishes studies concerning the competition conditions in the telecommunication sector and petroleum liquid gas.

### **El Salvador- December 2007/ Academy.**

The Competition Superintendence gave the first module of the Training Program for teachers of Competition Law. This program pursues the purpose of introduce the Competition Law subject on the universities programs of Law and Economy.

### **El Salvador- January 2008/ Training.**

Officials of the Justice Department of the United States of America, thru a USAID trained the officers of SC, regulatory agencies and the Supreme Court, about cartels.

### **Honduras- September 25<sup>th</sup> of 2007/Studies.**

CDPC is performing a study about consistence of Telecommunication laws and Consumer's Protection from the view of the competition law framework.

**Nicaragua- October, 2007**

## **Need for implementation of a competition law in Nicaragua**

It is a duty of the state to guarantee freedom of enterprise and the full exercise of economic activities, making a reality the constitutional command that economic agents are equal to the law and to economic public policies, they all sum to a need of regulation on this matter. It is by means of a law, that the state can regulate the constitutional abovementioned principles and with that, strengthen the rule of law, an important condition for the economic development of a nation.

Free competition is the clearest expression of economic freedom and freedom of enterprise; it is the ideal medium for private initiative and entrepreneurial talent to interact in an appropriate climate for investment and business. To guarantee that multiple economic agents in a competition regime can offer goods and services in the same market has become a public good that the state has to provide. This is what in a globalized world is considered to be the ideal mechanism to add transparency and efficiency to markets and to correct and diminish the imperfections that exist in them. Nicaragua cannot be the exception; it must adopt the same instruments and mediums that contribute to elevate competitiveness of its companies.

On the other hand, we must consider the perception that foreign investors, governments and multilateral organisms have of our country regarding the index of economic freedom, which is obtained taking into account the degree of competition that the markets experience and other political and economic factors. We must attempt as a country to elevate this index because it constitutes the basis for development, being also the fundamental factor for the appropriate integration to the globalized economy.

Some characteristics of the internal markets in Nicaragua indicate the need for the prompt implementation of a competition law in the country; among them we find high levels of concentration in the markets of production, imports and distribution of inputs for the industry and agricultural industry, goods and services in general, which indicate that there may exist cartels that could impact on artificial elevated prices. Some other cases have been wrongfully mentioned to the media, as disloyal competition; they are the refusal to sell or tying products to small businesses, which constitute barriers to entry and exclusionary conditions that severely affect the economy, development and the fight against poverty.

The above-mentioned illustrated that without a competition policy, there is a rise in the risk that the markets are suffering severe imperfections that alter economic freedom and free competition and on the other hand it creates an economy that lacks efficiency and competitiveness compared to foreign markets.

Contrary to what is believed, a competition law and policy are not related to be admissible in big economies. The dimension of the market is not what determines the need for a law, but the market structure and the imperfections that inevitably occur in all economies. In a report prepared upon petition of the Economic Commission for Latin America and the Caribbean (ECLAC-CEPAL) and the Organization of American States (OAS-OEA) for the group of negotiations about competition policy of FTAA (ALCA) titled "Competition Policy in Small Economies" of the 20th July 1999, it was affirmed: "There is no a priori reason to believe that the competition law and policy are solely relevant for bigger economies, being them open or closed... before it has been demonstrated that competition, frequently can aid to improve the welfare of the small economy and also reduce obstacles to commerce". For this reason the laws and policies that promote competition are of interest to all the small economies of Central America.