

UNCTAD

Expert Meeting on Free and Open Source Software: Policy and Development Implications

**Session 3: Government Usage and Policy
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**“Technological Neutrality in Software Procurement:
The Soundest IT and Procurement Policy”**

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Computing Technology Industry Association
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CompTIA: A Global ITC Trade Association

- **Global Reach**
 - 16,000 Corporate Members in 102 countries,
 - Over 4,000 institutional members and 8,000 IT professional (individual) members
 - 85%+ of our corporate members are SMEs
- **Inclusive**
 - Members from major industry markets, representing all in the IT industry; Hardware; Software; Telecommunications; IT Services; IT training;
 - Corporations and not-for-profit organizations/ Schools, Community Colleges and Universities/government partnerships
- **Effective**
 - Largest vendor-neutral provider of IT training certifications, including Linux+
 - Successful track record of collaboration and facilitation of global standards
 - Industry driven through members 'cornerstone' process



**International
Offices**

INITIATIVE FOR SOFTWARE CHOICE

- **300+ companies in over 50 countries**
- **14 National IT or Software Trade Associations, including largest US and German software associations**
- **Several very large companies, but mostly SMEs**

The ISC is based on four core principles:

- **Procure software (case-by-case) on its **merits** and **value**, not on its license or development model**
- **Promote universal availability of government-funded research, **no R&D default or preference****
- **Promote **interoperability** through open platform-neutral standards**
- **Maintain **strong IPRs** to promote pro-competitive software development solutions**

Software Investment is Critical for IT Sector Development

A CompTIA-sponsored Nathan and Associates analysis of 57 countries found that countries that are under invested in IT capital have relatively larger percentages of total IT capital investment in IT hardware (62.2%) and less in software (13.3%).

In other countries (with adequate IT investment), the hardware share of total IT investment is 36.3 percent; and the commercial software share is 21.5 percent of total IT investment.

Faster growth in gross investment in the software sector promotes:

- faster development of the country's IT infrastructure,
- increases accumulation of and a balance in its total IT capital,
- stimulates employment growth,
- improves productivity,
- increases GDP.

Relative to competing markets

Today the Software Sector is Highly Competitive

The Herfindahl-Hirschman Index (HHI), which measures industry concentration from 0 to 10,000 (most concentrated/least competitive) ranks the auto industry at **2,506**, the cereals industry at **2,446** and the software industry at **244**. **Fifty-five percent** of all industries are ranked above software in HHI.

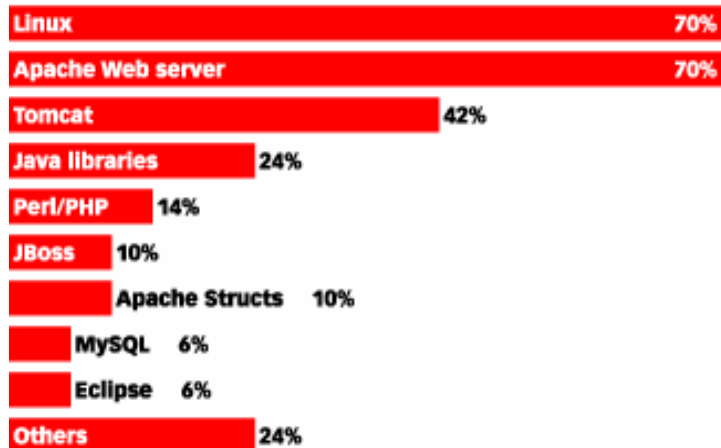
The total share of software sales accounted for by the top four businesses in 2000 was only **27 percent** of total industry sales. **Forty-seven percent** of all other industries have concentration ratios above the software industry's.

In addition Software has a very high rate of turn-over, only five of the top ten software companies in 1990 remained in the top ten in 2000, compared with eight in the Pharmaceutical industry.

As a result of sharp competition and technological innovation, the CPI for software declined 20.5% from 1997 to 2001. Since the CPI for all items declined only 9.5% over the same period, real software prices fell 27.4% relative to all other items.

OSS is Competitive in Global Markets Today

Open Source Software Used by Companies in North America, 2003 (as a % of respondents)



Note: n=50 IT managers and executives at \$1B+ companies
Source: Forrester Research, September 2003

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Services Spending on Linux, Open Source Software and Free Software in Western Europe, 2004 & 2008 (in millions)



Source: International Data Corporation (IDC), June 2004

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- Apache used on 66% of web servers
- Sendmail used for 80% of email
- Linux used on 50% of web servers
- Linux used on 27% of corporate servers

Competition is Good for the Public Sector Market Too

1. Increasing competition in the software sector directly benefits Government contract bidding
3. Sole source mandates or preferences will rob governments and taxpayers of competitive bidding benefits
5. Government IT policy should focus on skills and infrastructure development and information dissemination on all kinds of software
7. Government Procurement policy should focus on value for money, total cost of ownership and utilize cost benefit analysis
9. The optimal government procurement policy should move the public sector to emulate the private sector market by maximizing choice

Trade Policy should support Technological Neutrality

1. OSS-only mandates support a Software Import-Substitution Strategy
2. However, the most successful development strategies for software sectors have been Export-Expansion strategies
 - a. Ireland grew its software industry by attracting foreign-based software vendors starting 15 years ago
 - b. Today, Ireland has created 150,000 jobs in its software sector, and has become the world's largest commercial software exporter
 - c. 95% of the ISA's current members produce proprietary software
 - d. As a result of this strategy, Ireland moved from a 70% agriculture-based economy to an information-based economy, from second poorest to third richest EU member state in terms of per capita income in less than two decades
4. Procurement policies must be part of this effort
 - a. The Brazilian government has designated its software sector as a key export sector, while pursuing a strongly OSS preference procurement policy
 - b. Yet an Ipsos study of the 185 Latin American SW companies (65 Brazilian) showed that over 50% of SW companies produce/use only proprietary SW, while only 5% produce/use only OSS

Trade Implications of Procurement Mandates

1. Procurement mandates nullify and impair TRIPS (WTO Agreement on Trade Related IPR) Article 39 by attaching an unreasonably high price – exclusion from the public sector market – to the decision to maintain an otherwise lawful trade secret, i.e. by not revealing source code.
3. De facto discrimination, i.e. less favorable treatment, may exist if a measure alters the conditions of competition to treat one group of foreign IP owners less favorably than another group of local competitors. IP owners have a right to national treatment.
5. Under the GPA, which currently covers countries accounting for 77% of all trade, offsets – including the transfer of technology through the forced disclosure of source code – are prohibited when used to encourage local development.

Who Gets Hurt and How?

- **Small software vendors and resellers**
 - **99% of US firms selling prepackaged software are small companies selling proprietary software**
 - **Resellers constitute 37% of global software market**
- **Taxpayers: Restricted choice = less competition, higher prices, greater government expenditures on software, less ability to take advantage of innovation**

Developing countries

1. **Stifles domestic software industry development**
2. **By picking “winners and losers” they slow, even block technological development**
3. **They raise costs to IT consumers, including SMEs – actually lowering national IT productivity gains**
4. **They invite retaliation and beggar-thy-neighbor trade policies, closing potential export markets**
5. **By foregoing most cost-effective solutions they ultimately cost taxpayers and consumers of government services**

In Conclusion

“Fair and open competition based on an assessment of needs, not legislated preferences, should be the hallmark of our product choices. Our approach towards procurement must therefore be as flexible and inclusive as possible. This carries little risk and widens choice.”

**Ron Bergman
Deputy CIO, NYC**