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TRADE AND DEVELOPMENT BOARD
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Intergovernmental Group of Experts on Competition Law and Policy
Fifth session
Geneva, 2 - 4 July 2003
Item 2 of The provisional agenda

ADOPTION OF THE AGENDA AND ORGANIZATION OF WORK

Provisional agenda and annotations

I. PROVISIONAL AGENDA

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2. Adoption of the agenda and organization of work
3.
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5. Adoption of the report of the Intergovernmental Group of Experts

II. ANNOTATIONS

Item 1. Election of officers

1. The Intergovernmental Group of Experts will elect a Chairman and a Vice-Chairman-cum-Rapporteur.

Item 2. Adoption of the agenda and organization of work

2. The Group of Experts may wish to adopt the provisional agenda, which is the same as those for previous sessions of the Intergovernmental Group of Experts and which has always been found suitable for the effective discharge of the Group's duties.

Organization of work

3. It is proposed that the first plenary meeting, which will open at 10 a.m. on Wednesday, 2 July 2003, be devoted to procedural matters (items 1 and 2 of the provisional agenda) and to introductory statements. The closing plenary meeting, on Friday 4 July, will be devoted to the adoption of the report (item.5) ¹

4. This would leave the remaining meetings, from the afternoon of 2 July to the morning of 4 July inclusive, for consultations on competition law and policy, including studies related to the provisions of the Set of Principles and Rules (item 3 (i) of the provisional agenda) and the work programme, including technical assistance, advisory and training programmes on competition law and policy (item 3 (ii)). If more time is needed, the adoption of the report could be postponed to the late afternoon of 4 July in order for an informal working session to take place that afternoon.

Item 3 (i). Consultations on competition law and policy, including the Model Law and studies related to the provisions of the Set of Principles and Rules

5. As recommended in paragraph 5 of the agreed conclusions of the Intergovernmental Group of Experts on Competition Law and Policy at its fourth session,² the fifth session of the Group of Experts will consider the following issues:

- (a) The interface between competition policy and industrial policy; and
- (b) The optimal design and implementation of competition law in developing countries, including the desirability of a phased approach.

6. Should countries wish to hold consultations on additional subjects, they are requested to inform the secretariat well in advance (no later than 15 May 2003) in order for all participants to be able to prepare themselves for such consultations. Moreover, for each of the issues referred to above, the secretariat invites experts from both developed and developing countries, as well as countries in transition, to make oral presentations supported by short written contributions to be made available during the consultations. As

¹ In view of the short duration of the session, the Rapporteur will be authorized to complete the final report after the close of the session.

² See the report of the Intergovernmental Group of Experts on Competition Law and Policy on its fourth session /TD/B/COM.2/42; TD/B/COM.2/CLP/32), chapter I, page 4.

background documentation for these consultations, the experts will have available the study on “The relationship between competition, competitiveness and development” (TD/B/COM.2/CLP/30) and a revised version of the model law on competition (TD/RBP/CONF.5/7/Rev.1) as requested in paragraph 7(b) of the agreed conclusions of the fourth session of the Group of Experts. In this connection, the UNCTAD secretariat in its note (TDN 915(1)DITC) of 25 November 2002 requested *inter alia* information from member States related to the commentary contained in Part II of the model law. On 19 February 2003, on the basis of replies received, the Secretary-General of UNCTAD convened an ad hoc meeting of experts in Geneva to discuss the finalization of the revised version of the model law.

7. Under paragraph 3 of the agreed conclusions of the fourth session, the Group of Experts requested the secretariat to revise documents TD/B/COM.2/CLP/21/Rev.1, TD/B/COM.2/CLP/22/Rev.1, TD/B/COM.2/CLP/26, TD/B/COM.2/CLP/29 and TD/B/COM.2/CLP/30 in the light of comments made by member States at the fourth session or sent in writing by 31 January 2003 for submission to the next session of the Group of Experts, and to make them available through UNCTAD's website. Accordingly, document TD/B/COM.2/CLP/21/Rev.1, “Experiences gained so far on international cooperation on competition policy issues and the mechanisms used,” was finalized as document TD/B/COM.2/CLP/21/Rev.2. As no comment was received on document TD/B/COM.2/CLP/22/Rev.1, “Competition policy and the exercise of intellectual property rights,” this document has not been revised again. Document TD/B/COM.2/CLP/26, “Recent important competition cases,” will be updated with new cases, while document TD/B/COM.2/CLP/29, “Review of technical assistance,” will be replaced with a new document covering the period between the fourth and fifth sessions of the Group of Experts. As for the study on the “Relationship between competition, competitiveness and development” (TD/B/COM.2/CLP/30), which was not discussed during the fourth session of the Group of Experts because of a lack of time, it will serve as a background document for the consultations, which will allow Experts to comment on it if they wish.

8. As requested under paragraph 4 of the agreed conclusions, the fifth session of the Intergovernmental Group of Experts will also consider the secretariat's ongoing work on:

(a) The roles of possible dispute mediation mechanisms and alternative arrangements, including voluntary peer reviews in competition law and policies (TD/B/COM.2/CLP/37); and

(b) A progress report on ways in which possible international agreements on competition might apply to developing countries, including through preferential or differential treatment, with a view to enabling them to introduce and enforce competition law and policy. A preliminary draft of this report will be made available as a non-sessional document, in order to allow the secretariat to take full account of the work in progress at UNCTAD on special and differential treatment between April and June 2003.

9. Finally, as requested under paragraph 8 of the agreed conclusions, the secretariat continued to publish the following documents on a regular basis and to make them available on UNCTAD's competition website (www.unctad.org/competition):

- (a) Further issues of the Handbook on Competition Legislation containing the laws and commentaries from Lithuania, Malawi and Zimbabwe (published as document (TD/B/COM.2/CLP/33);
- (b) An updated version of the Directory of Competition Authorities (published as document TD/B/COM.2/CLP/34); and
- (c) An information note on recent important competition cases, with special reference to cases involving more than one country, being published separately as document TD/B/COM.2/CLP/38.

10. These three documents, being non-sessional as far as the Intergovernmental Group of Experts is concerned, may not all be available in time for the session but will be published on the UNCTAD website like all other documents requested by the Intergovernmental Group of Experts.

Item 3 (ii). Work programme, including technical assistance, advisory and training programmes on competition law and policy

11. Under this item, the Intergovernmental Group of Experts is expected to give guidance to the UNCTAD secretariat as to further work to be undertaken on competition law and policy.

12. In particular, the experts will have before them an updated review of capacity building and technical assistance (TD/B/COM.2/CLP/36)), taking into account the information submitted by States and international organizations, as requested in paragraph 7 (b) of the agreed conclusions.

13. With respect to UNCTAD's post-Doha programme of activities, as requested in paragraph 24 of the Doha Declaration, UNCTAD has provided developing and least developed countries as well as countries in transition with a series of regional seminars to enable them to better evaluate the implications of closer multilateral cooperation in this area. The main results of discussions in this respect in four regional seminars held in all four main regions of the world in March - April 2002 were contained in a consolidated report submitted by the UNCTAD secretariat to the fourth session of the Group of Experts in July 2002. As recommended in paragraph 2 of the agreed conclusions by the Group of Experts at its fourth session, the UNCTAD secretariat has continued to cooperate with the World Trade Organization in its efforts related to the implementation of the Doha Declaration, and it intends to submit a final consolidated report on four regional meetings held on the subject in Malaysia, Kenya, Brazil and Uzbekistan in the period February - May 2003, in time for the fifth session of the Group of Experts in July 2003.

14. On the basis of the review of capacity building and technical assistance, the experts will be invited to give guidance to the secretariat on how best to assist developing countries

in formulating national competition legislation and regional competition rules and in building and strengthening capacities in this field, as well as how best to identify financial and technical resources for the implementation of technical assistance and capacity-building programmes.

Item 4. Provisional agenda for the sixth session of the Intergovernmental Group of Experts

15. As is customary, the Intergovernmental Group of Experts is expected to agree on the provisional agenda for its next session.

Item 5. Adoption of the report of the Intergovernmental Group of Experts

16. The Intergovernmental Group of Experts on Competition Law and Policy is required to report to the Commission on Investment, Technology and Related Financial Issues.