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**REPORT OF THE INTERGOVERNMENTAL GROUP OF EXPERTS ON
COMPETITION LAW AND POLICY**

Held at the Palais des Nations, Geneva,
from 2 to 4 July 2003

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Chapter I

AGREED CONCLUSIONS ADOPTED BY THE INTERGOVERNMENTAL GROUP OF EXPERTS ON COMPETITION LAW AND POLICY AT ITS FIFTH SESSION¹

The Intergovernmental Group of Experts on Competition Law and Policy,

Recalling the United Nations Set of Principles and Rules on Competition, the decisions on competition issues adopted by UNCTAD X in paragraphs 140–143 of the Bangkok Plan of Action (TD/386), and the Fourth United Nations Conference to Review All Aspects of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices,

Taking note of United Nations General Assembly resolution 55/182 of 20 December 2000, which “reaffirms the role of competition law and policy for sound economic development, takes note of the important and useful work of the United Nations Conference on Trade and Development in this field, and, in this regard, decides to convene in 2005 a fifth United Nations Conference to Review All Aspects of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices, under the auspices of the United Nations Conference on Trade and Development”,

Taking note with appreciation of the continued cooperation with the World Trade Organization, the Organisation for Economic Co-operation and Development and other organizations active in the field of competition law and policy, and in particular of the request made by WTO Ministers in paragraph 24 of the Doha Declaration,

Noting also the valuable work of the International Competition Network, in which UNCTAD participates,

1. *Recommends* to UNCTAD XI the continuation and strengthening of the important and useful work programme on competition law and policy within UNCTAD's secretariat and the Intergovernmental Group of Experts on Competition Law and Policy, which proceeds with the active support and participation of member countries;

2. *Takes note* with appreciation of UNCTAD's relevant work and particularly of the Final Consolidated Report on UNCTAD's regional meetings on the post-Doha mandate held in 2002 and 2003, and *invites* the secretariat to continue its efforts related to the implementation of the Doha Declaration in the field of technical assistance and capacity building;

3. *Takes note* with appreciation of the documentation prepared by the UNCTAD secretariat for the fifth session of the Intergovernmental Group of Experts and *requests* the

¹ As adopted at the closing plenary meeting on 4 July 2003.

secretariat to revise/update documents TD/B/COM.2/CLP/37; TD/B/COM.2/CLP/21/Rev.2; TD/B/COM.2/CLP/36; TD/B/COM.2/CLP/33; and TD/B/RBP/CONF.5/7/Rev.2 in the light of comments made by member States at the fifth session or to be sent in writing by 31 January 2004 for submission to the next session of the Intergovernmental Group of Experts, and to make these revised documents available through UNCTAD's website;

4. *Requests* the UNCTAD secretariat to prepare for the sixth session of the Intergovernmental Group of Experts (which will also act as a preparatory meeting for the Fifth UN Conference to Review All Aspects of the Set), scheduled to be held in 2005, studies on the implications of closer multilateral cooperation in competition policy for the development objectives of developing and least developed countries, in particular:

- (a) A preliminary assessment of the application and implementation of the Set;
- (b) A 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 these countries to introduce and enforce competition law and policy consistent with their level of economic development; and
- (c) Best practices for defining respective competencies and settling cases that involve joint actions by competition authorities and regulatory bodies;

5. *Recommends* that the Intergovernmental Group of Experts consider for consultations in 2004 the following issues for better implementation of the Set:

- (a) An interactive discussion to obtain a better understanding of the strengths and weaknesses of peer review related to competition policy through comparisons of the operation of reviews taking place in various forums;
- (b) Cooperation and dispute mediation mechanisms in regional integration agreements related to competition law and policy;
- (c) Evidence gathering and cooperation issues in hard-core cartel investigations; and
- (d) Advocacy in promoting awareness of competition policy in developing countries;

6. *Takes note* with appreciation of the voluntary financial and other contributions received from member States; *invites* all member States to assist UNCTAD on a voluntary basis in its capacity-building and technical cooperation activities by providing experts, training facilities or financial resources; and *requests* the UNCTAD secretariat to pursue and, where possible, expand its capacity-building and technical cooperation activities (including training) in all regions, within the available resources, taking into account the deliberations

and consultations that took place at the fifth session, and to provide updated information about its forthcoming events on its website;

7. *Requests* the UNCTAD secretariat to prepare for consideration by the next session of the Intergovernmental Group of Experts:

- (a) An updated review of capacity building and technical assistance, taking into account the information to be submitted by member States and international organizations no later than 31 January 2004;
- (b) A further revised and updated version of the Model Law on Competition on the basis of submissions to be received from member States no later than 31 January 2004; and
- (c) An information note on recent important cases, with special reference to competition cases involving more than one country, and taking into account information to be received from member States no later than 31 January 2004;

8. *Requests* the secretariat to continue to publish the following documents on a regular basis and to make them available on the Internet:

- (a) Further issues of the *Handbook on Competition Legislation*, including regional and international instruments;
- (b) An updated version of the *Directory of Competition Authorities*.

Chapter II

GENERAL STATEMENTS

1. The **Deputy Secretary-General of UNCTAD**, referring to UNCTAD XI's theme of coherence between national development strategies and global economic processes, emphasized that competition policy was a key element of market-based national development and competitiveness, and that its application should not be postponed until a country had achieved an adequate level of development. However, competition norms should be incorporated gradually, taking into account each country's characteristics. While the experiences of other countries should be considered, promotion of greater convergence of competition policies and laws should also be gradual, without premature imposition of artificial patterns. Historically, competition law and policy had expanded from an exclusive focus on national antitrust issues to include concerns related to international trade, regional integration and development (including through the adoption and implementation of the Set of Principles and Rules); it might now be entering a corporate governance phase. While any decision taken at the Fifth World Trade Organization (WTO) Ministerial Conference in Cancún (to be held in September 2003) regarding the interaction between trade and competition policy would have fundamental repercussions for international work in this area, the importance of competition for development was independent from any such decision. He referred to the capacity-building activities undertaken and documents prepared by the UNCTAD secretariat in this area, in line with the resolution adopted by the Fourth UN Review Conference on the Set of Principles and Rules, and with the Doha Declaration. There had been close cooperation with the WTO and the Organisation for Economic Co-operation and Development (OECD). The deliberations of the Intergovernmental Group of Experts (IGE) should provide a stepping stone towards the resolution to be adopted in 2005 by the Fifth UN Review Conference on the Set of Principles and Rules. They should also constitute a useful input for the deliberations of UNCTAD XI, including by providing guidance on whether UNCTAD should study the linkages between corporate governance and competition, with a view to making proposals for improving corporate governance in developing countries in order to better serve the goals of accelerated growth and sustainable development. Such work would seek to determine, in particular, how improved competition policies could enhance the competitiveness of developing-country enterprises and ensure checks and balances in corporate structures that increased efficiency while increasing equity.

2. The **Director of the Division on International Trade in Goods, Services and Commodities**, referring to the theme of UNCTAD XI, requested guidance as to whether current efforts to reinforce convergence in the area of competition law and policy, including through the international trading system, were consonant with the current state of convergence attained in national policy approaches, in underlying economic conditions, and in bilateral and regional cooperation. Would strengthening policy convergence (and hence the potential for international cooperation) improve or worsen economic conditions in developing countries? Were there enough data available to help developing countries determine where to strike the balance between convergence and diversity, or between national sovereignty and international rights and obligations? Were more data needed to clarify any trade-offs between

efficiency (static and dynamic), competitiveness and consumer welfare? Were there any risks of prematurely entrenching a particular approach to competition law and policy and thereby giving it presumptive legitimacy? Discussions by the IGE on such questions should help determine how the design and application of competition law and policy might be made optimal for growth and development.

3. The **Ambassador of Morocco**, in his keynote speech, referred to the WTO discussions on the interaction between trade and competition policy, the UNCTAD seminars held on these issues, and the adoption and implementation of competition legislation by several developing countries, including his own. He complimented UNCTAD's technical assistance and capacity-building activities in this area, which were much needed. Morocco was willing to share its experiences on competition law and policy with other developing countries, in the context of South-South cooperation, in line with the Casablanca Declaration adopted at the Euro-Mediterranean Seminar on Freedom of Association (Casablanca, 2000). The African Trade Ministers' Declaration adopted at their meeting in Mauritius this past June had recognized the importance of the "Singapore issues" but had requested that the clarification process be continued in view of the implications for developing countries. He hoped the present meeting would shed light on such issues so as to help developing countries take decisions in line with their interests in Cancún.

4. The representative of the **European Commission (EC)** promised the full engagement of his delegation in the meeting's discussions and informed delegates that the EC's Competition Directorate General had submitted for the meeting's consideration two papers, one on the interaction between competition policy and industrial policy and the other on technical assistance for capacity building. The IGE was meeting at an opportune moment in the consideration of the Doha mandate at the WTO and in the preparations for the Cancún conference. UNCTAD had a particular role to play with regard to technical assistance in this process as mandated by paragraph 24 of the Doha Declaration. An adequate quantity and quality of technical assistance and capacity building to jurisdictions with new or young competition regimes was a key factor in the successful outcome of the Doha Development Agenda. The International Competition Network (ICN), which had met recently in Merida, Mexico, had also deliberated the issue of technical assistance, and a report of the ICN meeting had been made available for delegates at the IGE meeting. The European Commission was committed to providing technical assistance independently of the WTO process; this would be funded out of the Ninth European Development Fund for African, Caribbean and Pacific countries, to which €13.5 billion had been allocated for a five-year period. He invited delegations wishing to discuss issues of technical assistance and the Doha process to do so with his delegation during the period of the meeting.

5. The representative of **India** said that India attached great importance to the useful work being done by the IGE. With regard to the much-debated issue of the industrial policy–competition policy interface, especially relevant aspects included the experience of present-day advanced countries and newly industrialized countries; the role of multilateral trade rules in the context of the Uruguay Round agreements and the establishment of the WTO, especially agreements like the Agreement on Trade-Related Investment Measures (TRIMS);

and the implications of the proposals by some WTO members for multilateral rules on trade and competition policy. With regard to the optimal design and implementation of competition law in developing countries, based on lessons learned from the experience of advanced and newly industrialized countries, a phased approach appeared to be the obvious choice. Many countries were not ready for a full-fledged and comprehensive competition law covering dominance, agreements – horizontal and vertical – and merger control. However, this could be a justification for advanced countries with long experience in economic development and implementation of competition law to allow in their jurisdiction anti-competitive practices of a cross-border nature, especially those directed at developing countries. The UNCTAD Set provided broad guidance. However, the need for binding rules designed to address cross-border practices having adverse effects in developing countries had to be addressed.

6. The representative of **Tunisia** recalled the major impact of a competition law for a market economy such as that of Tunisia. Competition policy was not an instrument for its own sake but was meant to enhance economic development. In preparing their competition laws, developing countries might exempt certain sectors from their laws if it was demonstrated that encouraging competition in these sectors could harm consumer welfare at the national level. Cooperation and technical assistance were necessary to help developing countries that had already adopted competition laws to implement these better.

7. The representative of the **Organisation for Economic Co-operation and Development (OECD)** commended the cooperation that had taken place with the UNCTAD secretariat, both at UNCTAD meetings and at OECD events, such as the Global Competition Forum and the Joint Global Forum. He also referred to cooperation with respect to paragraphs 23–25 of the Doha Declaration, and the OECD's documents published to that effect. Such documents, including the proceedings of the OECD forums, were available for interested delegations.

8. The representative of **Pakistan** recalled that his country had adopted a competition law and policy in 1970. The original law had been amended several times to reflect new legislative developments in the field of competition as reflected in the UNCTAD Model Law, as well as the proliferation of mergers in recent decades. The objective of the competition law in Pakistan was free and fair competition, and the country's Monopoly Control Authority had concentrated its activity on a variety of issues, with the aim of promoting the above-mentioned objectives. The Monopoly Control Authority considered capacity building and technical assistance of foremost importance, and the current meeting should highlight these activities, particularly ways to enhance their efficiency and positive impact.

9. The representative of **Zambia** explained the objectives of the Zambian Competition Law and the role of the Zambia Competition Commission (ZCC). The effectiveness of the Zambian Competition Law hinged on the capability of the ZCC to handle competition cases involving mergers and acquisitions while raising the awareness of all stakeholders, namely the business community, consumers and, most importantly, the Government. The ZCC and other competition authorities in the developing world faced a major challenge in creating

awareness within Governments of the importance of competition law and policy, and in enhancing community support for competition.

10. Thanking UNCTAD and other national agencies and international organizations for technical assistance provided to his country, he appealed for continued technical support at the national and regional levels, especially to the secretariat of the Common Market for Eastern and Southern Africa (COMESA).

11. The representative of **Zimbabwe** thanked UNCTAD for technical assistance accorded to the Zimbabwe Competition and Tariff Commission in the last year. He informed the meeting of the recent amendments to the Zimbabwe Competition Law. These changes involve the procedures of dealing with restrictive business practices, in the area of merger notifications, where procedures have been made mandatory, and the addition of a section on trade tariffs. The addition of the tariff portfolio to the competition law necessitated the change of name from the Industry and Trade Competition Commission to the Competition and Tariff Commission. He noted that there were inevitable operational conflicts between the competition and tariff aspects of the new organization and requested information from delegates who might have experience in this area.

12. The representative of **Senegal** thanked UNCTAD for having invited his Government to the post-Doha seminar for African countries in Nairobi (Kenya) this past April. The meeting had enabled the Government to be prepared for the next WTO Ministerial Conference. Any discussion related to a possible multilateral framework on competition at the WTO should take into account the specific needs of developing countries. The Government of Senegal was very interested in any recommendations that the round table might make on the interface between competition policy and industrial policy.

13. The representative of **Ukraine** recalled the 10-year existence of competition legislation in his country and expressed gratitude to UNCTAD and other international organizations for their contribution to the creation of a system for protecting economic competition in Ukraine. This system comprised the national competition legislation as its key element; the establishment of an independent competition authority, the Antimonopoly Committee; the development of a competition culture and public support for the promotion and protection of competition, including through activities of the Committee; and the appointment of specialized judges to deal with competition cases. Further development of competition policy would be linked to improvements in competition legislation, in particular adoption of a law on government aid; to Ukraine's preparations for accession to the WTO; to improvement of government regulation of natural monopolies; and to strengthening of bilateral and multilateral cooperation in the area of competition. He referred to the important role of UNCTAD's technical assistance and expressed an interest in seeing it enhanced.

14. The representative of **Consumers International**, recalling its cooperation with UNCTAD, noted that the Regional Office for Asia and the Pacific had cooperated with UNCTAD in organizing two regional Asian conferences earlier this year, one for competition authorities in the post-Doha mandate and the other for civil society representatives.

15. He commended UNCTAD for working with civil society to help developing countries such as Bangladesh, Cambodia, the Lao People's Democratic Republic, and soon Bhutan and the Pacific Islands create a competition culture and build the necessary political and social support for the introduction and implementation of competition law and policy. While the ultimate objective of competition law was to benefit consumers, the following conditions needed to be met:

- (a) A clear recognition of the objective of consumer protection in national laws and international instruments;
- (b) A requirement that competition authorities state the benefits of their activities for consumers;
- (c) Empowerment of consumers and consumer organizations to bring actions against perpetrators of anti-competitive behaviour; and
- (d) A focus on the market's demand side, not only on supply-side actors.

16. The representative of **Kenya** recalled that his country had adopted its Competition Law in 1988 together with the necessary institutions. The law dealt with procedures for handling mergers and takeovers, restrictive trade practices, and concentrations of economic power. It was currently being reviewed, and continued technical assistance was requested in this area from UNCTAD and other institutions. He also requested extended technical assistance at the regional level, especially through COMESA and the East African Community. Noting that out of COMESA's 21 member countries only three had established competition legislations and institutions, he called on UNCTAD and other international organizations to support the regional initiatives. He thanked UNCTAD and the OECD for their training assistance in competition issues and the European Union and the UK Department for International Development (DFID) for assisting COMESA in its regional competition initiatives, and he appealed for continued support. He noted the complementarity between competition and industrial policy, as well as the issue of flexibility in considering the two policies, and looked forward to discussions in this area.

17. The representative of the **Islamic Republic of Iran** expressed strong interest in the revised Model Law, which would help developing countries devise the right kind of competition legislation, taking into account economic and social considerations. Such a law should also be tailored to attract foreign direct investment while creating jobs and promoting exports. This was especially important for an oil-exporting country such as Iran.

18. The representative of **Benin** thanked UNCTAD for the assistance provided this year in training competition officials in the implementation of a competition law. Although flexibility, progressivity and graduality made for better implementation of competition policy in developing countries, this did not mean that, in implementing the law, anti-competitive practices should be overlooked. Graduality and flexibility should be used to sanction firms

and educate them regarding the harmfulness of their behaviour. The main impediment to implementation of a competition law in developing countries and least developed countries (LDCs) was lack of knowledge of competition policy issues by policy makers in these countries. Governments needed to be sensitized to the relevance of competition policy as a key instrument of political and economic development in a modern market economy. In this connection, UNCTAD's assistance was crucial.

19. The representative of **Mexico** drew attention to the importance of competition policy and its benefits for economic efficiency as well as for investment and development. Challenges were involved in developing a competition policy, as it must consider globalization and technological innovation, while legislation needed to evolve with rapid changes in related areas. Competition advocacy, transparency and binding opinions were important to ensure efficient implementation of competition law and policy by the competition authority. Implementation of competition should be done in phases, bearing in mind factors such as time and efficiency. Finally, he mentioned the importance of the WTO process and the outcome of the forthcoming Cancún summit. He also recalled Mexico's recent hosting of the Second Annual Conference of the International Competition Network (ICN) in Merida, and the important results achieved by this gathering of 214 delegates, including government and non-government advisers.

20. The representative of **Guinea** said that, since the adoption of a competition law in Guinea in 1994, resource constraints and a lack of human capacities had prevented its effective implementation. Although the law was being revised to reflect changes in the international situation, these problems remained unresolved. UNCTAD's assistance was needed to train competition officials and help the Government establish an appropriate competition authority, as well as to organize seminars on developing a competition culture and improving consumer associations' awareness of issues related to competition law and policy.

21. The representative of **Cameroon** noted that many developing countries had difficulty effectively implementing a competition policy. In Cameroon, where a competition law had been adopted in 1998, a provision of this law contemplated the creation of a national competition commission. To date, however, the commission had not been created, owing to resource constraints and lack of genuine expertise. UNCTAD's assistance was needed to help Cameroon overcome these problems. The round table on the interface between competition policy and industrial policy would help developing countries define their interests during the WTO negotiations on the adoption of a possible Multilateral Framework on Competition.

22. The representative of Argentina drew attention to the increasing importance of competition in public policy agendas. Argentina had experience with competition policy and with obstacles to implementing it, which had resulted from other public policies that were in contradiction with competition policies. He referred to the case of countries without competition law and policy and highlighted the need for technical assistance, from simple to more complex support. Furthermore, Governments had to be convinced of the importance of introducing competition law and policy and being aware of the challenges ahead. He noted

the importance of the interaction between industrial and competition policies and requested UNCTAD to undertake studies and provide specific guidelines or a set of principles on this issue. He also requested guidelines on procedures for the interaction between competition agencies and sectoral regulators. Finally, he highlighted the need to train the judiciary in order to ensure the use of best practices in the implementation of competition.

23. The representative of Panama highlighted item 3(ii) of the agenda and commended UNCTAD's leading role in enhancing institutional building and fostering competition and consumer protection. He mentioned the need to identify a logical framework for capacity building. This should include several components, both substantive ones and tools for interaction among members of the multidisciplinary team of agencies. Training in research techniques was an important aspect of capacity building in order to allow institutions to be effective and make efficient use of resources. Like the Model Law, the proposed logical framework for capacity building should include basic bibliographic material in the field of competition and consumer protection.

24. The representative of **Niger** said that a competition law, which took into account the main provisions of the competition law of the West African Economic and Monetary Union (UEMOA), of which Niger is a member state, had been prepared in Niger and submitted to the parliament for adoption. In the meantime, Niger needed UNCTAD's assistance to train competition officials and organize seminars for dissemination of information on competition law and policy.

25. The representative of **Burkina Faso** expressed gratitude for UNCTAD's assistance in drafting and implementing the country's national competition legislation. This legislation had been amended, expanding the competence of the national competition authority and making it more efficient, and new aspects dealing with the community law on competition had been added.

26. The representative of **Togo** said that his country had had trouble applying the existing competition legislation because the national authorities, as in many other developing countries, often showed little interest in competition issues. He hoped that UNCTAD and other international organizations could better inform national authorities of the importance of competition issues so as to ensure effective application of national competition laws.

27. The representative of **Mali** thanked UNCTAD for the assistance provided to his country in the area of competition law and policy. Mali had revised its competition law in conformity with UEMOA's competition law. He requested assistance from UNCTAD to help Mali strengthen the structure of its competition authority.

28. The representative of **Ghana** thanked UNCTAD for its assistance in the area of competition law and policy and informed the meeting that Ghana's Competition Bill was in the process of enactment. He underlined the country's need for technical assistance in fostering a competition culture in the local business community and in establishing a competition authority, including training of its staff. He called on UNCTAD to provide such

technical assistance and encouraged donor countries to furnish UNCTAD with the necessary funds to carry out its technical assistance activities. He also called on donors to assist Ghana on a bilateral basis in its endeavours in the area of competition law and policy enforcement. With respect to developments relating to competition at the WTO, there was an urgent need for more analytical studies of the development dimension of a possible multilateral framework on competition. He called on UNCTAD and other international organizations to do more work in this area.

29. The delegate of **Côte d'Ivoire** stated that a competition law had been adopted there within the framework of the structural adjustment programme established by the Government in 1991. This law had permitted the Government to tackle anti-competitive practices such as monopolies and abuses of dominant position. The law had no provisions for tackling hardcore cartels and unfair competition; hence, the Government envisaged revising the law to address these practices and to incorporate the provisions of UEMOA's common competition law, which had been adopted in January 2003. While UNCTAD had provided assistance to UEMOA in implementation of its common competition law, the same assistance was needed at the national level to bring national competition law into conformity with the common competition law. He drew the attention of the IGE to the fact that the political instability of the last couple of years had undermined the effective implementation of competition policy in his country.

30. The representative of **Peru** mentioned his country's experience in implementing a competition policy in the early 1990s. He referred to the problems that developing countries and economies in transition faced in general when introducing competition law and policy, and to the importance of a gradual approach. He highlighted the need to promote a competition culture and to strengthen capacity building, targeting the public sector, including the judiciary and members of the legislature. He also mentioned Peru's approach, which had concentrated on behavioral control rather than merger control, because of the need to adapt markets to the current context of reforms and trade liberalization.

31. The representative of **Morocco** said that competition law and policy should not constitute an end in itself, since they were instruments of economic and social development. Countries experiencing difficulties in implementing competition law and policies should adopt a gradual approach, as had been done in the United States and in Europe, in particular France. Such a gradual approach should be flexible, taking into consideration the specific features of developing countries, but transitional periods should have time limits. He noted the need to be aware of the advantages of competition, which benefited not only enterprises but also consumers and the economy as a whole.

32. The representative of **Lesotho** thanked UNCTAD for conducting a seminar in Lesotho in December 2002. The seminar had focused on, among other areas, the provision of technical assistance and capacity building to developing countries in the context of the Doha mandate, and it was meant to provide a better understanding of the "Singapore issues" and enable developing countries to make informed decisions on the different issues. The seminar had enhanced Lesotho's appreciation of the advantages of competition policy and legislation

and an appropriate regulatory framework. After the seminar, a project to help develop a competition policy had been agreed on between UNCTAD and Lesotho, and its implementation was at an advanced stage. She stressed the importance of a regulatory framework, particularly for small and vulnerable economies such as Lesotho, highlighting the detrimental effects that anti-competitive practices could have for small and medium-sized enterprises. She concluded by reiterating the Doha mandate to clarify core principles, voluntary cooperation and capacity building, saying that the work of the IGE contributed to achieving this mandate.

33. The representative of **Switzerland** said that the Swiss Parliament had recently approved a revision of the Swiss law on cartels, and that the main amendments would be of special interest to small countries and developing countries. The law had been considerably strengthened to sanction hard-core cartels, which aimed at segmenting markets such as the Swiss one. In addition, a programme had been adopted whereby whistleblowers in cartels would be treated more leniently.

34. The representative of the **West African Economic and Monetary Union (UEMOA)** commended the ongoing cooperation between UNCTAD and UEMOA. He said this cooperation was helping UEMOA to strengthen its capacities in the field of competition law and policy, and thus to help its member countries effectively implement the common competition law adopted in January 2003.

35. The representative of the World Trade Organization (WTO) thanked the UNCTAD secretariat for its excellent cooperation with the WTO on competition policy, especially since the Doha conference. He stressed that the goal of WTO workshops and seminars was not to transmit any particular viewpoint on the issues, but rather to promote discussion. He quoted paragraph 23 of the Doha Declaration, which stated that negotiations regarding a multilateral framework to enhance the contribution of competition policy to international trade and development would take place after the Cancún conference on the basis of a decision to be taken there, by explicit consensus, on modalities of negotiations. Preparations were underway at the WTO to determine what those modalities might be, especially in view of the upcoming conference. He updated delegates on the current status of those preparations.

III. ORGANIZATIONAL MATTERS

A. Opening of the session

36. The fifth session of the Intergovernmental Group of Experts on Competition Law and Policy was opened on Wednesday, 2 July, 2003 by Mr. Carlos Fortin, Deputy Secretary-General of UNCTAD. In the course of the session, the Intergovernmental Group of Experts held two plenary meetings and four informal meetings.

B. Election of officers

(Agenda item 1)

37. At its opening plenary meeting, on Wednesday, 2 July 2003, the Intergovernmental Group of Experts elected its officers, as follows:

Chairperson Mr. Andreas Mundt (Germany)

Vice-Chairperson-cum-Rapporteur: Mr. Peter Augustin (India)

C. Adoption of the agenda and organization of work

(Agenda item 2)

38. Also at its opening plenary meeting, the Intergovernmental Group of Experts adopted the provisional agenda for the session (TD/B/COM.2/CLP/35). The agenda was thus as follows:

1. Election of officers
 2. Adoption of the agenda and organization of work
 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;
 - (ii) Work programme, including technical assistance, advisory and training programmes on competition law and policy
 4. Provisional agenda for the sixth session of the Intergovernmental Group of Experts
 5. Adoption of the report of the Intergovernmental Group of Experts

**D. Provisional agenda for the sixth session of the
Intergovernmental Group of Experts**

(Agenda item 4)

39. At its closing plenary meeting, on 4 July 2003, the Intergovernmental Group of Experts approved the provisional agenda for its sixth session (for the text of the provisional agenda, see annex I).

E. Adoption of the report of the Intergovernmental Group of Experts

(Agenda item 5)

40. Also at its closing plenary meeting, the Intergovernmental Group of Experts authorized the Rapporteur to complete the formalities and to finalize the report, subject to any amendments that delegations might wish to make.

Annex I

PROVISIONAL AGENDA FOR THE SIXTH SESSION

1. Election of officers
2. Adoption of the agenda and organization of work
3.
 - (i) Consultations and discussions regarding peer reviews on competition law and policy; review of the Model Law; and studies related to the provisions of the Set of Principles and Rules;
 - (ii) Work programme, including capacity-building and technical assistance on competition law and policy
4. Provisional agenda for the Fifth Review Conference
5. Adoption of the report of the Intergovernmental Group of Experts

Annex II

ATTENDANCE^{*}

1. Experts from the following States members of UNCTAD attended the session:

Albania	Mexico
Algeria	Morocco
Argentina	Myanmar
Austria	Nepal
Belgium	Netherlands
Benin	Niger
Bhutan	Oman
Brazil	Pakistan
Burkina Faso	Panama
Cameroon	Peru
Chile	Poland
China	Republic of Korea
Colombia	Romania
Côte d'Ivoire	Russian Federation
Democratic Republic of the Congo	Saudi Arabia
France	Senegal
Gabon	South Africa
Germany	Swaziland
Ghana	Switzerland
Greece	Thailand
Guinea	Togo
India	Tunisia
Indonesia	Turkey
Islamic Republic of Iran	Uganda
Italy	Ukraine
Jordan	United Kingdom of Great Britain and Northern Ireland
Kenya	United Republic of Tanzania
Lesotho	United States of America
Madagascar	Uruguay
Malaysia	Venezuela
Mali	Zambia
Mauritania	Zimbabwe
Mauritius	

* For the list of participants, see TD/B/COM.2/CLP/INF.5.

2. The following intergovernmental organizations were represented at the session:

African, Caribbean and Pacific Group of States
European Commission
Organisation for Economic Co-operation and Development
South Centre
West African Economic and Monetary Union

3. The following related organization was represented at the session:

World Trade Organization

4. The following non-governmental organizations were represented at the session:

General Category

International Centre for Trade and Sustainable Development
International Confederation of Free Trade Unions
International Federation of Pharmaceutical Manufacturers' Associations
World Association of Former United Nations Interns and Stagiaires

5. The following resource persons and specially invited guests attended the session:

Ms. Deuden Nikomborirak, Research Director, Thailand Development Research Institute (TDRI), Thailand
Mr. Ajit Singh, Professor, Cambridge University, United Kingdom
Mr. Sothirachagan Sinnathurai, Regional Director, Consumers International, Asia Pacific Office, Kuala Lumpur