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TRADE AND DEVELOPMENT BOARD
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Intergovernmental Group of Experts on Competition Law and Policy
Sixth session
Geneva, 8–10 November 2004
Item 2 of the provisional agenda

ADOPTION OF THE AGENDA AND ORGANIZATION OF WORK

Provisional agenda and annotations

I. PROVISIONAL AGENDA

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

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 Intergovernmental Group of Experts may wish to adopt the provisional agenda, as agreed at the fifth session of the Intergovernmental Group of Experts.

Organization of work

3. It is proposed that the first plenary meeting, which will open at 10 a.m. on Monday, 8 November 2004, be devoted to procedural matters (items 1 and 2 of the provisional agenda) and to introductory statements. The closing plenary meeting, on Wednesday 10 November, will be devoted to the adoption of the report (item 5).¹

4. This would leave the remaining meetings, from the afternoon of 8 November to the morning of 10 November inclusive, for items 3 (i) and 3 (ii) of the provisional agenda. If more time is needed, the adoption of the report could be postponed to the late afternoon of 10 November in order for an informal working session to take place that afternoon.

Item 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

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

- (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.

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 fifth session (TD/B/COM.2/52; TD/B/COM.2/CLP/39), chapter I, page 3.

6. Should countries wish to hold consultations on additional subjects, they are requested to inform the secretariat well in advance (no later than 30 September 2004) 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 background documentation for these consultations, the experts will have available the revised study on “Roles of possible mediation mechanisms and alternative arrangements, including voluntary peer reviews, in competition law and policy” (TD/B/COM.2/CLP/37/Rev.1) and a summary of the outcome of the Ad Hoc Meeting of Experts on Peer Reviews on Competition Law and Policy that took place in Geneva on 15-16 July 2004.

7. Under paragraph 3 of the agreed conclusions of the fifth session, the Group of Experts requested the secretariat to revise or 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 in the light of comments made by member States at the fifth session or sent in writing by 31 January 2004 for submission to the next session of the Group of Experts, and to make them available through UNCTAD's website. Accordingly, as already indicated, document TD/B/COM.2/CLP/37/Rev.1, “Roles of possible mediation mechanisms and alternative arrangements, including voluntary peer reviews, in competition law and policy”, will be submitted to the Group's sixth session. As no comment was received on document TD/B/COM.2/CLP/21/Rev.2, “Experiences gained so far on international cooperation competition policy issues and the mechanisms used”, this document has not been revised again. Documents TD/B/COM.2/CLP/36 (Review of capacity building and technical assistance), TD/B/COM.2/CLP/33 (Handbook on Competition Legislation) and TD/B/RBP/CONF.5/7/Rev.2 (Model Law) will be updated as requested.

8. As requested under paragraph 4 of the agreed conclusions, the sixth session of the Intergovernmental Group of Experts will also consider secretariat notes on:

- (a) A preliminary assessment of the application and implementation of the Set (TD/B/COM.2/CLP/45), which is prepared in view of the forthcoming Fifth UN Conference to Review All Aspects of the Set, scheduled to be held in 2005;
- (b) (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 (TD/B/COM.2/CLP/46); and
- (c) (c) Best practices for defining respective competencies and settling cases which involve joint actions of competition authorities and regulatory bodies (TD/B/COM.2/CLP/44).

9. Finally, as requested in paragraphs 7 and 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*, including regional and international instruments: document TD/B/COM.2/CLP/41 containing the laws and commentaries from Bulgaria, Estonia and India;
- (b) An updated version of the *Directory of Competition Authorities*: document TD/B/COM.2/CLP/42;
- (c) An information note on recent important competition cases, with special reference to cases involving more than one country: document TD/B/COM.2/CLP/47.

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 placed as soon as possible on the UNCTAD website, like all other documents requested by the Intergovernmental Group of Experts.

Item 3 (ii) Work programme, including capacity-building and technical assistance 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/43), taking into account the information submitted by States and international organizations, as requested in paragraph 7 (a) of the agreed conclusions adopted at the fifth session. On the basis of the review, 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 Fifth Review Conference

13. Acting in its capacity as preparatory meeting for the Fifth Review Conference, the Intergovernmental Group of Experts is expected to agree on the provisional agenda for the next session of the Conference.

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

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