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Report of the Intergovernmental Group of Experts on Competition Law and Policy on its eighth session

Held at the Palais des Nations, Geneva from 17 to 19 July 2007

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I. Agreed conclusions adopted by the Intergovernmental Group of Experts at its eighth session

The Intergovernmental Group of Experts on Competition Law and Policy,

Recalling the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices,

Recalling the provisions relating to competition issues adopted by UNCTAD XI in the São Paulo Consensus (TD/410), including the provisions in paragraphs 89, 95 and 104 of the São Paulo Consensus,

Further recalling the resolution adopted by the 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 (Antalya, Turkey, November 2005),

Noting that UNCTAD XII will focus on addressing the opportunities and challenges of globalization for development,

Underlining that competition law and policy is a key instrument for addressing globalization, including by enhancing trade and investment, resource mobilization and the harnessing of knowledge,

Recognizing that an effective enabling environment for competition and development may include both national competition policies and international cooperation to deal with cross-border anti-competitive practices,

Recognizing further the need to strengthen UNCTAD's work on competition law and policy so as to enhance its development role and impact,

Noting with satisfaction the important written and oral contributions from competition authorities of members participating in its eighth session,

Taking note with appreciation of the documentation prepared by the UNCTAD secretariat for its eighth session,

1. *Expresses appreciation* to the West African Economic and Monetary Union (WAEMU) and the Governments of Benin and Senegal for volunteering for a peer review during the eighth session of the Intergovernmental Group of Experts and to all Governments and regional groupings participating in the review; *recognizes* the progress achieved so far in the elaboration and enforcement of WAEMU's competition rules; *invites* all member States to assist UNCTAD on a voluntary basis by providing experts or other resources for future activities in connection with voluntary peer reviews; and *decides* that UNCTAD should, in the light of the experiences with the voluntary peer reviews undertaken so far and in accordance with available resources, undertake further voluntary peer reviews on the competition law and policy of member States or regional groupings of States, back to back with the ninth session of the Group of Experts;

2. *Underlines* the key roles that competition policy and intellectual property rights play in attaining development objectives and the need to strengthen international cooperation in this area, particularly for the benefit of developing countries; and *requests* the UNCTAD secretariat to prepare a report on this subject, taking into account the proceedings and written contributions of the Round table on Competition Policy and the Exercise of Intellectual Property Rights and comments received from member States to be sent in writing by 31 January 2008, for submission to the ninth session of the Group of Experts;

3. *Underlines further* the importance of competition at the national and international levels in energy markets; *notes* the reported persistence of

significant market power problems in some electricity and natural gas sectors and the challenges that developing countries face in reforming their energy markets; and *takes into account* the proceedings and written contributions of the Round table on Competition at the National and International Levels: Energy;

4. *Emphasizes* the importance of elaborating and applying criteria for evaluating the effectiveness of competition authorities adapted to the needs and conditions of developing countries as a tool for enhancing competition enforcement and taking into account the proceedings and written contributions of the Round table on Criteria for Evaluating the Effectiveness of Competition Authorities;

5. *Calls upon* States to increase cooperation between competition authorities and Governments for the mutual benefit of all countries in order to strengthen effective international action against anti-competitive practices as covered by the Set, especially when these occur at the international level; such cooperation should take particular note of the needs of developing countries and economies in transition;

6. *Decides* to consider at its ninth session how to further develop bilateral and regional cooperation mechanisms in the competition policy area;

7. *Requests* the UNCTAD secretariat to continue publishing as non-sessional documents and to include in its website the following documents:

- (a) Further issues of the *Handbook on Competition Legislation*;
- (b) An updated version of the *Directory of Competition Authorities*;
- (c) A further information note on recent important competition 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 2008;
- (d) An updated review of capacity-building and technical assistance, taking into account information to be received from member States no later than 31 January 2008; and
- (e) 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 2008;

8. *Further requests* the UNCTAD secretariat to prepare a report on abuse of dominance;

9. *Recommends* that the ninth session of the Group of Experts consider the following issues for better implementation of the Set:

- (a) The attribution of competence between community and national competition authorities and the application of competition rules; and
- (b) Independence and accountability of competition authorities;

10. *Takes note* of the convening by the UNCTAD secretariat of an ad hoc expert group on the role of competition law and policy in promoting growth and development;

11. *Further takes note* with appreciation of the voluntary financial and other contributions received from member States; *invites* member States to continue 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 available resources.

II. Proceedings

A. General statements

1. The representative of the **Secretary-General of UNCTAD** emphasized the need for the Group of Experts to send a strong message to UNCTAD XII regarding competition policy's role in enhancing productive capacity, trade, investment, resources and application of knowledge for development. Both national and international actions were needed to deal with cross-border anti-competitive practices. The size and behaviour of global enterprises created major challenges for policymaking. Developing countries had difficulties in taking action because of deficits in resources, knowledge, enforcement capacities and international cooperation mechanisms. The Group of Experts might wish to launch further work on IPR-related issues, self-evaluation tools for developing countries. The peer review of the competition legislation of the West African Economic and Monetary Union (WAEMU), Benin and Senegal was the first ever review of a regional grouping. In the area of international cooperation, the UNCTAD secretariat could prepare reports on specific experiences with cooperation in order to explore how to develop bilateral and regional cooperation mechanisms and assess whether the Model Law needed amendment.
2. The representative of **Pakistan** said that his country was in the process of adopting a new competition law. He emphasized the importance of competition authorities' independence from political influence.
3. The representative of **Morocco** complimented UNCTAD on its competition work, particularly on peer review. He attributed high oil prices to cartels in the petroleum sector. The basic principles of competition should be respected, while the climate for competition was global and led to greater trading rights and freedom.
4. The representative of **Zambia** acknowledged UNCTAD's work on capacity-building and technical cooperation in the area of competition law and policy in Zambia and in the member States of the Common Market for Eastern and Southern Africa (COMESA) and called for more UNCTAD technical cooperation for Southern African countries without competition laws, and called upon donors. He also called for African countries to play a more active role in the ongoing economic partnership agreement (EPA) negotiations with the EU, with particular focus on Singapore issues. He urged donors to strengthen technical cooperation in this area, including by providing resources to enable African countries to participate in the EPA negotiations. He described the activities of the Eastern and Southern African Competition Forum and UNCTAD's contribution towards this.
5. The representative of **Malawi** described its competition legislation and informed the meeting that Malawi was among the seven COMESA member States that had enacted legislation on competition law and policy. It had enacted the Competition and Fair Trading Act in 1998, and the Enabling Act of 2000, but the representative informed the participants that the country still lacked institutional arrangements to implement it fully. However, the Malawi Competition Commission had handled some cases with UNCTAD assistance. He called for continued cooperation in this area.
6. The representative of **Zimbabwe** reported that it had submitted written contributions on the energy sector and evaluation criteria, based on its experiences in those areas. He stated that the establishment by its Government of a Monopolies Office in the Office of the President was enhancing implementation of competition policy, particularly for advocacy. The

Competition Commission had handled many cases and had now been given some trade functions. In conclusion, the delegation thanked UNCTAD for the technical assistance and capacity-building activities undertaken for Zimbabwe and the SADC and COMESA regions.

7. The representative of **Peru** highlighted the Group's importance for promoting exchange of competition experiences and best. Her country had worked on administrative simplification, monitoring of sensitive markets, capacity-building targeting all stakeholders and access to information. Promoting transparency and access to information was essential for making markets work for consumers, particularly average and poor consumers, in the light of economic disparities within her country. She drew attention to work carried out by INDECOPI's Commission for Market Access on the development and updating of an "index for market access" and a "market observatory" which had thus been developed, and based on research under the UNCTAD COMPAL programme. The work involved monitoring compliance with deadlines and checking that procedures had been adjusted to comply with the competition law. She expressed appreciation for the support received from COMPAL and the financing it received from Switzerland's State Secretariat for Economic Affairs. Further support was requested for market studies, strengthening work with municipalities, preparation of material for dissemination, and training programmes.

8. The representative of the **Russian Federation** referred to the new competition legislation adopted by his country. The Federal Law on the Protection of Competition, entering into force in 2006, reflecting the anti-monopoly body's experiences, and including several new provisions which took best foreign practices into account. The Federal Law on Introducing Modifications of the Code of the Russian Federation on Administrative Violations of 2007 had improved the system of sanctions and introduced leniency agreements. His country had concluded competition-related agreements with both developing and developed countries. The Antimonopoly Council of the Commonwealth of Independent States (CIS) had discussed joint investigation and analysis of cases involving transnational markets. Draft CIS agreements envisaged transition from a coordinated to a single anti-monopoly policy.

9. The representative of **Cameroon** stated that a competition agency had been established in his country the previous year. Bringing the competition law (adopted in 1998) into force had taken very long because of lack of resources and expertise. In the meantime, sectoral regulation had been adopted in different areas. He requested UNCTAD assistance in implementing the law.

10. The representative of **Botswana** stated that the preparation of his country's competition law was well advanced, partly thanks to assistance from UNCTAD. With UNCTAD technical cooperation support, following the approval of a competition policy in July 2005, a layman's competition bill had been drafted in July 2006. He thanked UNCTAD for facilitating a Botswana study tour of the Swiss and Swedish competition authorities, as well as the agencies concerned. He requested UNCTAD to assist in completing the remaining part of this benchmarking exercise in Zambia and South Africa, as well as to help establish and train a Botswanian competition authority.

11. The representative of **Kenya** expressed appreciation for UNCTAD's frequent assistance in holding capacity-building workshops in his country, in funding Kenyan participation in regional workshops and international conferences, in facilitating study visits by the task force reviewing Kenyan competition law to different countries and in preparing competition studies on Kenya. These studies had provided guidance to his Government and a draft law

embracing best international practices had been prepared. As a follow-up to the Kenyan Peer Review carried out for the Fifth Review Conference, UNCTAD had funded the provision of computers and furniture to the Competition Authority, and would be providing recent books on competition policy and law.

12. The representative of **Costa Rica** stated that his country had long adopted a competition and consumer protection law but needed technical assistance for its review and amendment. UNCTAD support had enabled capacity-building for better enforcement and for enhancement of regional cooperation and, under COMPAL programme, a proposal to reform the law had been finalized. He urged that COMPAL be extended beyond 2008. His country had requested an UNCTAD voluntary peer review. He referred to the Central American regional integration process and highlighted the planned referendum on the Dominican Republic-CAFTA Agreement, in which the application of intellectual property rights to medicines was controversial. He also mentioned that the ongoing negotiations on an association agreement with the EU, which might include a competition chapter, for which support under COMPAL was requested.

13. The representative of **Gabon** reported that, although his country had adopted a competition law in 1989, a competition authority had not been established yet because of controversies regarding its independent status. However, the law would now be implemented and would be amended to better cover the informal sector.

14. The representative of the **United Arab Emirates** stated that his Government's policy was to enhance the enabling environment for competition, including through trade liberalization. The UNCTAD Model Law had provided the basic reference point for his country's draft competition law. He expressed appreciation for the Model Law's non-prescriptive approach, which enabled tailoring in line with development needs. He requested technical cooperation work from UNCTAD.

15. The representative of **Malaysia** stated that his country had benefited from UNCTAD's technical assistance in preparing its draft competition law, which was now close to adoption. He requested further UNCTAD assistance for establishing a competition agency and implementing the law.

16. The representative of **Ghana** referred to UNCTAD XII, scheduled to be held in his country. In the context of globalization, countries which did not have competition policies and laws found it difficult to combat anti-competitive practices. Ghana had benefited from UNCTAD assistance in formulating competition policy and law in the early 1990s; however, this law had never been implemented and was now obsolete. The adoption by Ghana of a broad trade policy in 2005, backed by a Trade Support Programme, had given new impetus to the subject of implementation of a national competition policy and law. His country therefore sought to restart this process and sought to renew its engagement with UNCTAD in taking the competition agenda to its logical conclusion. He expressed appreciation for the attention accorded to Ghana's recent technical assistance request to UNCTAD.

17. The representative of **Papua New Guinea** noted that this was the first time that his Consumer and Competition Commission was participating in a session of the Group. His country had adopted a competition law in 2002 and the Commission was still establishing itself. It was independent and, in addition to competition, regulated telecommunications, electricity and consumer policy issues. It had taken decisions on mergers and undertaken reviews of some sectors and industries. It raised 60 per cent of its funding by itself, with the balance coming from a Government grant. He proposed the creation of an organization like the West African Monetary and Economic Union in East Asia.

18. The representative of **Indonesia** said that UNCTAD assistance which his country had received for training judges had greatly improved the success rate in competition cases.

19. The representative of **Portugal** described the operation of the Lusophone Competition Network, which included eight Portuguese-speaking countries sharing a common legal tradition. These countries aimed at ensuring that competition played a role in fostering their economic growth, while allowing for variations in the circumstances shaping each country's development agenda. They had adopted the Rio Declaration on Competition and Development in 2004, establishing principles relating to: (i) the role of competition in economic policy for growth and poverty alleviation; (ii) regulatory reform to reduce business costs and ensuring that efficiency gains were passed on to consumers; (iii) independence of competition agencies (which might also undertake sectoral regulation) and judicial recourse for administrative decisions; and (iv) capacity-building in the framework of international cooperation arrangements, with due regard for international bodies active in this area. The Declaration emphasized joint efforts by parties interested in the target beneficiary countries, including Brazil and Portugal, as well as UNCTAD in view of its comparative advantage in this area. Coordination of bilateral and multilateral efforts was envisaged to enhance efficiency and avoid overtaxing recipients. UNCTAD steered the process under a 2004 Memorandum of Understanding with the Portuguese Competition Authority. The main achievements to date were mainly in capacity-building and training of officials. Two major meetings had been hosted by the Brazilian and Portuguese competition agencies in Rio and Lisbon respectively, and a third would be organized in Angola in 2008. The Portuguese Competition Authority had received for internships colleagues from Cape Verde, Mozambique and East-Timor. The Minister of Industry of Commerce of Mozambique had visited Lisbon in connection with sequencing of price liberalization and draft competition legislation; together with UNCTAD, the Portuguese Competition Authority would be playing an important role in this endeavour. A similar strategy of leveraging bilateral and multilateral efforts while maintaining ownership by the beneficiaries was being followed within the Ibero-American Competition Forum, which included the Portuguese Competition Authority, interested countries in Latin America, the Spanish Competition Court and the OECD Competition Division. A competition workshop had been organized in Lisbon and another would soon be hosted by the Mexican competition authority.

20. The representative of the **Third World Network** noted that in other forums, including during the WTO negotiations, the potential benefits of appropriate competition policy enforcement had been used unsuccessfully to support efforts for multilateral competition disciplines. He commended UNCTAD for adopting an approach to the issue of international cooperation on competition matters that was not predicated on multilateral processes delivering appropriate competition policies to developing countries. The special needs of developing countries should be taken into account. Countries with sophisticated competition policy infrastructure had not really taken steps to use their national capabilities to limit the anti-competitive activities of their firms in international markets, and his network was interested in seeing how these countries could use their policy space to complement national and regional efforts of developing countries.

B. Voluntary peer review of competition policy in the West African Economic and Monetary Union (WAEMU): Benin and Senegal

Chairperson's summary

21. The peer review was moderated by the Chairperson of the Swiss Competition Commission. The first session consisted of the main conclusions of the report prepared by the two consultants, Mr. Guy Charrier and Mr. Abou Saïb Coulibaly; a statement by Mr. Christophe Dabire, Commissioner for the Regional Market, Trade, Competition Department of the WAEMU Commission; and questions from the specially chosen peer examiners. The consultants who had prepared the report "Voluntary peer review of competition policy: West African economic and monetary union, Benin and Senegal – Overview" (UNCTAD/DITC/CLP/2007/1) described the relevant legal provisions and the intensive legislative action by the WAEMU Commission to clarify such provisions, as well as the enforcement record: very few matters had been brought to the Commission's attention and none relating to cartels or abuses of dominance. A range of measures to enhance WAEMU action in this area were recommended. The Commissioner for the Regional Market, Trade, Competition and Cooperation Department of the WAEMU Commission noted that community competition law, based on current competition legislation, was an important component of the integration process in WAEMU.

22. The panellists undertaking the peer review examination were from competition authorities from France, Indonesia, South Africa, Tunisia and the United States. The relevance of the Commission's sole responsibility for regulating competition in WAEMU was questioned. It was queried whether the competition rules on cartels and abuses of dominance within WAEMU should not be harmonized along the lines of the EU system, with coordination of national and community rules, pooling of relevant information and a greater role for member States in view of limited competition staff within the Commission. Clarifications were requested regarding the lack of sanctions. The need for cooperation between the Commission and member States in this area was urged, as well as for account to be taken of the informal sector in implementing the law community mechanism. It was suggested that matters warranting consideration included: general rules; institutions; procedures; capacity-building within the WAEMU Commission; redefinition of institutions' competence to prevent delays in judicial decision-making; independence and immunity in the discharge of the Commission's functions; the need to ensure that Governments implemented the Commission's recommendations; and promotion of awareness of competition culture. Some representatives of competition authorities of other countries or regional organizations made comments or sought clarification regarding WAEMU's competition policy. The question of subsidiarity was stressed and it was recommended that WAEMU have a system for sharing responsibilities between national and community authorities. Questions were asked relating to the handling of confidential information and the treatment of public interventions (State aids and tax exemptions) by the WAEMU Commission, as well as the links between regulators and competition authorities at the regional level. The representative of the Economic Community of West African States requested that consideration be given to the establishment of cooperation between his organization and WAEMU.

23. In reply, the WAEMU Commissioner stated that the WAEMU competition system took account of member States' level of development and the Commission's sole competence in that area facilitated upgrading of member States' institutional and regulatory framework. Once that objective had been

achieved, the principle of subsidiarity would be implemented to provide greater flexibility. In the light of the recent adoption of the relevant legislation priority was currently being given to raising awareness in all Member States, but sanctions would be imposed when this was achieved. The President of the WAEMU Court of Justice clarified the advisory opinion which the Court had issued in 2000, which had confirmed the Commission's exclusive competence for the regulation of competition within WAEMU. Written replies, annexed to the present report, were made to some of the questions asked of the WAEMU Commission and it was agreed that the other responses would be forwarded to WAEMU when received.

24. A round table was also held for Senegal and Benin, represented by their respective ambassadors as well as by the Beninese Ministry of Trade's Director of Competition and Prevention of Fraud. Questions were asked relating to: the division of responsibility between the community and the national systems, in the light of the important role of national laws in the creation of the common market; the time lag regarding the competition and liberalization processes in the Senegalese energy sector, despite a number of reforms; and liberalization and attempted price-fixing in the Beninese telecommunications sector. Regarding Senegal, it was stated in response that the liberalization of the Senegalese telecommunications sector had been successful, but there were still difficulties in reforming the energy sector, which needed more time in a least developed country like Senegal. Regarding Benin, the belief was expressed that community regulation of competition would encourage investment in his country and it was urged that the relevant foreign or international bodies provide more support for the implementation of a competition policy in Benin and the other WAEMU member States. It was stated that, despite the increase in the number of operators in the mobile telephone sector in Benin, the quality of service was still inadequate, because of the age of the interconnection equipment. Benin's authorities were currently studying investment with a view to modernizing that equipment. It had not been possible to prove that the operators concerned had formed a cartel in the mobile telephone sector. After many complaints by users, the Government had intervened to compel operators to charge more competitive prices.

25. The UNCTAD secretariat presented the main components of the WAEMU technical assistance project, which derived from the recommendations of the peer review report. The WAEMU Commission undertook to do what was necessary in order to implement the project, with a view to consolidating the community's competition policy.

C. Round table on competition at the national and international levels: energy

Chairperson's summary

26. The round table was moderated by an official of the Italian competition authority. The panel members were from the Department of Energy in the Ministry of Minerals, Energy and Water Resources of Botswana. Written contributions were provided by the Governments of Brazil, Chile, Kenya, Portugal, Trinidad and Tobago, Tunisia, the United States of America and Zimbabwe, as well as by the EU Commission, the UNCTAD secretariat (based on a survey undertaken) and various individuals.

27. The UNCTAD secretariat introduced the report "Competition in energy markets" (TD/B/COM.2/CLP/60). One key finding of the paper, which focused on the electricity and natural gas sectors, was that many countries had instituted

reforms in those sectors. However, competition had not always been the intended goal of such reforms, which had contributed to varied outcomes and degrees of competition characterizing different countries' energy sectors. The paper pointed out that the process of introducing competition in energy sectors was one that took a very long time and had not yet been completed anywhere in the world. Even in countries where electricity and natural gas market reforms were quite advanced, significant market power problems persisted. That fact was attributed to the peculiarities of those markets, which did not tend to facilitate the introduction of competition in the energy market, and to the challenges of applying conventional methods of defining market power and merger analysis to that sector. Some of the challenges that developing countries faced in reforming their energy sectors were highlighted, such as the political risks related to reforming a strategic sector that was pivotal to development, the absence of a single model for reform, and the need to interpret successful experience and adapt it to the national context, as well as the complexity and costs of economic regulation.

28. Some of the main points made in the other interventions are summarized below. It was stated that energy security and supply continuity were at the heart of the discussion on electricity market restructuring. A number of specific features of the electricity markets tended to facilitate market power and complicate regulation – for example, electricity systems were exposed to natural disasters; electricity was a non-storable commodity; markets were unlikely to balance supply and demand in the absence of regulatory measures; and electricity transmission and natural gas transport networks were natural monopolies.

29. The first topic discussed was the challenge of introducing competition in developed and developing countries. The presentation by Ms. Fink focused on the challenges of market concentration and vertical foreclosure, which were identified in the recently completed EU Sector Inquiry as the two major problems facing European energy markets. Liberalization measures in the EU were introduced in two waves: the first wave, in the 1990s, aimed at ending legal monopolies in the electricity and natural gas markets, with the second wave, in 2003, mandating regulated third party access and legal unbundling. Despite the liberalization process, there have been significant increases in wholesale prices, and both natural gas and electricity markets have remained highly concentrated and national in scope. National incumbents often control domestic production and import contracts, and dominate trading in new markets. Also, trading markets are distorted, reflecting concentration.

30. In addition to competition law remedies, among the remedies suggested by the European Commission for market concentration are the divestiture of assets, energy release and the development of interconnector capacity. With regard to vertical foreclosure, the Sector Inquiry established that it is essential to resolve the systemic conflict of interest inherent in the vertical integration of supply and network activities. The EC is advocating full ownership unbundling as one solution to increase the effectiveness of unbundling. Another option under discussion is the creation of independent system operators (ISOs), such that the operation (including maintenance and investment decisions) of network assets owned by a vertically integrated company would be the responsibility of the ISO.

31. In comments on this presentation, it was underlined that the usefulness of sector inquiries as a tool available for use by competition authorities in cases where they believed that markets were not functioning the way they should,

which although it did not result in any binding decisions, could often promote good behaviour. It was suggested that sector inquiries could be an interesting subject for examination by the IGE in the future. In this connection, a representative from a competition authority commented that the ability to hold public hearings had proved useful for his authority. Speaking in support of ownership unbundling, a delegate pointed out that his country's experience with electricity and natural gas reforms had shown that lasting benefits from vertical unbundling were fostered by effective merger control and sector regulation. Despite the common assertion that vertically integrated companies tended to be more knowledgeable about market developments and could thus make timely investment decisions, in his country significant increases in necessary infrastructure investments had been observed only after ownership unbundling had taken place. He described the efforts currently being undertaken by his country to develop integrated electricity and natural gas markets with its neighbour. Responding to questions from other participants, he elaborated on some of the challenges that would need to be overcome in that process, namely further investments in interconnection capacity and improved regulatory convergence.

32. Another delegate noted that the reform process in his country was proceeding step by step and that the results of the unbundling process were awaited with great interest. The latter process in his country was accompanied by measures to foster marketing structures (retail competition), and he emphasized the need for a transition process because the energy sector was so strategic. In that context, he stressed that it was easy to make mistakes and that it was necessary to build a partnership between the public and private sectors in order to minimize reform errors and encourage consumers and workers to play their part in disciplining market behaviour. In addition, he underlined the role of effective economic and competition regulation.

33. The participants were informed about how one country, faced with problems of vertical integration and market foreclosure in natural gas markets, had instituted legislation which, although it did not outlaw vertical integration outright, made it impossible for a company to operate in all segments of the natural gas industry. Reforms have also been instituted with regard to pipeline access policy, such that non-discriminatory access to pipeline capacity is guaranteed and the risks for the investor are greatly reduced.

34. During the ensuing discussion the point was made that ownership unbundling was the least complex and best option to guarantee non-discriminatory third party access when compared with the imposition of regulated access conditions. In that context, it was noted that the ISO approach implied more regulation than did ownership unbundling. Moreover, it was stated that ownership unbundling had a further advantage in that it facilitated interconnection with neighbouring markets, which would foster energy trade between countries.

35. A question was asked about the implied need for the harmonization of regulation and the nature and desirable extent of such harmonization where the geographical expansion of energy markets was being pursued. It was evident from the EU experience that some degree of harmonization with regard to the technical aspects of energy trade, such as the allocation of interconnection capacity and the synchronization of the transmission system operator, gate closure times and related procedures for electricity supply bids, might be necessary. Similarly, with regard to promoting trade on power markets and avoiding the problems experienced with California spot markets, the EC was

advocating that regulators be equipped with adequate and uniform supervisory powers to oversee the operations of spot markets and combat the possibility of market manipulation. The importance of establishing standards to improve the functioning of the markets was emphasized.

36. Issues regarding liquidity in energy markets were also discussed, and the key role that the sector regulator plays in ensuring liquidity in electricity markets. It was pointed out, however, that there was evidence that liquidity was a major challenge for natural gas markets in the light of the prevalence of long-term contracts in the industry and the lack of adequate regasification facilities.

37. The second topic discussed during the round table was the right balance between competition and economic regulation. The situation in the Salvadorian electricity market with regard to regulation and competition was described. In El Salvador, apart from the transmission network, all segments of the electricity sector are open to competition and vertical/horizontal integration is allowed. Evidence from several market studies corroborated the opinion of various energy experts that electricity generators exercise market power. A number of recommendations had been submitted by the competition authority to the Ministry of Economy and the sector regulator to facilitate the effective control and monitoring of the electricity market and promote new investments in the generation of electricity, as well as to advance regional energy market integration. The collaboration between the sector regulator and the competition authority was underlined, as well as the importance of the sustainability of reforms in attracting investments and the importance of competition law and policy in encouraging new entry into the electricity markets. There was now an initiative to integrate electricity markets in Central America.

38. During the discussion, it became clear that different countries employed different approaches in assigning competency between the sector regulator and the competition authority on competition issues in the energy sector. For instance, in Italy and the EU in general, the competition authority has sole competency where mergers and merger remedies are concerned; however, in some countries the laws mandate consultations between the sector regulator and the competition authority, although the existence of such consultations does not necessarily imply a shared competency. The point was made that in some countries the decisions of the competition authority might be subject to political oversight where matters of national interest had a bearing on a competition case.

39. A question was asked about how effectively merger reviews in the energy sector were insulated from political influence. In the EC example, merger control is independent of political considerations and subject to rigorous internal scrutiny within the Directorate-General for Competition coupled with scrutiny by the Commission's legal service (which is independent from the Directorate-General for Competition an external legal team as an external control mechanism. Furthermore, EC processes are based on objective economic and legal principles and all parties have recourse to the courts.

40. A delegate remarked that his country, which was a small economy, had benefited from having the competition and regulatory functions combined in one institution because of the synergies, particularly since the authority was able to better balance political, social and cultural issues when assessing mergers.

41. The third topic considered by the round table was the issue of rural electrification. A presentation was made of the case of the Botswana Power Corporation (BPC), a public sector corporation supervised by a Board of Trustees and operated as a profit-making concern. The corporation was currently

performing well as it imposed no financial burden on the Government. The programme established in 1997 by the Government, and implemented through BPC, to promote rural electrification was described. The Rural Electrification Programme's target was to electrify 15 rural communities per annum and a total of 300 communities by the end of the current National Development Plan period. The Programme covered the full costs of extending the transmission grid to the community, and through the Rural Collective Scheme individual low-income users were able to secure a low-interest loan repayable over a period of 15 years to connect their homes. Low-income users continued to face difficulties in meeting the costs of wiring their homes for electricity, particularly in the light of the rise in child-headed households as a consequence of the AIDS pandemic. As a response, the Government was considering providing assistance with wiring costs in order to ensure greater take-up by rural users.

42. A private-sector power generator had recently entered the market to utilize Botswana's vast coal resources, intending to service the greater southern Africa market and in particular South Africa, which was currently experiencing severe power shortages. The Government of Botswana planned to establish an independent energy regulator to oversee the market and, in this connection, requested assistance from UNCTAD.

43. Acknowledging Botswana's achievements, a delegate described his country's efforts to achieve universal electrification. His country had embarked on a major effort to diversify energy supply and ensure affordable access in rural areas. Measures put in place included measures to encourage energy conservation, such as awareness programmes, taxes on the use of air conditioners, other incentives to use cheaper and renewable sources of energy, and energy audits of industries that were high energy consumers. With respect to rural and low-income users, subsidies and a national solidarity fund to finance infrastructure development, including public-private partnerships, had been put in place. In addition, his country was exploring regional and bilateral solutions to diversify energy supply.

D. Round table on criteria for evaluating the effectiveness of competition authorities

Chairperson's summary

44. The round table was moderated by an official of the Mexican competition authority. Written inputs were provided by the Governments of Brazil (CADE), Canada, Chile, Macedonia, Pakistan, Peru, Portugal, the Republic of Korea, Spain, Switzerland, Tunisia, Turkey, the United Kingdom, the United States of America, Viet Nam and Zimbabwe, as well as by the EU Commission and the OECD secretariat. As background documentation, the UNCTAD secretariat made available the report "Criteria for evaluating the effectiveness of competition authorities" (TD/B/COM.2/CLP/59). The moderator noted that much demanding work was required of many competition authorities in their process of self-evaluation. This process was, however, needed for the competition authorities to be able to identify challenges, as well as to focus strategies and improve processes to ensure the best outcomes for their work. The result of that work was important in creating public awareness about competition policy. The moderator stressed that an evaluation should not be made on an exceptional basis but rather on a routine basis, and be seen as a tool for continuously ensuring effective public administration, which should preferably be carried out by the agency itself.

45. One of the speakers informed the participants about the AdC Pilot Project, conducted jointly with the Organization for Economic Cooperation and Development (OECD). This project was an institutional assessment of a competition authority. An organization development approach, applied to the corporate world, was considered to be a good way to assess institutional performance. That approach highlighted nine different organization and management dimensions, including strategic direction, organization, human resource utilization and relations with government institutions. Those dimensions were subsequently used for an inquiry, which included interviews with officials of the Court of Appeal, sector regulators, the Economic Advisor to the Minister of Economy and a leading economic journalist. The result of this inquiry was considered positive because it showed that the institutional assessment methodology was taking into account the specific nature of a competition authority and identified different areas for improvement which were included in the action plan to be implemented by the authority in the period 2005–2008.

46. During the discussions it was stated that self-evaluation carried out by a competition authority should be seen as a priority for which there was a need to plan and to allocate a budget from the very beginning. Internal evaluation should be complemented by external evaluation, and it was suggested that the competition authority should not be afraid of the Government or Parliament in such evaluations. The latter should reflect the daily operation, management and organization of the work of a competition authority. The process of evaluation was considered to contribute to the transparency and visibility of the competition authority's work with regard to the public. It was concluded that a methodology should be applied by each country in order to show that competition policy can, and is intended to, bring about economic development.

47. A number of competition authorities were evaluated through internal evaluation mainly by in-house professionals, conducted during the course of their enforcement procedures. This evaluation suggested that remedies imposed on cartel cases be looked at, and consideration be given to how these had increased consumer welfare in terms of quality improvement and price changes. It was stressed, however, that it was necessary to have a balance between the costs and the benefits of applying certain measures in an ex-post evaluation of competition authorities' work. Timing is very important in internal self-evaluation for the purpose of choosing specific cases which can be indicative of the effectiveness of a competition authority and for the more effective fulfilment of the mission. Since anti-competitive practices in different markets have a different impact on consumer welfare, resources should not be allocated in the same manner in all sectors.

48. The tools to assess the effectiveness of a competition authority were considered to be annual or biannual assessments and surveys circulated among consumers or firms to gather the views of stakeholder groups. Those evaluations are external and independent and are based on an agreement with the budget administration on how to measure the effective allocation of resources. This involves evaluating the time spent on different cases in order to maximize the use of the resources provided to the competition authority. It also implies the ability to choose sectors, services or areas that are indicative and have a positive impact on the public. Other criteria utilized are economic assessment and analysis used in merger cases and also the quality of the legal review carried out in the courts on the decisions taken by the competition authority.

49. The special situation of developing countries was considered to be particularly difficult with regard to identifying and isolating the specific impact of a competition authority on transition economies that are experiencing many changes in their economies, for example privatization. The preparation of annual reports was regarded as the first priority in the process of self-evaluation. It was indicated that the purpose of criteria to evaluate effectiveness was to reduce the amount of time spent on analysis in merger cases and to increase the transparency of that process, and also to determine whether fines had been collected efficiently. Participants' experience revealed that the amount of fines collected can be an indicator of effectiveness.

50. Assessors can be invited each year to evaluate the manner in which human resources are hired and the fines that are imposed. The latter was considered to be the most important criterion in evaluation since some competition authorities are financed by their own resources. A problem mentioned was the difficulty in collecting data. Statistics are used to measure the effects and outcomes of case studies. These were considered to be necessary for ensuring that markets functioned in a transparent manner, and it was therefore suggested that a statistical unit be set up. That would consolidate the quality of statistical data and help to introduce a top-down approach to evaluate the effect of decisions on competition law by analysing the statistical data collected.

51. It was stated in the discussions that surveys of consumers and firms would allow the agency to determine the nature of the various measures and penalties to be adopted, and to be informed about market changes. One of the speakers reported that an evaluation of the advocacy work by the agency to inform the public was planned.

52. A study undertaken by an external body, which took into account OECD and UNCTAD reports, had resulted in a set of recommendations. Outcomes, rather than inputs, were considered to be the best starting point. These were divided into long- and short-term outcomes. Long-term outcomes are evaluated by looking at the concentration ratio in a specific market and the long-term movement of prices. Short-term evaluation concentrates on the outcome of cases and on penalties, and whether these have had an impact on prices. It was reported that in the second stage the measures taken in this process would also be evaluated on the basis of the allocated budget, the professional level of the staff and their background, as well as the average amount of time allocated to each case handled. Sectoral studies were also considered to provide a good basis for information about the status and level of competition in defined markets.

53. Internal evaluation was considered important and to be done on the initiative of the competition authority itself, according to one of the speakers. This was considered necessary because of restraints related to the confidential nature of the cases, and especially those leading to criminal sanctions.

54. A new law on cartels was introduced in 2004 in one of the countries represented at the meeting; it includes a provision requiring the competition authority to provide the Parliament with an assessment of the law during a five-year period. The authority in question has started to collect data and consult lawyers and other authorities. That process is regarded as an internal one, and not necessarily designed to be made public.

55. It was stated that a merger remedy served to evaluate imposed remedies for the purpose of better designing future ones. This evaluation included the interviewing of buyers of divested assets. The criteria used will be how and why

a certain remedy was imposed, whether it was sufficiently broad, and whether the anticipated effects were correctly foreseen.

56. One effect of evaluation by means of a peer review can be regulatory reform. In one of the countries represented, the review had included a period of enforcement starting in 1997, and resulted in a range of recommendations to improve the country's practices. It had helped in amending legislation and secondary legislation, and convincing the Parliament and the Government to adopt the amendments to the law based on those recommendations.

57. In 2005 a competition authority commissioned a consulting firm to evaluate the analysis procedures carried out by economists during the first two weeks of merger analysis. The first period is regarded as having been critical and included inquiry assessment and the information-gathering processes. Outside experts were considered to provide a wider perspective on those issues, as market participants were more forthcoming than with the authority staff directly. The lessons learned from this analysis have improved the internal working methods of the analysis process by providing more information about better methods for gathering information and putting questions to the right people.

58. It was indicated during the discussions that it is necessary to distinguish between the overall evaluation of competition policy, where the Government has to analyse this policy, and the evaluation of a competition authority's effectiveness in applying the competition law. The objectives of a competition law are to be assessed as a whole, and certain specific criteria are then needed in order to evaluate whether those objectives have been attained. Economic indicators – for example, external performance and impact on the market in the form of favourable prices for consumers – were mentioned as good indicators.

59. An evaluation team can assess how resources are allocated in the process of case management. This was considered important and necessary for internalizing the self-evaluation, so as to ensure presence at the beginning and at the end of the work process within the competition authority. It also ensures external accountability and shows how competition authorities achieve their objectives in a cost-effective manner and how they can benefit the wider public by having a positive impact on productivity. The positive impact on consumers has in some cases been measured in terms of money saved for consumers. It was decided that a performance agreement should focus on outcomes instead of output, where a financial benefit for consumers should amount to five times the cost of the competition authority to the public and especially taxpayers.

60. Concluding remarks by representatives of several developing countries and organizations showed that the discussions during the round table had not taken into account the specific situations of developing countries. The experiences shared during the session were considered useful but would require financial resources that are not easily available in developing countries. The criteria to evaluate the effectiveness of competition authorities should include the level of productivity, whether the work was undertaken by competition authorities and, if so, whether this has had a positive impact on productivity, as well as the social aspects, including the overall level of wages for citizens and not just consumer welfare. This approach was considered to be more in line with the original definition of competitiveness, whereby national ability to increase real wages and remain competitive on the international markets proved effectiveness. It was considered that UNCTAD should take this definition into account, so as to include the development perspective in its future work in this field.

E. Voluntary round table on competition policy and the exercise of intellectual property rights

Chairperson's summary

61. In the context of the consultations held under agenda item 3 (i) a round table on competition policy and the exercise of intellectual property rights was held.

62. The round table was moderated by an official of the Competition Commission of India. Oral interventions were made by the Moderator, the members of a panel on the subject discussed (who were competition officials or other officials from the EU, Indonesia, Morocco, Peru and the United States, as well as a representative of Siemens), a visiting Professor from the College of Europe and several experts speaking from the floor. Written contributions were provided by the EU Commission, the Governments of Indonesia, Kenya, Morocco, Pakistan and the United States, and Siemens. As background documentation, the UNCTAD secretariat had made available an earlier report entitled "Competition policy and the exercise of intellectual property rights" (TD/B/COM.2/CLP/22/Rev.1).

63. It was stated that the importance of intellectual property rights (IPRs) had greatly increased in the current knowledge era and new forms of competition were occurring in innovation markets. However, the fact that some IPRs such as trademarks had no great relevance to innovation was mentioned. It was stressed that competition and IPR laws were complementary and had similar objectives in respect of welfare and innovation. Competition law might nevertheless be applied to stop conduct that harmed the competitive process, with the focus on economic effect rather than on the form of individual practices. Some questions suggested for consideration included the following: finding the right balance between respect for IPRs and controls on the exercise of IPRs; cooperation between IPR and competition authorities and the role of competition advocacy; specific problems of developing countries; capacity-building; international cooperation; and further work by UNCTAD in this field.

64. It was noted that it was not IPRs themselves but their exercise which could create competition concerns and possible friction with competition law (for example, with respect to market definition, cooperation in research and development, patent pooling, standardization, the open source principle, conditions in licensing agreements such as grant backs, tying or bundling, access to essential facilities, mergers in innovative industries or State aid). In that respect, it was suggested that a balanced approach be adopted. The view was expressed that simple, unilateral and unconditional refusals to deal did not usually create competition concerns. More broadly, it was stressed that the existence of an IPR did not automatically lead to a dominant position.

65. It was, however, questioned whether such a presumption relating to the existence of IPRs was equally valid in developing countries with less capacity for innovation and relatively small economies, account being taken of the fact that most IPRs in developing countries were held by foreign companies not easily controllable by national laws. Doubts were expressed regarding the benign treatment of restrictions in licensing agreements in developed countries on the basis that they were vertical in nature; it was suggested, rather, that such restraints on potential competition might be considered to be horizontal. Furthermore, it was suggested that developing countries had specific needs in terms of public benefit, for instance, and that there was "no one size fits all" in this area. It was suggested that a key issue was whether and how the rules

established in developed countries could be successfully adapted to different conditions in the various developing countries, in a globalizing world.

66. Issues discussed included the following: innovation free riding; grants of excessively broad patents; whether or how competition authorities could have an advisory function or be consulted in the design or the process of granting IPRs; lack of information in developing countries about IPRs; protection of developing countries' biodiversity, traditional knowledge and designs; protection of geographical indications; limited interventions in that area by some developing country competition authorities because of concerns about respecting IPRs or their limited relevance, given the size of the informal economy or the tendency for consumers to prefer pirated products; public interest questions (such as fighting diseases and protecting the environment); the need for coordination in the activities of competition and IPR authorities; business's need for quick and reliable solutions to innovation questions; free trade agreements that resulted in greater IPR protection; exemptions or preferences for developing countries in the international IPR system; the likely rise in the level of competition intervention by developing countries in that area; possible regional approaches to dealing with such questions; and the need for cooperation between developing countries and the home countries of IPR holders.

67. Legislation, guidelines or procedures (such as the business letter review process) adopted and applied by the EU, Indonesia, Morocco and the United States were described, and experiences with respect to competition controls on licensing (such as in relation to exclusive transmission permits in the television sector in Indonesia) were referred to. It was suggested that UNCTAD was an excellent forum for further work and discussion in that field, and that more theoretical work should be conducted by UNCTAD, inter alia with a view to establishing coherence among legal, economic and developmental issues. Lastly, the importance of capacity-building in the field of IPRs was stressed, including with regard to IP training for judges.

F. Round table on capacity-building

Chairperson's summary

68. The round-table discussion was moderated by the Director of the Consumer Protection Authority of Costa Rica. Written communications had been received from the Governments of Costa Rica and Malawi. Oral interventions were made by the representative of Switzerland and the representatives of the five Latin American beneficiaries of the COMPAL programme (Bolivia, Costa Rica, El Salvador, Nicaragua and Peru), as well as delegates of other countries.

69. Several delegates emphasized the importance of competition in enhancing the capacity of countries to participate fully in the global economy and in fostering economic development. It was stated that active reforms and the creation of independent institutions were fundamental for improving competition. They stressed the importance of assistance programmes such as the COMPAL programme to enhance capacity-building. It was noted that resource constraints were often pressing in developing countries and that competition authorities faced difficulties, as institutions were often young, and had limited experience and a restricted budget. Drafting competition legislation was judged to be insufficient, while the way in which the law was implemented was considered crucial for providing an environment beneficial to competition. Cooperation programmes aimed at assisting countries in the area of consumer protection and competition should be tailored to the needs of those countries'

partners and should put special emphasis on the exchange of experience among the beneficiary countries. Competition policies at regional level depended greatly on national political will, and coherence between regional and national policies was deemed to be fundamental. More capacity-building programmes at the national level involving several government agencies, enterprises and civil society were called for.

70. It was recognized that disseminating information on competition policy contributed to the latter's effectiveness. With regard to the better implementation of competition legislation, the importance of the training of competition case handlers and officials was highlighted. University programmes should include courses on competition law and economics at a graduate and postgraduate level. Countries such as Costa Rica and Peru were already offering such courses.

71. The delegate of Switzerland said that the COMPAL programme was financed by her country's State Secretariat for Economic Affairs and implemented by UNCTAD. The promotion of competition policy was part of the work of the Swiss development cooperation agency. COMPAL assisted the Governments of five countries in implementing consumer protection and competition legislation. That work had been carried out in two phases, including a needs-assessment phase.

72. Representatives of the five Latin American countries acknowledged the role of COMPAL in providing important tools allowing those countries to benefit from competition policy and improving consumer protection. They described several activities carried out with the assistance of COMPAL. The COMPAL programme financed several sectoral studies in beneficiary countries aimed at better understanding industrial organization in the sectors concerned and helping identify anti-competitive practices. The representative of Peru said that the COMPAL programme had helped the INDECOPI agency in his country to design a system of market indicators, including a market access index. Emphasis was placed on the importance of sectoral studies and indicators aimed at better understanding markets, and disseminating information to diminish transaction costs related to the asymmetry of information. The Peruvian agency had provided training to university professors, small and medium-sized enterprises, government officials and civil society, as well as "training for trainers". The representative of Nicaragua briefly described Procompetencia, the new competition agency assisted by COMPAL, which had been helping to publish guides to assess anti-competitive practices.

73. The representative of El Salvador expressed gratitude for COMPAL's assistance in the recent implementation of the competition law in El Salvador. It was stressed that there should not be a "one-size-fits-all" approach concerning capacity-building and technical assistance. He said that UNCTAD was moving ahead in terms of assistance regarding competition issues and suggested that assistance from larger groups such as the EU, and from the United States, should be requested in order to provide assistance to developing countries in a way similar to the way in which Switzerland provided assistance to a number of Latin American countries.

74. Several roles for UNCTAD were suggested. For instance, it was suggested that UNCTAD should have a leading role in coordinating the cooperation of developed countries with developing countries on competition policy matters. Also, it was proposed that UNCTAD should, based on lessons learned from implementation of cooperation agreements between countries on competition issues, prepare model clauses for such agreements with the view that partner

countries are at different levels of development and/or different stages of implementing competition law and policy, so as to guarantee a uniform approach.

75. Representatives of some developing countries without legislation on competition and consumer protection recognized its importance and indicated that their Governments had given priority to the creation of such a framework. They asked UNCTAD, as well as Switzerland and other developed countries, to provide broader support to their Governments in formulating and implementing that legislation.

G. Action by the Intergovernmental Group of Experts

76. At its closing plenary meeting, on 19 July 2007, the Intergovernmental Group of Experts adopted its agreed conclusions (see chapter I above).

III. Organizational matters

A. Election of officers

(Agenda item 1)

77. At its opening plenary meeting, on Tuesday, 17 July 2007, the Intergovernmental Group of Experts elected its officers, as follows:

Chairperson: Mr. Mohammad Iqbal (Indonesia)
Vice-Chairperson-cum-Rapporteur: Mr. Dmitri Fomchenko (Belarus)

B. Adoption of the agenda and organization of work

(Agenda item 2)

78. Also at its opening plenary meeting, the Intergovernmental Group of Experts adopted the provisional agenda for the session (TD/B/COM.2/CLP/58). The agenda was thus as follows:

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 ninth session of the Intergovernmental Group of Experts on Competition Law and Policy
5. Adoption of the report of the Intergovernmental Group of Experts

C. Provisional agenda for the ninth session of the Intergovernmental Group of Experts

(Agenda item 4)

79. At its closing plenary meeting, on 19 July 2007, the Intergovernmental Group of Experts approved the provisional agenda for its ninth session (for the text of the provisional agenda, see annex I).

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

(Agenda item 5)

80. Also at its closing plenary meeting, the Intergovernmental Group of Experts authorized the Rapporteur to complete and finalize the report.

Annex I

Provisional agenda for the ninth 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 tenth session of the Intergovernmental Group of Experts on Competition Law and Policy
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 meeting:

Albania	Mali
Algeria	Mauritania
Argentina	Mauritius
Azerbaijan	Mexico
Barbados	Morocco
Belarus	Mozambique
Benin	Netherlands
Bhutan	Nicaragua
Bolivia	Niger
Botswana	Nigeria
Brazil	Pakistan
Burkina Faso	Papua New Guinea
Cameroon	Peru
Canada	Philippines
Chile	Portugal
China	Republic of Korea
Congo	Romania
Costa Rica	Russian Federation
Côte d'Ivoire	Saint Lucia
Cuba	Saudi Arabia
Czech Republic	Senegal
Egypt	Spain
El Salvador	Swaziland
Ecuador	Switzerland
France	Thailand
Gabon	The former Yugoslav Republic of Macedonia
Germany	Timor-Leste
Hungary	Trinidad and Tobago
India	Tunisia
Indonesia	Turkey
Iran (Islamic Republic of)	Uganda
Italy	United Arab Emirates
Japan	United Kingdom of Great Britain and Northern Ireland
Jordan	
Kenya	United Republic of Tanzania
Kyrgyzstan	United States of America
Lesotho	Viet Nam
Malawi	Zambia
Malaysia	Zimbabwe

^{*} For the list of participants, see TD/B/COM.2/CLP/INF.7.

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

Central African Economic and Monetary Community
Economic Community of West African States
European Community
European Commission
Organisation internationale de la Francophonie
Organization for Economic Cooperation and Development
Organization of Arab Petroleum Exporting Countries
Southern African Customs Union
West African Economic and Monetary Union

3. The following specialized agencies and related organization were represented at the session:

United Nations Industrial Development Organization
World Intellectual Property Organization
World Trade Organization

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

General Category

International Federation of Business and Professional Women (BPW International)

Special Category

Consumer Unity and Trust Society

Panellists

Ms. Pranvera Këllezi, Research Fellow, University of Geneva
Mr. Henri Temple, Directeur (Avocat-Expert), Centre du droit de la consommation et du marché, Université de Montpellier, Cedex
Mrs. Marta Canales, Directora Nacional, El Salvador
Mr. Alexandre de Mendoza Lima Tolipan, Expert Observer, Lima
Mr. Uwe Schriek, Chief Counsellor, Siemens, Berlin
Mr. Juan David Gurierrez, Expert-Researcher, Bogotá
Mr. David Anderson, Partner, Berwin Leighton Paisner LLP, Brussels
Mrs. Deborah Schmidiger, SECO, Switzerland

Guests

Ms. Ningrum Strait, Professor, Indonesia
Mr. Ecio Perin, Brazilian Institute of Business Law, IBRADEMP-Brazil