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Commission on Investment, Technology and Related Financial Issues

Intergovernmental Group of Experts on Competition Law and Policy

Fifth session

Geneva, 2-4 July 2003

Agenda item 3

**(I) CONSULTATIONS ON COMPETITION LAW AND POLICY, INCLUDING
THE MODEL LAW AND STUDIES RELATED TO THE PROVISIONS OF THE
SET OF PRINCIPLES AND RULES**

**(II) WORK PROGRAMME, INCLUDING TECHNICAL ASSISTANCE,
ADVISORY AND TRAINING PROGRAMMES ON COMPETITION LAW AND
POLICY**

Agreed conclusions

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 (WTO), the Organization 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 (ICN) 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 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 them 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 developing and least developed countries' development objectives, 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 which involve joint actions of 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 update 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*.