

**UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT  
CONFERENCIA DE LAS NACIONES UNIDAS SOBRE COMERCIO Y  
DESARROLLO**

**Regional Seminar for Latin America and Caribbean Countries  
on the Post-Doha WTO Competition Issues  
São Paulo, 23 - 25 April, 2003**

**Seminario Regional Post Doha para los países de América Latina y el Caribe  
sobre los temas de Competencia de la OMC  
São Paulo, 23 - 25 de abril de 2003**

**Seminário Regional Pós Doha dos Países da América Latina e Caribe sobre os Temas  
de Concorrência na OMC  
São Paulo, 23 - 25 de abril de 2003**

**Edited by Philippe Brusick and Ana María Alvarez**

**Foreword by**

**Rubens Ricupero  
Secretary – General of UNCTAD**



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## Executive summary

The regional seminar for Latin America and Caribbean countries on the Post – Doha WTO Competition issues took place in Sao Paulo (Brazil), in the Auditorium of Getulio Vargas Foundation, on 23 – 25 April 2003. UNCTAD organised this meeting jointly with the Administrative Council for Economic Defense (CADE) and the São Paulo School of Law of Getulio Vargas Foundation (FGV-EDESP), was attended by some 90 participants and experts from Argentina, Barbados, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, El Salvador, France, Germany, Guatemala, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Switzerland, Trinidad and Tobago, United States, Uruguay and Venezuela. Moreover, resource persons from UADE and representatives from international organizations such as the WTO and from regional institutions such as the Andean Community, CARICOM, ECLAC and from Consumers International also took part in the meeting.

It is recalled that the WTO Doha Ministerial Declaration in its para. 24 called upon "other relevant intergovernmental organizations, including UNCTAD", to provide strengthened and adequately resourced assistance to respond to the needs of developing and least –developed countries for enhanced support for technical assistance and capacity – building in the field of competition policy " so that they can better evaluate the implications of closer multilateral cooperation for their development policies and objectives, and human and institutional development"

Accordingly, UNCTAD, in cooperation with the WTO and other organizations, prepared a first series of regional meetings in March – April 2002, of which the "Panama Conference on Competition Law and Policy: the Post – Doha Agenda", was held on 21 – 23 March 2002 for Latin American and Caribbean countries and three other regional meetings were held for Asia, Africa and countries in transition. A Consolidated Report of the four regional meetings on Post – Doha mandate was published by UNCTAD Secretariat in June 2002<sup>1</sup>.

This year, UNCTAD organized a second round of regional Post – Doha conferences to take stock of progress achieved in this field since last year, and to exchange views among member countries in preparation for the Cancun WTO Ministerial meeting scheduled for 10 – 14 September 2003.

It is recalled that as decided in para 23 of the Doha Declaration , Ministers agreed "that negotiations will take place after the Fifth Session of the Ministerial Conference" in Cancun "on the basis of a decision to be taken, by explicit consensus, at that session on modalities of negotiations".

Hence, the seminar agenda was organized along five themes related to the preparations for the Cancun Ministerial. These themes were:

- (i) the role of competition in promoting trade, competitiveness and development, which included presentations on the adverse effects of international cartels on developing countries and the limits in this respect of domestic competition

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<sup>1</sup> UNCTAD/DITD/CLP/Misc.23.

legislation; vertical restraints and abuse of dominance including mergers and sectors of relevance to developing countries; the challenges of implementing a competition regime in a small developing country; and competition, and competition policy and the promotion of SMEs. Each group of presentations was followed by an animated debate.

- (ii) Developments in bilateral and plurilateral (regional) agreements on competition in the region, under which presentations included bilateral agreements, competition policy in the Caribbean Community, the Andean Community, MERCOSUR and the FTAA Chapter on Competition.
- (iii) Stock-taking and exchange of views on the ongoing discussions at WTO on a possible multilateral framework on competition: this session included a review of proposed elements for a possible development-friendly multilateral framework; the relevance of WTO core trade principles and special and differential treatment for developing countries; competition policy in WTO sectoral agreements and the interaction between competition authorities and sectoral regulators;
- (iv) Reflections on the options and implications of a possible multilateral framework on competition for developing countries; including the case for flexibility and progressivity on competition rules for developing countries, lessons learnt from MERCOSUR member countries, and pros and cons of various possible elements of a comprehensive multilateral agreement on competition from the point of view of developing countries. Options for developing countries at Cancun included the pros and cons of a sectoral approach without a comprehensive multilateral competition framework as well.
- (v) In conclusion, the meeting held a panel discussion on "the way ahead" at the end of which the following text was agreed<sup>2</sup>.
  - a) To continue the exchange of information and the coordination between countries with competition authorities and countries which still do not have competition law and policy. In particular, it was recognized the need to reinforce the efforts to evaluate the suitability of promoting a MFC in WTO.
  - b) To evaluate in more detail the suitability of adopting a proactive position on the part of developing countries in the region that includes the principle of Special and Differential Treatment, flexibility and progressivity and that includes non-reciprocal advantages for developing countries.
  - c) To continue and increase activities, including technical assistance for the capacity building of developing countries in the region, the interchange of experience and efforts for the adoption of norms on competition as well as the creation of institutions responsible for its implementation in the case of countries, which do not have competition laws.

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<sup>2</sup> It was made clear that opinions expressed were those of the participants in their regional capacity and did not necessarily reflect the official position of the institutions or governments they represented.

On the basis of this Conference and those held in Kuala Lumpur (Malaysia) for the Asian and Pacific region; Nairobi (Kenya) for Africa and Tashkent (Uzbekistan) for East European and Commonwealth of Independent States (CIS) member countries, the UNCTAD secretariat prepared a Final Consolidated Report presented at the UNCTAD Intergovernmental Group of Experts on Competition Law and Policy in Geneva, on 2 – 4 July, 2003.

Before concluding, we would like to sincerely thank Mr. Rubens Ricupero, Secretary-General of UNCTAD, for his keynote videotaped message to the Seminar, which is reproduced below. Our sincere thanks also go to Ms. Elizabeth Daniel de Almeida and Sebastiana Fahnini from CADE, Tiago Cortez from the Getulio Vargas Foundation, and Ana María Alvarez, María Carmen Ligertwood and Pascal Garde from UNCTAD as well as all their colleagues and interpreters who made possible the organization and positive outcome of the Seminar. We would also like to commend the special efforts and contributions of HE Ambassador Eduardo Perez Motta of the Permanent Mission of Mexico to the WTO in Geneva and HE Ambassador Romel Adames of the Permanent Mission of Panama to the WTO in Geneva, as well as all the participants whose invaluable submissions are contained in this report.

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