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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

Geneva, 25-29 September 2000

Item 6 (b) of the provisional agenda

JAIPUR DECLARATION

The Regional Seminar on Competition Law and Policy for Asia and the Pacific (Jaipur, India, 13-15 April 2000), held within the framework of the preparatory process for the Fourth Review Conference, pursuant to paragraph 6 of the agreed conclusions of the Intergovernmental Group of Experts on Competition Law and Policy at its second session,¹ adopted the Jaipur Declaration annexed hereto for submission to the Fourth Review Conference.

¹ Report of the Intergovernmental Group of Experts on Competition Law and Policy on its second session (TD/B/COM.2/19-TD/B/COM.2/CLP/14).

JAIPUR DECLARATION

The Regional Seminar on Competition Law and Policy for Asia-Pacific was held in Jaipur (India) from 13 to 15 April 2000, within the preparatory Process for the Fourth United Nations Conference to Review all Aspects of the Set.

Concerned that globalization should be made both more efficient and more equitable, as called for by UNCTAD X in the Bangkok Declaration (paragraph 4 of document TD/387 of 18 February 2000), the Seminar fully supports the view that “in addition to national efforts, the international community as a whole has the responsibility to ensure an enabling global environment through enhanced cooperation in the fields of trade, investment, competition and finance...”. The Seminar stresses in this respect the need for competition to be supported by effective rules and policies aimed at maximizing efficiency in the allocation of resources while at the same time providing equitable opportunities to participate in the market.

In the exchanges of experiences that took place during the Seminar, it became clear that while some developing countries in the region have newly adopted competition legislation, others have older systems that need to be revised in order to improve their effectiveness. Other countries, which are in the majority, still have not adopted competition legislation, although most are aware of the issues and some have already prepared draft bills and are receiving technical assistance from international organizations.

The importance of cooperation in this respect, and the necessity for international norms was underlined. In the formulation of national competition law and policy, while the core principles of competition law and policy were recognized as having broad application, competition legislation and its implementation needs to take into account each country’s level of economic development, judicial system, social system and specific characteristics.

Participants emphasized the need for institution and capacity building for the effective implementation of competition law and policy. The needs for technical cooperation included advisory services for the drafting, upgrading and improving of domestic competition law and policy, as well as rules for cooperation among States. It was noted that cooperation among competition authorities was increasingly necessary in view of the globalization of markets, as domestic competition laws and systems were limited by national boundaries. UNCTAD and other international organizations active in the field of competition were therefore called upon to expand assistance to the countries in the region, to support their efforts in promoting competition.

The importance of competition advocacy was underlined with respect to both government officials and administrations as well as market actors including consumers and representatives of the private sector. The importance of establishing dialogue with civil society was emphasized, as an effective means to educate the public and the representatives of the private sector in this field.

Participants emphasized that competition policies are also made more effective when consumers are empowered to make informed decisions, and when they contribute to monitoring anti-competitive practices and exert consumer purchasing power to sanction such practices.

Accordingly, in line with the UNCTAD X Plan of Action on competition issues and considering the importance of competition policy for promoting economic development and economic welfare, the Seminar recommends that the Fourth Review Conference draw up a work plan along the following lines:

A. Institutional capacity building

- UNCTAD should continue to provide and where possible expand, in collaboration with other international organizations active in this field, its technical assistance, advisory and training services. Participants at the Seminar emphasized the following specific needs: clarifying methodologies for defining relevant markets and assessing market power;
- It should continue improving model laws for developing and other countries.

B. Competition advocacy and educating the public

- Public authorities should be given support on competition and on consumer protection and should be helped to educate the public and representatives of the private sectors in the field of competition law and policy; competition advocacy by competition authorities in developing countries should be supported;
- The private sector as well as consumer organizations should be involved in the educational process;
- Programmes on the economics and law of competition policy in universities and professional institutions should be fostered;

C. Studies on constraints to competition

- UNCTAD should continue to study constraints on competition with particular emphasis on:
 - “Critical mass” versus domestic rivalry as determinants of competitiveness;
 - The treatment of parallel imports as an aspect of the application of competition policy in relation to IPRs;
 - The benefits of competition law and policy for consumers; the link between competition policy and investment;
 - The link between competition policy, privatization and deregulation;
 - The impact of international cartels on developing countries.

D. Inputs to possible international agreements on competition

- UNCTAD should continue to provide inputs to deliberations on possible international agreements on competition, including with respect to the following items:
 - What the goals and objectives of developing countries should be;
 - The complementarity of cooperation at bilateral, regional and multilateral levels;
 - What provisions could be made for special and differential treatment;
 - What the roles would be of dispute-settlement alternative complaints mechanisms and progressivity.
