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Preparatory Seminar for UNCTAD XI:

**The Role of Competition in the
Promotion of Competitiveness and Development:
Experiences from Latin America and the Caribbean and Other
Regions**

Background Note

Background

Competition policy is directly relevant to the main elements of market-oriented economic reforms undertaken in most countries (both developed and developing ones) during the last two decades. Domestic reforms (e.g. trade and price liberalization; deregulation, including of state-controlled monopolies such as utilities and “network industries”; privatization of previously state-owned enterprises; and reforms of foreign direct investment legislation) need to be accompanied by the introduction and implementation of effective competition law and policy.

After privatization, network monopolies (e.g. electricity grids, railways or basic telecommunications operators) need to be guided by competition principles to ensure that they do not abuse their dominant power with respect to end users. In many countries, sectoral regulators are created to supervise the operations of the network operators and are given competition responsibilities that they may share with the competition authority (when such an authority is in place). In the multilateral trading system, rules exist for services (e.g. GATS) as well as for some specific sectors usually regulated at the national level (e.g. telecommunications). While governmental trade barriers such as tariffs and non-tariff barriers (NTBs) are being eroded by multilateral and regional trade liberalization, there is an increasing need to ensure that restrictive business practices (RBPs), also called anticompetitive practices, do not replace the governmental barriers.

Despite significant progress being made by developing countries in adopting competition laws and policies, there is a relative knowledge gap in these countries regarding the specific impact of competition policy on development. Recurrent calls have been made at the World Trade Organization (WTO) and UNCTAD for further studies on the topic. Key concerns raised by developing countries that are considering adopting a competition law or strengthening competition in their economies have referred to whether such a law is necessary given trade liberalization. Concerns have also been raised as to whether competition will damage international competitiveness, raise unemployment, or hamper social policies.

Given the importance of these issues with regard to competition policy at the national, regional and multilateral levels, UNCTAD has continued its efforts to assist developing countries in the difficult task of promoting competition law and policy and enhancing the competitiveness of their economies. As part of these longstanding efforts, UNCTAD is giving special attention to the role of competition policy in enhancing competitiveness and development at the forthcoming UNCTAD XI Conference in São Paulo, Brazil (June 2004).

The event

The pre-UNCTAD XI seminar on "The Role of Competition Policies in the Promotion of Competitiveness and Development: Experiences from Latin America and the Caribbean and Other Regions" will take place on 10–12 June in São Paulo, Brazil. It is organized jointly with the Brazilian Competition Policy System (which consists of the Administrative System for Economic Defence – CADE, the Secretariat for Economic Law – SDE, and the Secretariat for Economic Monitoring – SEAE) in cooperation with the Swiss Authorities (the State Secretariat for Economic Affairs – SECO, and the Competition Commission – COMCO).

The seminar will address three major issues:

- The role of competition policy in the promotion of competitiveness and development
- The need for a development-oriented competition policy and its implications at the national, regional and international levels
- Strategies for international cooperation in the field of competition law and policy

Objectives

The seminar will review the conclusions and recommendations resulting from the UNCTAD project, supported by SECO (Switzerland), on "Strengthening Capacity and Institutional Building in the Field

of Competition and Consumer Protection". Participants will discuss the main needs and priorities identified in Phase I of the project, which involved research in the beneficiary countries – Bolivia, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Peru. On the basis of country and subregional reports, the seminar is expected to draw the attention of high-level officials attending UNCTAD XI to the importance of competition policy, particularly the need to adopt appropriate competition law and policy and to raise awareness and contribute to establishing a healthy competition culture.

Since there were several requests for further studies on the interface between competition, competitiveness and development, the seminar will also include a review of the major findings of the research project, supported by the International Development Research Centre (IDRC, Canada), on "Competition, Competitiveness and Development". The results of this research will be published in a book that will be officially launched at UNCTAD XI (Competition slot, 14 June, afternoon). A main objective of this project is to provide information and analysis that will enable policy makers and broader audiences in developing countries to make informed choices regarding national competition policy regimes suited to their conditions, and regarding the impact of competition policy on competitiveness and development.

Expected outcome

The seminar will act as an open-ended multi-stakeholder forum aimed at increasing participants' awareness of the need for competition law and policy and facilitating informed national-level decision making on developing and implementing national competition regimes tailored to the needs of developing countries. This is a major outcome of UNCTAD's technical cooperation and capacity-building projects and will result in one of the major inputs in this area for UNCTAD XI.

Organization

This pre-UNCTAD event is a 2.5-day seminar comprising three morning sessions and two afternoon sessions.

PRELIMINARY PROGRAMME

Day 1 (10 June)

Opening ceremony

Part I: Competition Policy, Competitiveness and Development (morning session)

- Competition law and policy in promoting development: the role of UNCTAD
- Vertical restraints, abuse of dominant position and mega-mergers at the international level: relevance to developing countries
- Competition policy and the least developed countries
- Competition policy and small economies

Part II: Competition Law and Policy at the National Level (afternoon session)

- Competition policy, competitiveness and development: major findings of the UNCTAD research project
- Competition policy and enterprise development
- Competition policy, investment and industrial policy
- Competition policy and SMEs
- Competition advocacy: creating a competition culture
- Competition authority and sectoral regulators
- Is competition policy a tool for consumer protection, poverty alleviation and the protection of gender mainstreaming in developing countries?
- Exceptions and exemptions to competition law: the case for flexibility in developing countries

Day 2 (11 June)

Part III: Technical Assistance and Capacity Building in Latin America (morning session)

- Strengthening capacities and institutions in the field of competition and consumer protection in Latin America
- Indicators for measuring the impact of competition policy in developing countries
- Challenges ahead in technical assistance and capacity building: Phase II of the Latin American project
- Strengthening competition authorities in Latin America
- Developing competition policy in Latin American countries
- Prerequisites for development-oriented competition policy implementation

Part IV: The International Dimension of Competition Policy (afternoon session)

- The multilateral trade agenda: an update
- Competition policy and large distribution networks
- Impact of bilateral agreements involving competition issues
- Regional cooperation agreements dealing with competition matters
- Cooperation between competition agencies
- Experience with Peer Reviews on competition policy

Day 3 (12 June)

Part V: Competition Policy and UNCTAD XI (morning session)

- Panel on cooperation strategies in the field of competition policy
- Conclusions and recommendations for UNCTAD XI

Participants

Participants will include high-level officials (at the ministerial level) from Brazil and other countries, representatives of regional and international organizations, scholars, experts and other civil society representatives who will also attend UNCTAD XI.

National participants will also include competition officials from Brazil, other Latin American and Caribbean countries, least developed countries and other UNCTAD member countries.

International and regional organizations represented will include regional groupings such as the Andean Community, Mercosur and the Caribbean Community and Common Market (CARICOM); international organizations such as the World Trade Organization (WTO), the World Bank, the Inter-American Development Bank (IADB) and the Organisation for Economic Co-operation and Development (OECD); and regional development organizations.