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

Held at the Palais des Nations, Geneva, from 8 to 10 July 2013

### Contents

	<i>Page</i>
I. Agreed conclusions adopted by the Intergovernmental Group of Experts at its thirteenth session .....	2
II. Proceedings .....	4
III. Organizational matters .....	20
Annexes	
I. Provisional agenda of the fourteenth session of the Intergovernmental Group of Experts on Competition Law and Policy .....	22
II. Attendance .....	23

## **I. Agreed conclusions adopted by the Intergovernmental Group of Experts adopted at its thirteenth 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 XIII in Doha, including the provisions in paragraphs 50 and 56(m) of the Doha Mandate,

*Further recalling* the resolution adopted by the Sixth 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, November 2010),

*Reaffirming* the fundamental role of competition law and policy for sound economic development and the need to further promote the implementation of the Set,

*Noting* that UNCTAD XIII and the Millennium Development Goals focus on addressing the opportunities and challenges of globalization for development and poverty reduction,

*Underlining* that competition law and policy is a key instrument for addressing globalization, including by enhancing trade and investment, mobilizing resources, harnessing knowledge and reducing poverty reduction,

*Recognizing* that an effective enabling environment for competition and development may include both national competition policies and international cooperation,

*Recognizing* that UNCTAD peer reviews on competition policy are an effective tool for assisting interested countries in assessing their performance and formulating appropriate capacity-building programmes,

*Noting with satisfaction* the important written and oral contributions from competition authorities and other participations that contributed to a rich debate during the thirteenth session of the Intergovernmental Group of Experts,

*Taking note with appreciation* of the documentation and the peer reviews prepared by the UNCTAD secretariat for its thirteenth session,

1. *Expresses appreciation* to the Governments of Nicaragua, Pakistan and Ukraine for volunteering for peer reviews and for sharing their experiences, best practices and challenges with young competition agencies during the thirteenth 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 the peer-reviewed countries' competition law; and invites all member competition agencies and governments to assist UNCTAD on a voluntary basis by providing experts or other resources for future and follow-up activities in connection with voluntary peer reviews and their recommendations;

2. *Decides* that UNCTAD should, in light of the experiences with the voluntary peer reviews undertaken so far by UNCTAD and others and in accordance with available resources, undertake a further voluntary peer review on the competition law and policy of a member State or regional grouping of States during the fourteenth session of the Intergovernmental Group of Experts;

3. *Emphasizes* the importance of applying competition law to cartels; takes note of the challenges that young competition agencies face, as well as the best practices reviewed during the session; and requests the UNCTAD secretariat to disseminate the summary of the discussions of the Intergovernmental Group of Experts on this topic to all interested competition agencies, including through its technical cooperation activities and peer reviews;

4. *Emphasizes* the importance of regional cooperation in the enforcement of competition law and policy; and invites competition agencies to strengthen their bilateral and regional cooperation;

5. *Underlines* the importance of priority setting and resources allocation as tools for enhancing agency effectiveness; and requests the UNCTAD secretariat to disseminate the summary of the discussions of the Intergovernmental Group of Experts on this topic to all interested States, including through its technical cooperation activities and peer reviews;

6. *Calls upon* UNCTAD to promote and support cooperation between competition authorities and governments in accordance with the Agreed conclusions of the Sixth United Nations Conference to Review All Aspects of the Set in paragraph 11 (a) to (d); the Accra Accord in paragraphs 102 to 104 and the Doha Mandate in paragraphs 50 and 56(m);

7. *Recommends* that the fourteenth session of the Intergovernmental Group of Experts consider the following issues for better implementation of the Set:

- (a) The benefit of competition policy for consumers;
- (b) Communication strategies of competition authorities as a tool for agency effectiveness;
- (c) Informal cooperation among competition agencies in specific cases;
- (d) Voluntary peer reviews on the competition law and policy of interested countries;

8. *Requests* UNCTAD to organize the fourteenth session of the Intergovernmental Group of Experts as a preparatory meeting for the Seventh United Nations Conference to Review All Aspects of the Set in 2015, in particular to agree on its draft agenda and the preparatory processes leading to the Conference;

9. *Also requests* the UNCTAD secretariat, with a view to facilitating consultations during the Conference, to organize round tables including:

- (a) Ways and means to strengthen competition agencies in order to better deliver competition policy enforcement and advocacy;
- (b) Feedback from recently peer-reviewed countries with competition agencies on enforcement and changes since the peer reviews;

10. *Further requests* the UNCTAD secretariat, with a view to facilitating the round-table discussions, to prepare reports on items 7(a), (b), and (c) above. With a view to facilitating the consultations at the peer reviews, requests the secretariat to prepare an executive summary of the peer review report in all working languages, as well as full reports of the peer reviews in original languages to be submitted to the fourteenth session of the Intergovernmental Group of Experts;

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

(a) An updated review of capacity-building and technical assistance, taking into account information to be received from member States and observers no later than 31 January 2014;

(b) Further issues of the *Handbook on Competition Legislation* containing commentaries on national competition legislation providing the basis for further revision and updating of the Model Law on Competition to be received from member States no later than the end of April 2014;

12. *Further requests* the UNCTAD secretariat to revise chapters III and IV of the Model Law;

13. *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, focus its capacity-building and technical cooperation activities, including training, on maximizing their impact in all interested countries.

## **II. Proceedings**

### **A. Introduction**

1. The thirteenth session of the Intergovernmental Group of Experts on Competition Law and Policy organized by UNCTAD was held at the Palais des Nations in Geneva, from 8 to 10 July 2013. Over 300 representatives from 82 countries and 8 intergovernmental organizations, including the heads of competition authorities and representatives of consumers and business, attended the high-level discussions.

### **B. High-level panel: the role of competition in the global development agenda**

2. Introducing the panel, the Secretary-General of UNCTAD said that the meeting topics had been selected in such a way as to further advance the debate on the role of competition policy as an effective economic policy tool for generating growth and reducing poverty. Other tools provided by UNCTAD for developing countries were an online databank platform for competition agencies and voluntary peer reviews of a country's competition law and policy, three of which would be presented at the meeting. He stressed that following up on the peer review recommendations with policymakers was a crucial aspect of the Organization's work. All in all, UNCTAD strove to ensure that competition policy and consumer protection went hand in hand.

3. The panellists were as follows: Mr. Bruno Lasserre, President of the French Competition Authority; Mr. Rajiv Servansingh, Vice-Chair and Acting Chair of the Competition Commission, Mauritius; Ms. Rahat Hassan, Chair of the Competition Commission, Pakistan; Mr. Hebert Tassano Velaochaga, President of the Competition, Consumer Protection and Intellectual Property Protection Authority, (INDECOPI), Peru; Mr. Anatoly Golomolzin, Deputy Head of the Federal Antimonopoly Service (FAS), Russian Federation; and Mr. George Lipimile, Director and Chief Executive Officer, Competition Commission, Common Market for Eastern and Southern Africa (COMESA).

4. Mr. Lasserre said that competition policy could facilitate a country's recovery from depression and was indeed an engine for economic growth and development. It was necessary to advocate that competition policy was not a cause of the current economic crisis; on the contrary, it was part of the solution. Enforcing competition law could help boost productivity, hence job creation. During difficult economic situations, priority must be given to cases in sectors having the greatest effects on consumers' purchasing power, for instance food, transport, health and banking. In addition, competition authorities must be ready to explain the pros and cons of government actions on markets.

5. Mr. Lasserre shared his experience addressing competition concerns in French overseas territories, which suffered riots in 2009 because of high retail prices. Despite the strong voices clamouring for price controls, the Competition Authority was able to convey the message that the solution lay in promoting competition in upstream wholesale markets, not price controls. The Authority combined different actions (opened cases, and issued reports and recommendations) in a number of key sectors showing that there was a need for more competition. It was important that competition consideration be taken into account when conducting impact assessment prior to the adoption of new regulation.

6. Mr. Servansingh described the economic environment that had led many African countries to adopt competition laws and set up competition agencies. The advent of globalization was the key pusher towards the establishment of regulatory frameworks that enabled the environment for doing business. The economy of Mauritius had evolved from an agrarian economy based on sugar production to a diversified economy. Competition policy, a sign that governments were ready to move to a market-based economy, had played a role in that process. It was important to set up autonomous competition institutions along the lines of the Mauritius and Swaziland Competition Commissions. He called on the international community to provide technical assistance to African competition agencies and on experienced competition agencies to share best practices.

7. Ms. Hassan said that public policy coherency was essential, as illustrated by the International Clearing House case. Some 14 long-distance international operators had agreed to fix termination rates and share quotas. The operators had applied for Competition Commission clearance but had withdrawn their application before a decision was issued. The Commission pointed out that conclusion of such an agreement would nonetheless require clearance. The operators then sought support from the Ministry of Information Technology, which endorsed the agreement through a directive. The Commission recommended withdrawal of the directive and issued a decision finding an infringement of competition law for which the operators were heavily sanctioned. An appeal against that decision was brought before the Court. The case also brought problems in the sphere of international trade, where the Government's mandate to increase termination rates was viewed as a trade barrier.

8. Mr. Golomolzin said that combating poverty was a top priority of the Russian Government. One way to fight it was through more competition. Competition meant fair prices, and in turn that the poor would be able to afford goods and services. FAS was thus committed to monitoring key sectors and markets, and to prosecuting anticompetitive practices, particularly cartels. It had recently conducted investigations alone or in cooperation with the competition authorities of the Commonwealth of Independent States in key sectors: food, pharmaceutical products, telecommunications, fuel and air transport. The investigations of cases on bid rigging in medicine procurement, roaming tariffs or fuel price fixing had led to sanctions and better prices for consumers. They had also resulted in reports, such as the one on air transport, or in advocacy, to boost low-cost air travel in the Russian Federation. In the telecommunications sector, FAS and the Turkish Competition Authority had promoted the creation of an international working group for research of competition issues in the market of international telecommunications (roaming) in 2012.

Public procurement had been given special attention too, and one of the Service's greatest achievements in this field had been the introduction of electronic auctions for the sake of increased participation, including of small and medium-sized enterprises (SMEs), more transparency and better monitoring.

9. Mr. Tassano Velaochaga said there was a link between competition policies, economic progress and poverty alleviation. Competition penalized inefficient firms and rewarded efficient ones, enhancing economic development and consumer welfare. However, markets did not always work as desired; when that occurred in the markets for basic goods and services, the poor were the ones who suffered the most. Competition was an essential tool to battle poverty, achieving better prices for consumers and a better economic climate where jobs could be created. In his view, Peru's recent growth was due partly to competition, and a case relating to bid-rigging in hospital procurement illustrated the point. Competition agencies also played an important role in fighting distortions generated by anticompetitive laws and regulations. However, competition authorities were sometimes asked to do more than they were empowered to, especially in developing countries.

10. Mr. Lipimile said that the COMESA Competition Commission had been operational since January 2013. The Commission had dealt with issues ranging from the relationship and potential tensions between national competition authorities and the regional authority, to jurisdiction (concept of regional dimension), how the COMESA Treaty fit into domestic laws, and some concerns regarding merger cases. The Commission had taken a proactive approach, engaging with key institutions and stakeholders and was pleased to note that a compliance culture was taking root in the region.

11. The Director of the Division on International Trade in Goods and Services, and Commodities, Mr. Guillermo Valles, recalled that the Chinese Prime Minister had expressed his commitment at the Global Services Forum hosted by UNCTAD to introduce competition into the services markets with a view to reducing red tape and having better functioning markets.

12. Mr. Aldabergenov, Minister for Competition Policy, Eurasian Economic Commission of the Common Economic Space of Belarus, Kazakhstan, and the Russian Federation, spoke from the floor. He presented the Eurasian model competition law recently adopted by the Commission and outlined the functions of the Commission. He looked forward to the implementation of the cooperation agreement between UNCTAD and the Commission that had been signed in Astana in May 2013.

## **D. Round-table discussions**

### **1. The impact of cartels on the poor**

13. By way of introduction, the UNCTAD secretariat emphasized that hard-core cartels should be investigated and sanctioned as the worst anticompetitive practices of all. However, it appeared that little had been done by young competition authorities because of the difficulty of finding evidence and the lack of international cooperation. Three UNCTAD studies had recently been conducted on cartels in Zambia, Lesotho and Malawi.

14. Ms. Eleanor Fox, Professor at New York University School of Law, pondered the existence of a real pro-poorer competition perspective. Although the fight against poverty was a top policymaking priority, competition had come late to the scene. Areas in which competition could help unleash the potential of poor populations were the scope of competition law, its principles and government policies. In her view, the scope of competition law should be extended to cover the anticompetitive practices of State-owned

enterprises and the misconduct of State officials. Laws should be drafted so as to limit public and private lobbying defences, and exceptions and exemptions to law enforcement. The most efficient approaches to pro-poor competition law principles should be given priority. She called for strengthened advocacy efforts to refrain from excessive regulations, and to fight trade restraints and export cartels, all of which contributed to the exacerbation of poverty. Although there was no silver bullet to reduce poverty, there was a pro-poorer perspective of competition law and policy that also required international cooperation between developed and developing countries, particularly those with large pockets of poverty.

15. Ms. Deborah Healey, from the University of New South Wales, Australia, said that the Australian competition system was often regarded as sound, well developed and effective. However, detection remained difficult, as reflected by the number of relevant cases that had been detected only as a result of coincidence or leniency, such as Visy cardboard box cartel case. Impact on the disadvantaged was a factor in the enforcement strategy of the Australian Competition and Consumer Commission, which tackled cartels through enforcement and education.

16. Ms. Payal Malik, Adviser to the Economic Division of the Competition Commission of India, pointed to the reconciliation between development economics and competition economics, where the focus had moved away from the State-vs.-market debate to analyse the microfoundations of growth and the required institutional set-up. She described the relationship between competition, growth and poverty reduction, and explained the impact of competition on the poor through various direct and indirect effects. The decrease in prices of basic products and services was within the direct effects of competition and of the action taken by a competition authority to combat anticompetitive practices, especially cartels. Indirect effects could be seen as the release of resources for development achieved through the introduction of competition in public procurement. The Competition Commission had worked very hard in the procurement markets, prosecuting bid-rigging practices and advocating competition principles with procurement agencies. Competition policies were indeed essential for development and should permeate all public policies. However, caution was necessary, since competition policies in the presence of factor market imperfections, such as land, labour and credit, would not necessarily improve welfare. In India there was a need for a social contract containing pro-market reform and pro-poor measures.

17. The representative of the Secretariat of the Organization for Cooperation and Development (OECD) said that his organization was working with UNCTAD on competition and poverty issues, for example in the Latin American Competition Forum (Santo Domingo, September 2012) and the Global Forum on Competition (Paris, February 2013). He asked whether competition agencies should focus their efforts on sectors with an impact on the poor.

18. One participant suggested that although poverty reduction was not a primary goal of competition authorities, they could take the poor into account by targeting essential sectors such as food, generic drugs and import cartels. Another participant said that the poor did not generally file complaints; nonetheless, competition authorities should pay special attention to those sectors affecting the poor. Some delegates pointed out the positive effects of competition agencies actions on the alleviation of poverty.

## **2. Priority setting and resource allocation as a tool for agency effectiveness**

19. The round table was moderated by the Chair. The panellists were as follows: Mr. Francisco Marcos, Professor of Law at Madrid Business School; Mr. Jānis Račko, Executive Director of the Competition Council of Latvia; Ms. Sylvann Aquilina Zahra, Director General of the Office for Competition of the Competition and Consumer Affairs

Authority of Malta; Mr. Muhammad Nawir Messi, Chair of the Competition Commission of Indonesia; Mr. Felipe Irarrázabal, National Economic Prosecutor of Chile; Mr. Russell Damtoft, Associate Director, International Affairs Department of the United States Federal Trade Commission; and Mr. Frédéric Jenny, Chair of the OECD Competition Committee.

20. The UNCTAD secretariat presented a background paper on prioritization and resource allocation as a tool for agency effectiveness.

21. Mr. Marcos discussed the challenges faced by young competition agencies. When setting priorities, young competition agencies should have some room for improvising (discretionary powers) within the limits set by laws. In addition, they were heavily constrained by the lack of a robust competition culture. There was a temptation to overindulge in advocacy and pay less attention to enforcement. It was necessary to strike a balance between the two; young competition agencies should enforce the law and avoid excesses in advocacy, training and conference attendance. Staff retention was closely linked to an agency's reputation and working conditions rather than good salaries, as illustrated by the situation at INDECOPI.

22. Mr. Račko said that different national situations called for different priorities, although achieving independence and pushing forward important cases to show effectiveness in enforcement should be a priority for all agencies.

23. Ms. Aquilina Zahra gave examples of how changes to legal and institutional frameworks could have an impact on the way priorities were established. In Malta, a major amendment to the competition law in 2011 allowed for faster procedures. The amendment provided mainly for the adoption of an administrative system whereby the competition agency would take the decisions and if necessary, impose administrative sanctions. Provisions were also made for commitments, settlement procedures and a leniency programme. As a result, there was more room for prioritizing cases with a direct impact on consumers and important foreclosure effects.

24. Mr. Messi said that the Competition Commission of Indonesia was legally bound to investigate all complaints. It had formulated five-year strategic plans identifying priority sectors for their impact on public welfare: energy, education, infrastructure, public procurement and natural monopolies. The Commission paid special attention to independence, due process, accountability, impact and post-evaluation.

25. Mr. Irarrázabal was a firm believer of "less is more". The number of investigations conducted by Chile's National Economic Prosecutor's Office had declined from 250 cases handled by 100 staff in 2007 to 50 in 2010. There were major advantages to reducing, i.e. prioritizing the number of cases prosecuted: shorter procedures and greater diversification of actions, such as complaints before the Tribunal, non-adversarial proceedings, extrajudicial and judicial settlements. That implied a selection of cheaper, more efficient tools; higher success rates; greater impact and a growing positive opinion of the press.

26. Mr. Damtoft said that a scenario where a case handler's performance was judged by the number of cases (quantitative criteria) identified should be avoided. What was important was the selection of a good case (qualitative criteria). The International Competition Network had developed best practices calling on agencies to focus on good results, not on how much work the agency had done to achieve them. Although it was very tempting to launch new investigations, they might not turn out to be worth the resources devoted to them. Given the tendency for biased complaints, agencies should be given leeway to choose their cases. One problem remained: how to measure the effectiveness of the agency and the impact of their actions.

27. Mr. Jenny recalled that the OECD Competition Committee in a previous work had stated that there was no one-size-fits-all solution. Most competition authorities prioritized



to some extent, but not all assessed the extent to which priorities had been met. Priority setting in integrated agencies, notably the European Commission, was a challenge. How much publicity should be given to prioritization criteria was an issue to be further explored. In addition to the selection of cases, there were other ways to prioritize by using tools for early termination of investigations. It was important to decide when to do what and what areas were open to the exercise of discretion by an agency. Agencies risked focusing unduly on leniency applications, giving less priority to ex-officio investigations, thus reducing the deterrent effect of competition law enforcement. What was good in the short run might not prove as much in the long run. Further, there was a need to explore the relationship between priority setting and international cooperation.

28. During the discussion that followed, one participant said that social profitability, or value for money, should be a criterion for priority setting. In this regard, cartels might score higher than other types of cases. Further, emblematic cases could make the reputation of an agency. Another participant pointed to the need for agencies to acquire technical expertise in public management and strategic planning. Yet another said that the Competition and Consumer Protection Policies for Latin America Programme (COMPAL) provided a means to learn from each other's experiences. One delegate suggested that coordination between the priorities of the government and those of the agencies could be advisable, while respecting the independence of the competition agencies. Several delegates said there was a need to strike a balance between enforcement, and advocacy efforts and actions; one suggested the carrot-and-stick approach. Whatever the case, a thorough cost-benefit analysis should be carried out before starting a formal investigation. Another delegate said that international cooperation should be prioritized even in young agencies, since they stood to benefit greatly from it and faced cartels with cross-border effects.

### **3. Modalities and procedures for international cooperation in competition cases involving more than one country**

29. The panellists were Mr. John Davies, Head of the Competition Division, OECD; Mr. Rafael Corazza, Director, Swiss Competition Commission (COMCO); Mr. Sam Pieters, Directorate-General for Competition, European Commission; Mr. Gladmore Mamhare, Competition Specialist, Southern African Development Community Secretariat; Mr. Francisco Díaz, Central American Competition Group; Mr. Amadou Dieng, Director for Competition, Commission of the West African Economic and Monetary Union; Mr. Anatoly Golomolzin, Deputy Head, FAS, Russian Federation; Ms. Nathalie Harsdorf, Expert, Austrian Federal Competition Authority; and Mr. George Lipimile, Director-General of COMESA.

30. The UNCTAD secretariat presented the key findings of background note TD/B/C.I/CLP/21 prepared for the round table. Possible areas for international cooperation included leniency programmes, merger analysis and capacity-building

31. Mr. Davies said that the joint 2012 OECD/ICN survey on international enforcement cooperation covered responses from 57 countries. According to the findings, 52 per cent of the respondents had had some experience in that area (not including regional cooperation). Further, the quality of international cooperation was affected by existing limitations, including legal and practical ones, and cooperation in this area was limited to a few countries. Young competition authorities might not consider international cooperation a priority, particularly for those of small economy countries; it was necessary to build trust with the private sector first. Once that was accomplished, they could consider entering into collaborative discussions on case investigations.

32. Mr. Corazza said that the cooperation agreement concluded between Switzerland and the European Union in 2012 had been motivated by the background of globalization and the prevalence of cross-broader anticompetitive practices. Enforcement of competition

policy and law by the Swiss Competition Authority was influenced by cooperation among Member States of the European Union. Harmonizing competition law and promoting cooperation would improve the efficiency of competition, in accordance with the interests of the Swiss Government. However, that model was not applicable to other jurisdictions, because the special relationship between Switzerland and the European Union. Nonetheless, the exchange of confidential information was limited to cases such as those relating to leniency programmes and settlements, where both parties had a direct interest and where the businesses concerned agreed to a waiver.

33. Mr. Pieters said that countries had shown great interest in determining the type and content of international cooperation. For the European Union, the rationale behind the cooperation agreement lay in a more structured process of cooperation and more efficient enforcement. It was necessary to avoid contradictory or uninformed outcomes. The implementation of the agreement had been facilitated by already existing convergence measures. The success of this approach to cooperation depended on adopting similar rules for the disclosure of business secrets and personal data, as well as providing the same level of guarantees and protection to all parties.

34. Mr. Mamhare reported that the Southern African Development Community had a legal framework for trade calling on member States to cooperate at the pre-investigation stage when dealing with cases relating to cross-border anticompetitive behaviour. The recent establishment of an online database for competition agencies had promoted cooperation in handling cases by sharing experiences, guidelines and information. It served as a discussion forum and allowed competition authorities to report all types of cases, though cases with a cross-border effect enjoyed preference. It would be helpful to set up a working group on pre-investigation stages because as markets integrated, cases would increasingly take on a regional dimension.

35. Mr. Díaz said that the Central American competition group fostered regional cooperation in setting up a competition framework that was evolving towards an institutional model for the regional enforcement of competition rules. The Inter-American Court of Human Rights could serve as a model. In addition, the European Union-Central American Free Trade Association was an encouraging example, as it established the obligation to enact a competition law in all countries and a regional law in seven years. Regional competition rules were essential to promote regional integration in Central America.

36. On best practices in joint investigations in specific sectors, Ms. Harsdorf gave an example of cooperation between Austria and the Russian Federation in dealing with competition issues in the oil sector under the auspices of a working group on oil and oil products. The working group aimed to develop approaches to monitoring and analysing oil retail and wholesale markets, determine product and geographic boundaries, monitor product pricing in domestic and world markets, exchange experiences and approaches relating to the enforcement of competition laws, explore means of exchanging non-confidential information on case proceedings and make advocacy proposals to national governments to promote competition in the oil sector.

37. The joint investigations had enabled competition authorities to gain experience related to oil markets. Detailed oil market studies had been conducted, and an oil information exchange platform had been established to facilitate the exchange of basic information, provide an insight into the oil markets of other jurisdictions and serve as a tool for networking and cooperation in oil sector issues. The platform was cost-effective because there were no financial obligations, and implementing and updating the database were virtually cost-free. The exchange of information was an agreed objective of the working group, while the exchange of confidential information was voluntary.

38. Mr. Golomolzin gave a progress report on the management by the Russian Competition Authority of competition issues in the oil sector. Three cases against the largest vertically integrated oil companies, Rosneft, Gazprom Neft, LUKOIL, TNK-BP Holding, and Bashneft, had been filed between 2008 and 2011. The investigations revealed instances of abuse of collective dominance, excessive pricing and discriminatory conditions between buyers, resulting in a fine of more than EUR 500 million.

39. The Federal Financial Markets Service and FAS had conducted joint inspections of mercantile exchanges. The outcome of their work pointed to a lack of anonymity among traders; in addition, there were irregularities in the procedures to determine the winning bids established by the mercantile exchanges. This had led to amendments of both the competition law and Federal Law No. 325-FZ on organized trading (21 November 2011) to address these issues.

40. Collaborative work was on the agenda of the joint activities of the International Competition Network and OECD, where the Federal Antimonopoly Service was invited to include the project on pricing in the oil and oil products markets. Exporting and importing oil products affected developed and developing countries alike, and procedures for cooperation needed to be developed. UNCTAD was the very forum to coordinate such efforts and invite countries concerned to be part of its online databank platform.

41. Mr. Lipimile said that COMESA had shown interest in the European Union-Switzerland cooperation agreement model and was ready to start piloting lessons from other regions. Already, COMESA Member States were sharing information with the Secretariat without distinguishing confidential from non-confidential information. Cooperation in the joint prosecution of anticompetitive cases would lighten burdens and improve regional cartel control. The Board of Commissioners provided an informal learning platform. In addition, informal agreements between countries had been utilized in the past, and more recent competition laws allowed competition authorities to cooperate in case investigations.

42. Mr. Dieng shared his organization's experiences in fostering cooperation in cross-border anticompetitive cases. Though exchanges of confidential information and differences in legal provisions remained a challenge in the jurisdictions of the West African Economic and Monetary Union, efforts were being made to implement cross-border cooperation activities.

43. The representative of the Caribbean Community, Mr. Kush Harasingh, shared the Community's experience in dealing with cross-border anticompetitive issues. He stressed the need for technical assistance to facilitate the exchange of information with regional groupings and small island developing States.

## **E. Voluntary peer reviews of competition law and policy**

### **1. Pakistan**

44. The peer review was moderated by Mr. Bruno Lasserre of the Competition Authority of France. The peer reviewers were Mr. Manuel Sebastiao of the Competition Authority of Portugal, Mr. Muhammad Nawir Messi of the Indonesian Competition Commission, Mr. Richard Fleming of the Australian Competition and Consumer Commission and Mr. Ryohei Takai of the Japan Fair Trade Commission. The Pakistani delegation was headed by Ms. Rahat Hassan, Chair of the Competition Commission of Pakistan, and also comprised Mr. Joseph Wilson, Commissioner of that body.

45. The first session was devoted to the presentation of the main findings of the peer review report, followed by a statement by the head of the Pakistani delegation and a question-and-answer session.

46. Mr. Fernando Furlan, UNCTAD consultant; Mr. Orcun Senyuçel of the Turkish Competition Authority and Mr. William Kovacic of George Washington University presented the peer review report.

47. Several recommendations were made in the report, in particular the integration of 3 per cent of the revenue from Pakistani regulatory authorities into the Commission fund. With respect to the merger review, there was a need to establish regulations that included supply-side substitution analyses and to consider a shift from behavioural to structural remedies, and the use of block exemptions on vertical restraints.

48. With regard to staffing, one recommendation suggested an open method for the appointment of Members; more economists should be appointed as Members and the terms of office should be lengthened. Further, a wider range of staff should be exposed to the experiences of other competition authorities, and their participation in government committees should be increased, the latter as a boost to public sector advocacy. Also, there should be more incentives for staff to participate in foreign exchanges programmes. The report called for increased cooperation between the Commission and regulators in identifying and reviewing sector policies. Further, it was important for the Commission to work with the Pakistan Public Procurement Regulatory Authority to disseminate techniques to rural counterparts and to expand research on economic case reviews.

49. Other recommendations included the following: to invoke leniency even after Commission findings and decisions, to strengthen the law to support such leniency and to draw up more detailed regulations, particularly concerning the acceptance of parties' specialized opinions and studies. The Commission could make more use of forms of recording for use in cartel proceedings, and the equipment and investigative resources of its forensics laboratory should be upgraded.

50. In response to one query, the Pakistani delegation stated there were 200 cases pending before the court. Although the High Court judges were fully qualified, there were not enough of them, and there was no competition ombudsman. One suggestion was to require a penalty deposit (at least 50 per cent of the fine), as it would expedite resolution. Regarding the Commission's ability to fulfil its mandate if no court decision was made in its favour, the Chair stated that court decisions were the most tangible indicator of success, but not the only effectiveness indicator: law enforcement was the most important. The courts had requested the Commission to draft reports and invited Commission members to participate in other governmental agencies' policy debates. This was seen as a sign of respect for an agency and its independence.

51. The Pakistani pharmaceutical sector was the main recipient of exemptions by Commission because of distribution agreements stipulating that medicines be made available across the country. Although the Commission had not received any sector applications for block exemptions, it had used advocacy in cases relating to pharmaceuticals and aviation. Through individual applications, businesses became aware of the Commission's work and procedures.

52. The Commission acknowledged that information sharing was essential for international cooperation. Section 49 of the Competition Act allowed the Commission to sign memorandums of understanding with other competition agencies. There had also been informal information sharing with other countries, including two mergers cases with the Australian Competition and Consumer Commission and cooperation with the United States Federal Trade Commission and the Competition Authority of Turkey. Participants stressed that informal cooperation was sometimes preferable to formal cooperation in specific cases.

53. In response to questions about staff training in the absence of relevant courses in Pakistan's universities, the Chair of the Commission said that workshops provided by OECD, the International Competition Network and UNCTAD were useful.

54. Concerning promotion of the procurement process, the Commission aimed to incorporate the following provisions in the memorandum of understanding with the Public Procurement Regulatory Authority:

- (a) Developing and building a joint database;
- (b) Acquainting Commission staff with the practices of each industry;
- (c) A checklist of do's and don'ts for the Commission and procurement agencies;
- (d) Public procurement educational modules;
- (e) Availability of all relevant information for stakeholders online and the reform of procurement laws.

55. Although the Authority was independent in theory, it had no enforcement power, and was thus not independent in practice.

56. On working with other government bodies, the Pakistani delegation stated that it had received a mixed reaction. Financial obligation created competition among bodies; however, there had also been cooperation between them. As the Commission had no power over those bodies; they could only issue non-binding policy notes.

57. Concerning the expected implementation of the statutory provision of the Competition Act, according to which 3 per cent of the fees and the charges of five other regulatory agencies should be transferred annually to the Commission, the Pakistani delegation said it had no time frame in mind and that it was out of its hands. The Pakistani delegation would continue striving to achieve that objective, but it ultimately depended on the political will of others.

58. One delegate asked about the competence of the Commission in drafting its own rules and regulations. In reply, the Pakistani delegation said that the Commission had functional independence. As regards the ordinance for the establishment of the Commission, the rules and regulations had already been promulgated for its first meeting, making for a good start.

59. Other regulators also had powers to draft their own rules and regulations; if there was a conflict, it would be resolved by the federal government.

60. In the second session, Commission was given the opportunity to ask questions to other competition authorities, with a view to benefiting from their experience.

61. The Pakistani delegation asked whether a qualified mandate of consumer protection from anticompetitive practices was a preferred model for developing countries or whether competition agencies should be given a general mandate of consumer protection in addition to the enforcement of competition law. In response, a representative of the Commission said the overriding principle was that of meeting commitments and increasing capabilities to deliver. It was important to have an incremental approach to the collection of consumer protection responsibilities. If a generic, broad-based (omnibus command) mandate on consumer protection were to be established, it would require increased capabilities and much prioritization.

62. In response to a recommendation from the peer review relating to advocacy for policy coherence, the Commission noted that seeking membership on too many government committees might not be an efficient way, given the small team and the resource constraints

faced by the Commission. However, one peer reviewer said that such cooperation should a priority, resources permitting.

63. Some delegates suggested fees for capital holdings of new companies or on capital expenditures. Merger fees could also provide income for the Commission. One peer reviewer suggested working with the International Monetary Fund to enhance cooperation with other regulatory bodies over existing rules.

64. In response to a question by the Pakistani delegation on merging the public procurement body and the competition authority, one delegate said that the experience in her country had been positive. Information sharing had increased and the relevant bodies were working together more closely; the public procurement body had even pointed out possible cartel cases to the competition authority. Another delegate said that clear procedures, the proper use of funds, publicly available information and cooperation with government ministries were the keys to successful public procurement in her country.

65. Given the need for advocacy, the Pakistani delegation wished to learn from the experiences of others in creating public awareness of consumer protection and of the best suggested advocacy tools for use with the legislature and judiciary. One delegate said that the more complex products were more difficult to understand for consumers. Consumer education was very important and should be done creatively, especially by using new forms of social media. Putting a price tag on anticompetitive behaviour was among the most important advocacy tools, showing how much it cost per consumer.

66. The UNCTAD secretariat presented the proposed technical assistance activities based on the findings and recommendations of the peer review, prepared in consultation with the Commission.

67. In response to a question from the Chair, the Pakistani delegation said there were three major challenges: eliminating the backlog of court cases, achieving financial autonomy and appointing new Commission members, especially a new chairperson. To overcome such challenges, the Commission would continue to apply competition law, upgrade staff skills and work closely with other regulators and government agencies. Although it was too early to measure success, some price impacts had been observed.

68. The head of the Pakistani delegation said that her government was committed to implementing the recommendations, promoting competition law and policy enforcement in Pakistan and working towards making the Commission one of the world's leading competition agencies.

## **2. Ukraine**

69. The voluntary peer review of competition law and policy in Ukraine was moderated by Mr. Vincent Martenet, President of the Swiss Competition Commission. The peer reviewers were Mr. Sam Pieters of the Directorate-General for Competition of the European Commission; Mr. Russell Damtoft of the United States Federal Trade Commission; Mr. Ryohei Takai of Japan Fair Trade Commission; Mr. Frédéric Jenny, Chairman of the OECD Competition Law and Policy Committee; and Mr. Anatoly Golomolzin, Deputy Head of FAS, Russian Federation. The Ukrainian delegation was headed by Mr. Kostyantyn Gryschenko, Vice-Prime Minister of Ukraine. The Antimonopoly Committee of Ukraine was represented by Mr. Vasyl Tsushko, Chairman of the Committee.

70. The first session was devoted to the presentation of the main findings of the peer review report, followed by a statement by the head of the Ukrainian delegation and a question-and-answer session.

71. Mr. William Kovacic and Ms. Katharina Plath, UNCTAD consultants, presented the main findings of the report, which indicated that Ukraine had made significant progress in the area of competition law and policy. For example, the Committee's enforcement record for 2012 boasted more 3,000 decisions with sanctions.

72. Nonetheless, there was still room for improvement. One recommendation suggested that the legislature should draft amendments to statutes relating to competition to strengthen the investigative powers of the Committee and simplify the multiple policy tasks. It was important for the government to upgrade Ukraine's competition policy system on the platform of the National Competition Programme and develop coordination between competition policy and other economic policies. Other suggestions were to adopt the enforcing standards recommended by international organizations, enhance enforcement transparency and take low-cost measures to advocate competition culture in the media.

73. The chairman of the Committee recalled the history of market reform in Ukraine during the 1990s and said that the Ukrainian Government was determined to implement deregulation, liberalization and privatization policies. He stressed that Ukraine regarded competition policy and law as a tool for building its national competitiveness in the long run at both the national and international levels.

74. Protecting competition by removing artificial market entry barriers and ensuring a level playing field between enterprises as a precondition to attract investments and encourage innovation, while coordinating State bodies to implement competition policy and law, was a way to promote a competition culture. Therefore, competition advocacy targeted both the general public and the government, and included dissemination of periodic economic evaluation reports on competition performance.

75. In response to a question asked by one participant, the Ukrainian delegation said that although the Committee did not have the power to conduct dawn raids, there were sufficient provisions in the competition law enabling the agency to obtain information required for any investigation. Failure to provide credible information to the Committee could result in a 1 per cent turnover fine for the offending enterprise. Concerning cartel investigations, comprehensive legislative drafts addressing the shortcomings of the current competition law had been prepared and tabled in Parliament.

76. The calculation of monetary sanctions was another area in which the Committee sought to streamline its enforcement practice. Implementation of the competition law of Ukraine posed many challenges to the Committee, and legislative amendments were being negotiated with Congress. Currently, the sanctions depended on the type from conduct to conduct and a 5 per cent fine was only a base for calculation; other factors were also considered.

77. Under the Competition Development Programme 2014–2024, the Committee had been identified as the institution that should evaluate competition issues in State aid initiatives and establish the operative parameters, even though the State aid authority would be under the Ministry of Finance. The Committee would not be stretched financially by the implementation of the National Competition Programme due to arrangements being made to align every Ministry development plan with the objective of fostering competition, allowing them to be part of the process within their budgeted activities.

78. In reply to a question concerning the threshold for economic indicators for the control of economic concentration, the Committee said there were difficulties in dealing with companies outside Ukraine and discussed how to treat them compared with SMEs. Re-monopolization by foreign companies was a matter of concern of the Government, which was working closely with the European Union to address the issue.

79. In response to a query on judicial review and territorial offices, the Committee said that they should be able to make decisions in their own right, which could be appealed in the courts or passed on to the Committee. There was an economic and administrative court that worked well, although there was always room for improvement.

80. The Committee said that priority setting was indeed important and that the recommendation from the peer report was very useful. In an effort to cut costs, the Committee needed to identify areas of high priority while at the same time safeguarding competition in all sectors. It had played its advocacy role effectively in line with the national plan of involving all stakeholders to make Ukraine a competitive market and had gradually made progress in pushing the competition agenda forward.

81. The Committee's response to dealing with price-controlled goods was that Ukraine had deregulated almost all prices of goods in 1994; today only natural monopoly prices were subject to guidelines. In addition, the Ministry of Economy and Defence had a mandate to set prices if a national problem warranted such action. Overall, movement of prices was free in Ukraine. The merger threshold in Ukrainian law was \$20 million and would increase to \$30 million with the current legal amendments. Thresholds were based on the value of turnover or on the level of assets.

82. In the second session, the Committee asked questions of other competition authorities, with a view to benefiting from their experience.

83. In response to a question regarding the use of economic analysis in competition cases, one competition authority said that using economic evidence and proving theories of harm had become increasingly important in dealing with competition cases in the European Union. However the use of simple but well-focused measurements of economic variables such as prices, cost margins, capacity constraints, and research and development (R&D) intensity also provided insights into the facts of the case.

84. In his reply, a representative of the European Union described how the Directorate-General for Competition used economic evidence in competition cases involving mergers, anticompetitive agreements and abuse of dominance. He referred participants to the following website for full details: [http://ec.europa.eu/competition/antitrust/legislation/best\\_practices\\_submission\\_en.pdf](http://ec.europa.eu/competition/antitrust/legislation/best_practices_submission_en.pdf).

85. He said that the European Commission had adopted a Consolidated Jurisdictional Notice relating to offshore issues, with details as to how the control of undertakings could be assessed. However, there were also situations where the formal holder of a controlling interest differed from the person or undertaking having the real power to exercise the rights resulting from this interest. Incomplete, incorrect or misleading information was subject to fines of up to 1 per cent of the aggregate turnover of the undertakings concerned. The Commission could also impose periodic penalty payments of up to 5 per cent of the average daily aggregate turnover of the undertaking concerned to compel it to supply complete and accurate in responding to a request for information.

86. With regard to cooperation between the competition authority and other law enforcement agencies in carrying out investigations, the Brazilian experience provided an interesting case. The competition authority of Brazil (CADE) jointly prosecuted cartel allegations with State and federal prosecutors and the federal police through an inter-agency partnership. In the course of an investigation it might be necessary to carry out unannounced dawn raids to collect evidence. In that instance, CADE sought authorization from a judge through the Office of the Federal Prosecutor. Based on a reasoned petition of the latter, the judge could provide a warrant to seize commercial records, computer hardware and files of companies or individuals involved.



87. Another area of cooperation was the use of expertise from laboratories for use in cartel analysis and investigation in cooperation with the Asset Recovery Department and the International Cooperation Department of the Ministry of Justice. This approach allowed CADE, inter alia, to make international notifications of companies and individuals beyond national borders whenever necessary. The approach had been successful in investigating many cartels in industries across several States of the Federation.

88. The UNCTAD secretariat presented proposals for technical assistance and capacity-building activities based on the findings and recommendations of the peer review, prepared in consultation with the Committee.

### **3. Nicaragua**

89. The voluntary peer review of competition law and policy in Nicaragua was moderated by Ms. Sylvann Aquilina Zahra, Director General of the Competition Authority of Malta. The peer reviewers were Mr. Russell Damtoft of the United States Federal Trade Commission, Mr. Germán Bacca of the Colombian Competition and Consumer Protection Authority Superintendencia de Industria y Comercio, and Mr. Tassano Velaochaga, of INDECOPI Peru. The Nicaraguan delegation was composed of Mr. Humberto Guzmán, President of the Competition Authority Procompetencia; Mr. Cairo Amador, Commissioner; Mr. Haraxa Sandino, Principal Legal Officer; and Mr. Gustavo Torres, Competition Prosecutor.

90. The first part of the session was devoted to the presentation of the main findings of the peer review report, followed by a statement by Mr. Guzman and a question-and-answer session.

91. Ms. Pamela Sittenfeld and Mr. Gustavo Valbuena, UNCTAD consultants and former heads of the Costa Rican and the Colombian competition authorities, presented the peer review report.

92. The presentation touched upon Nicaragua's competition legal framework, which prohibited anticompetitive practices, assigned Procompetencia the power to prohibit, or impose conditions on merger operations with anticompetitive effects and empowered the Authority to conduct advocacy activities. Regulated sectors posed a problem, given that the Supreme Court had confirmed that Procompetencia did not have the power to decide on competition cases affecting regulated sectors.

93. Concerning institutional framework, institutional design favoured independence, but scarce resources limited the Authority's capacity to do its job. Procompetencia's investigative powers included issuing requests for information, ordering dawn raids and imposing interim measures. A leniency programme was in place, although it had not been used. Maximum sanctions were set at 10 per cent of sales volume, and no settlements or commitments procedures had been planned.

94. With respect to procedural issues, Nicaragua had an administrative system that provided for decisions by Procompetencia that could be appealed before the same body and in Court. Procompetencia had investigated many cases, despite the lack of resources, and had carried out a number of advocacy activities: providing training to key constituencies, issuing guides on competition issues, drafting regulatory impact assessment reports and sector studies, and promoting the inclusion of competition courses in university curricula.

95. The report provided several recommendations for legal and institutional reform: to grant Procompetencia full legitimacy in the investigation of cases in regulated sectors and to reinforce its powers, to increase resources allocated to Procompetencia and allow for the separation of investigative and decisional phases. The report also called for the adoption of advocacy plans in key constituencies in the public and the private sectors.

96. Further engagement with sector regulators for coordination in cases involving regulated sectors was another recommendation. There was also a need to recruit new staff and to provide technical training for Procompetencia officials.
97. Mr. Guzmán said that peer reviews were an effective tool, as they helped agencies understand how they were perceived and proposed future work plans.
98. In response to a question asked by one peer reviewer, the Nicaraguan delegation said that there was a growing awareness in Nicaragua of the importance of having a competition agency, since much business was concentrated in a few hands throughout the country and region. Renewed advocacy for competition policy as a tool for development and poverty reduction was necessary.
99. If resources were available, Procompetencia would recruit new staff, conduct investigations and studies in key sectors, issue proposals for public policies and give attention to public procurement.
100. The need to notify mergers in Nicaragua appeared when one of the two thresholds (in terms of sales volume or in terms of market share) was reached. Both thresholds had proven functional, and had not created any controversy.
101. Criteria for merger remedies were set out in the law and regulations. Procompetencia had sufficient room for manoeuvre there.
102. An advocacy campaign targeting the Supreme Court of Justice was advisable. In that connection, a training event had recently been held with the aid of the COMPAL programme, which had paved the way for a complete training programme for judges.
103. Although commissioners had been appointed from a list provided by certain sectors, they had acted independently and had handed down unbiased decisions devoid of vested interest.
104. As a result of a reform of Nicaragua's competition law, which allowed for sanctions to be placed on companies and business and professional associations, the President of Procompetencia investigated and sanctioned, but the Board resolved appeals.
105. Procompetencia advocated the derogation of article 15 of the competition law, which excluded its competence over cases in regulated sectors. Procompetencia's relationship with the energy regulator was good, as illustrated by their joint investigations.
106. More than 400 people from business and consumer associations, government and academia had received training in competition issues. Procompetencia had signed agreements with universities, the Attorney General's Office, the Prosecutor's Office and the police. Many guides on competition issues had been published.
107. In the future Procompetencia wished to focus its advocacy efforts on judges, and on specific sectors such as public procurement, drugs and food safety.
108. Among the peer review recommendations regarding the new consumer protection law were the following: that SMEs be considered final consumers, that Procompetencia be incorporated into the Interinstitutional Body for the Protection of Consumer Rights, and that the institutional framework for consumer protection be strengthened by integrating the work on competition and consumer issues under Procompetencia. The first two had been taken on board. Procompetencia worked with the government ministry responsible for consumer protection to provide training and cooperated in case work. It also worked with consumer associations, which were yet fragile in Nicaragua. Integration was under consideration by the Government.

109. The report observed that international cooperation in training programmes and the exchange of experience connected to cases had been fruitful, but there was room for improvement.

110. The Nicaraguan delegation received many supportive and encouraging messages from the floor, including from Central American delegations. The efforts and the achievements of the Authority were recognized by peers, despite very scarce resources. Participants asked queries about Procompetencia's position on the new consumer protection law and competition advocacy priorities in a stage previous to adoption of a competition law. In reply to these questions, the Nicaraguan delegation explained which SMEs could be considered final consumers in terms of the new consumer protection law. Indeed, it was especially difficult to set up a competition system in Central America because economic power lay in the hands of the few, be they individuals or companies, who generally were opposed to any changes leading to more competition.

111. In response to Procompetencia's questions during session II, some delegations said that a good relationship between competition authorities and sector regulators depended on a clear assignment of duties to prevent overlaps and on effective communication. One delegation said that good cooperation in dealing with cases could build strong arguments to use with the private sector and the courts, in case of appeal.

112. Some delegations gave account of their experience in conducting dawn raids, providing practical tips for success. Dawn raids were considered one of the most powerful investigative tools available to a competition authority. Procompetencia was encouraged to try, since even in the absence of sophisticated digital forensic tools, there was a high probability of finding evidence if the case and the dawn raid were well prepared. Because companies subject to dawn raids might react strongly to such raids, the agency must be prepared.

113. In response to a question about judges, some delegations said that in their countries, judges' knowledge of and sensitivity to competition issues was also an issue. El Salvador's competition agency had recently presented a platform that aimed to put pressure on judges to resolve cases in appeal more expeditiously, as delays were common. The delegation of Panama said that it was very useful to include judges in all training initiatives.

114. In response to a query on international cooperation, the representative of COMCO said that the cooperation agreement between the European Union and Switzerland formalized a very high level of cooperation between the two agencies in dealing with cases. He explained the difficulty of exporting the agreement to other jurisdictions, as the relationship between the two parties was unique. However, it could serve as a source of inspiration.

115. The Peruvian delegation said that an initiative had recently been launched to enhance cooperation between South American competition agencies.

116. The representatives of OECD and the UNCTAD secretariat agreed that peer reviews conducted in the framework of these organizations complemented each other and drove synergies.

117. In session III, the UNCTAD secretariat presented a proposal for a technical assistance project in Nicaragua on competition issues based on the findings and recommendations of the peer review. The overall goal of the proposal was to achieve a better business environment and a well-functioning market economy in Nicaragua. In particular, the project aimed to enhance the legal framework and institutional set-up, as well as the capacity to enforce competition law and to carry out advocacy activities.

118. Mr. Guzmán expressed agreement with the peer review recommendations and thanked UNCTAD for guiding his country throughout the entire cycle which had begun

with the development of competition policy and ended with the peer review. He looked forward to the follow-up on the proposed technical assistance project.

## **F. Closing plenary**

119. Given that no delegation wished to take the floor during the closing plenary, the Chair thanked the UNCTAD secretariat and the participants for their contributions to the meeting.

## **III. Organizational matters**

### **A. Election of officers**

(Agenda item 1)

120. At its first plenary meeting on Monday, 8 July 2013, the Group of Experts elected its officers, as follows:

Chair:	Mr. Hebert Tassano Velaochaga (Peru)
Vice-Chair-cum-Rapporteur:	Mr. Sothi Rachagan (Malaysia).

### **B. Adoption of the agenda and organization of work**

(Agenda item 2)

121. The Group of Experts adopted the provisional agenda contained in documents TD/B/C.I/CLP/19, and Corr. 1 and 2. The agenda was thus as follows:

1. Election of officers
2. Adoption of the agenda and organization of work
3. (a) Consultations and discussions regarding peer reviews on competition law and policy, review of the Model Law, and studies related to the provision of the Set of Principles and Rules
- (b) Work programme, including the effectiveness of capacity-building and technical assistance to young competition agencies
4. Provisional agenda for the thirteenth session
5. Adoption of the report of the Intergovernmental Group of Experts on Competition Law and Policy.

### **C. Provisional agenda for the fourteenth session of the Intergovernmental Group of Experts on Competition Law and Policy**

122. At its closing plenary meeting, on 10 July 2013, the Group of Experts approved the provisional agenda for the fourteenth session of the Intergovernmental Group of Experts on Competition Law and Policy contained in annex I.

**D. Adoption of the report on the Intergovernmental Group of Experts on Competition Law and Policy**

123. At its closing plenary meeting, on 10 July 2013, the Group of Experts authorized the Rapporteur to finalize the report of the session.

## **Annex I**

### **Provisional agenda of the fourteenth session of the Intergovernmental Group of Experts on Competition Law and Policy**

1. Election of officers
2. Adoption of the agenda and organization of work
3.
  - (a) 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
  - (b) Work programme, including the effectiveness of capacity-building and technical assistance to young competition agencies
4. Provisional agenda for the fifteenth session
5. Adoption of the report of the Intergovernmental Group of Experts on Competition Law and Policy

## Annex II

### Attendance\*

1. Representatives of the following States members of UNCTAD attended the meeting:

Angola	Malta
Australia	Malawi
Austria	Mali
Belarus	Mauritius
Belgium	Mexico
Benin	Moldova
Bhutan	Mongolia
Botswana	Morocco
Brazil	Namibia
Bulgaria	Netherlands
Burkina Faso	Nicaragua
Cambodia	Nigeria
Cameroon	Pakistan
Chile	Panama
China	Papua New Guinea
Colombia	Peru
Côte d'Ivoire	Philippines
Dominican Republic	Portugal
Ecuador	Qatar
Egypt	Republic of Korea
El Salvador	Romania
Ethiopia	Russian Federation
France	Sao Tome and Principe
Gabon	Senegal
Ghana	Serbia
Germany	Seychelles
Guatemala	South Africa
Guyana	Spain
Hungary	Sudan
Indonesia	Suriname
Italy	Switzerland
Japan	Timor-Leste
Jordan	Tunisia
Kazakhstan	Turkey
Kenya	Ukraine
Lao People's Democratic Republic	United Republic of Tanzania
Libya	United States of America
Lesotho	Venezuela (Bolivarian Republic of)
Madagascar	Viet Nam
Malaysia	Zambia
	Zimbabwe

\* This annex reflects the attendance of those member States, observers, organizations and other bodies that registered for the meeting. For the list of participants, see TD/B/C.I/CLP/INF.4.

2. The following intergovernmental organizations were represented at the meeting:
    - Caribbean Community
    - Common Market for Eastern and Southern Africa
    - Economic Community of West African States
    - Eurasian Economic Commission
    - European Union
    - Organization for Economic Cooperation and Development
    - Organization of Islamic Cooperation
    - West African Economic and Monetary Union
  3. The following specialized agencies or related organizations were represented at the meeting:
    - World Trade Organization
  4. The following non-governmental organizations were represented at the meeting:
    - General category:*
      - Consumers International
      - Consumer Unity and Trust Society
      - International Chamber of Commerce
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**Trade and Development Board**

**Trade and Development Commission**

Intergovernmental Group of Experts on Competition Law and Policy

Thirteenth session

Geneva, 8–10 July 2013

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

**Corrigendum**

**Paragraph 121, item 4**

*For thirteenth read fourteenth*