

12th Session of the Intergovernmental Group  
of Experts on Competition Law and Policy

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Opening Statement  
by  
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First of all, allow me to thank all of you for attending the Twelfth Session of the Intergovernmental Group of Experts on Competition Policy. Many of you have traveled from other parts of the world to be here today, demonstrating the vitally important role that all of us here know an effective competition environment can play in spurring economic development and growth.

UNCTAD is privileged to host a forum which brings together competition agencies, policy makers, sector regulators, Public procurement agencies, Business, academia and the civil society.

Given the importance of competition policy for competitiveness and economic development, public authorities, regulators, and Public procurement agencies neither can nor should take a back seat. The fact is that competitive markets are of relevance and benefit for citizens, for the economy, and for society. For that reason alone it is of interest to all public policy makers.

One of the challenges is to respond to the legitimate public interest, without damaging the very features of the competition policy which make competitive markets such a success story: its vibrancy, dynamism, innovation.

It's a particular challenge because policy makers are used to operating nationally or regionally; but globalization force markets to operate globally, across borders.

Competition policy is about the way our economies change and improve. It is about the way we do business. It is about turning new ideas into growth for business, jobs for citizens and well-being for our societies.

And that is why competition policy is a foundation for growth and innovation strategy – precisely because it creates the right conditions.

The session of the IGE ranks among the largest UNCTAD sessions on competition law and policy held since the Sixth UN Conference to Review the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices held in Geneva in November 2010. The session will review the following topics:

- (i) Competition policy in public procurement,
- (ii) Cooperation in cross-border anti-competitive cases; and
- (iii) Knowledge management as a tool for agency effectiveness
- (iv) A tripartite Peer reviews of Tanzania, Zambia and Zimbabwe

Efficient and competitive markets stimulate entrepreneurship and encourage companies to be innovative – to create new products and services that meet demand. In turn, this helps to create jobs among successful players, triggers more competitive prices and gives consumers a wider choice of products and services

Anti-competitive practices damage economies by maintaining artificially high prices, stifling innovation and allowing inefficiencies. Economies and consumers simply cannot afford to pay the price for infringements of competition law, and that is why competition agencies must continue to enforce competition rules effectively.

The essence of competition policy is about fairness and merit. It is about rewarding companies that compete on the basis of quality, of innovation and of price. It is about giving everyone a chance, about restructuring mature industries where necessary, and about opening up markets. That is why UNCTAD work in fighting against protectionism and monopolies is so important.

For instance, cartels and protectionism have an immensely corrosive effect on wider society. In difficult economic times, it is more important, not less, to combat them. By fighting against cartels, protectionism and vested interests, competition policy is also key to building fair and unbiased markets. It can help to re-instil faith among citizens that markets can indeed be fair.

One of the roundtables tomorrow is on reducing possibilities for bid rigging and favoritism not only in public procurement but also in financial markets as the recent LIBOR -rigging shows. The outcome of your discussions could complement other advisory services given to policy makers, procurement agencies and regulators and help competition and public officials achieve common objectives.

Inefficiencies in upstream markets, especially of non-tradable inputs to starting and expanding a business, undermine the competitiveness of many industries in developing and transition economies, and these inefficiencies are often due to their inappropriate regulatory and competition frameworks.

Adverse business environments and legal & regulatory frameworks also matter. Together they imply opportunities for rent seeking, fostering collusion between public sector officials and established favored companies – that create both a demand and supply for government restrictions to competition. Such restrictions generate rents for both sides and create barrier to entry and expansion problems for new entrepreneurs.

Given the importance of these topics, I have no doubt that the coming three days will give us plenty of "food for thought". We should take time to think and find the right solutions.

The challenge is a collective responsibility. Governments, academia, the private sector and civil society have contributed enormously to the development of competition culture and workable cooperation. But much remain to be done!

To begin to respond, many competition agencies are reflecting on various forms of cooperation. For example, the discussions here in UNCTAD, the ICN and the OECD continue to focus research and deliberations on how to reinforce cooperation in enforcement issues. The guidelines which are emerging from these discussions do not include detailed set of rules, but some underpinning principles: like openness, transparency, freedom of commerce, non-discrimination, fair competition, and respect for the rule of law.

In this connection, you have scheduled a roundtable on cooperation in cross-border competition cases with a focus on Hard core cartels and anti-competitive mergers. UNCTAD has proposed in the background report that more use should be made of intelligence gathering and sharing between competition agencies, and that UNCTAD should establish a data bank on competition cases that may affect more than one country and that are in the first investigation stage. Such data bank would facilitate cooperation between competition agencies in developing common approaches to compliance, enforcement and reducing the cost of compliance to business,

### **Competition Policy Peer reviews:**

Dialogue, consensus and peer reviews are now at the very heart of the UNCTAD work. UNCTAD peer review is a non-adversarial, systematic examination and assessment of the performance of the Competition policy of a member country. It contributes to an increasing level of trust shared among the member competition

agencies. The ultimate goal of UNCTAD peer reviews is to help the reviewed jurisdiction to improve its policy making.

The Peer review dialogue and debate at UNCTAD is essential for developing countries and economies in transition young competition agencies to benchmark performance, test ideas and develop best practices. It brings together around one table the major competition jurisdictions from around the world. This year in addition to a Peer review of Mongolia competition policy, the IGE will organise for the first time a tripartite competition peer review of Tanzania, Zambia and Zimbabwe. This innovative approach to peer review addresses the substantive content of the law, agency effectiveness, the broad competition policy and its interface with other public policies. In addition, the tripartite peer review seeks to help the 3 countries learn from each other and improve their regional competition policy making. It would also allow UNCTAD to provide capacity building to the 3 countries for the follow up on the recommendations under one regional project.

You will also discuss during this session Knowledge Management which is an important aspect of an efficient competition agency. It enables the acquisition and use of resources to create an environment in which knowledge and resources are efficiently and effectively utilized. Young competition agency need to acquire, share and use that knowledge to build human and institutional capacity to implement the competition law effectively. Knowledge management safeguards institutional memory and continuity. Effective human resource management is therefore a common challenge faced particularly by young competition agencies in their endeavor to attract and retain skilled personnel, and enable the agency to effectively fulfill its mandate and goals. The roundtable on this issue will review the issues facing competition agencies to acquire, manage and effectively utilize knowledge and build the human and institutional capacity needed to enforce competition law with diligence. Both

KM and HRM should be considered in the framework of the strategic planning and resource allocation for the internal effectiveness of a competition agency.

The key challenges moving forward are:

- How to give individuals and institutions promoting competition the status and ability to get more pro-competition policies adopted and effectively implemented.
- The benefits of competition, in particular its positive impact on entrepreneurship, innovation, economic growth, and poverty reduction are well known but is not well enough acted upon;
- The political economy challenges of those seeking to preserve their *status quo* rents, combined with insufficient understanding and implementation of effective competition policies within government often gets in the way of effective implementation.

As you know, this IGE will immediately be followed by an ad-hoc expert meeting on the interface between competition policy and consumer protection on Thursday and Friday 12-13 July. This meeting will discuss new and emerging issues in consumer protection and new conceptual frameworks for addressing consumer issues. It also will make proposals for revising the United Nations Guidelines on Consumer Protection.

Both competition and consumer policies act to protect consumers' economic interests. Competition policy seeks helping markets work better, and consumer policy aims to protect consumers against deceptive and fraudulent conduct and to help consumers to

choose in accordance with their preferences and interests. If consumers can compare offers adequately and make buying decisions that reflect their preferences, then they can effectively drive sellers to make offers that better serve their requirements. Thus, more effective consumers spur more effective competition. In addition, if firms vie to provide competitive products that follow consumer interests such as safety, then competition supports other consumer protection objectives. But if consumers are vulnerable to deception, then sellers may compete in ways not beneficial to consumers.

These are the ideas that UNCTAD is reflecting on, right now. Together we could call them a *Compact for Competition Policy*: based on national competition laws that are fair, open, institutionally sound, Confidence inspiring, and transparently enforced.

I wish you success in your deliberations and thank you for your attention.