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

Held at the Palais des Nations, Geneva, from 20 to 22 July 2022

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I. Agreed conclusions

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,

Considering the resolution adopted by the Eighth 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, October 2020),¹

Taking note of the decision of the fifteenth session of the United Nations Conference on Trade and Development (Bridgetown, 2021) in paragraphs 56, 62 and 127 (z) that “in the process of transformation, it is fundamental for fair, sound and robust competition and consumer protection policies and enforcement to maintain a robust, level playing field and enhance transparency for all participants, so that market access is not under anticompetitive practices. Ensuring effective competition, including through support in developing and implementing competition policies and through cooperation among competition authorities, paired with robust consumer protection in the market, will help foster economic efficiency, resulting in safer and better products at lower prices for consumers”, that “multilateral dialogue and cooperation are crucial in areas such as the governance of new and emerging technologies, including those related to data management, competition and consumer protection. Special attention should also be paid to the challenges of electronic commerce and the digital economy through an integrated approach to many strategic areas. Increased international cooperation is required, including in digital platforms’ governance, to promote data flow with trust, safety and confidence in their use, in accordance with national regulations and relevant international commitments” and that UNCTAD should “continue to assist developing countries to formulate and implement competition and consumer protection policies and laws, facilitate cooperation among competition and consumer protection agencies, conduct peer reviews and foster the exchange of knowledge and best practices, including through multilateral forums, such as the Intergovernmental Group of Experts on Competition Law and Policy and the Intergovernmental Group of Experts on Consumer Protection Law and Policy, and by contributing to the implementation of the outcome of the United Nations Conferences to Review All Aspects of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices and of the revised United Nations guidelines for consumer protection”,²

Reaffirming the fundamental role that competition law and policy plays in the achievement of the 2030 Agenda for Sustainable Development, by promoting competitive, open and contestable markets and ensuring wider choice, better quality and lower prices of goods and services for consumers,

Noting that the 2030 Agenda for Sustainable Development and the outcomes of the fifteenth session of the United Nations Conference on Trade and Development focus on addressing the opportunities and challenges of globalization for development and poverty reduction,

Welcoming decisive measures and interventions taken by competition authorities in the field of competition through coordinated international, regional and bilateral actions to respond to the coronavirus disease (COVID-19) crisis and attempt to mitigate its negative impact on domestic markets, while keeping markets open, fair and dynamic,

Underlining that competition law and policy is a key policy tool, to “build back better” in an inclusive and sustainable manner, including by maintaining open, competitive and accessible markets and enhancing trade and investment, resource mobilization and the harnessing of knowledge and by reducing poverty,

Recognizing that an effective enabling environment for competition and development should include both national competition policies and international

¹ TD/RBP/CONF.9/9.

² TD/541/Add.2.

cooperation to address competition issues associated with market concentration and to deal with cross-border anticompetitive practices,

Recognizing the need to strengthen the work of UNCTAD in competition law and policy, to enhance its development impact and benefits for consumers and businesses,

Recognizing that data-driven market concentration makes competition, consumer and data protection laws and policies increasingly intersect, requiring close cooperation and coordination between competition, consumer and data protection authorities in member States,

Recognizing that competition policy provides for market access opportunities for microenterprises and small and medium-sized enterprises, promoting their competitiveness, and has a key role in ensuring that the economic recovery is not derailed by anticompetitive conduct and that markets remain open, fair and dynamic,

Noting with satisfaction the important written and oral contributions from member States and their competition authorities and other participants, which enriched the debate during its twentieth session,

1. *Welcomes* the efforts of member States in implementing the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices; and reaffirms the interest of competition authorities in exchanging experiences, best practices and challenges regarding competition law and policy;
2. *Encourages* the continuation of legislative, policy-related and regulatory actions and initiatives supported by competition authorities in response to and in the aftermath of the COVID-19 pandemic, as well as coordination and information-sharing at the international, regional and bilateral levels; and the reflection on lessons learned to rethink competition law enforcement and consider the need to adjust and align with the dynamics of changing markets;
3. *Underlines* the benefits of enhancing and strengthening enforcement capacities and promoting a competition culture in developing countries through capacity-building and advocacy activities targeting all relevant stakeholders; and requests the UNCTAD secretariat to disseminate the summary of its discussions on these topics to all interested member States, including through technical assistance activities and peer reviews;
4. *Underlines* the importance of international cooperation as recognized in section F of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices, including informal collaboration among competition authorities; and calls upon UNCTAD to promote and support cooperation between Governments and competition authorities, as directed by the Bridgetown Covenant (paragraphs 56, 62 and 127 (z)) and the resolution adopted by the Eighth United Nations Conference to Review All Aspects of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices (paragraphs 3 and 22), as well as in the document titled “Guiding Policies and Procedures under Section F of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices”;
5. *Requests* the UNCTAD secretariat to continue the dissemination of the document titled “Guiding Policies and Procedures under Section F of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices” and to encourage the utilization of it by member States;
6. *Emphasizes* the importance of regional cooperation in the enforcement of competition law and policy; and encourages competition authorities to strengthen their regional and bilateral cooperation;
7. *Recognizes* the benefits and challenges of the digital economy for consumers and businesses, the importance of competition for digital markets and innovation therein and that digital platforms are essential elements of today’s economy; and encourages competition authorities to address competition issues in digital markets through their enforcement practices and legislative and regulatory frameworks, to protect, restore and promote competition in the digital economy;

8. *Calls upon* UNCTAD to continue its work in the area of the digital economy, to ensure that all countries, in particular developing countries and the least developed countries, benefit from the innovation it brings;
9. *Calls upon* UNCTAD to continue to include advocacy as a core activity in its capacity-building and technical assistance for developing countries, in particular considering their economic recovery efforts in the aftermath of the COVID-19 crisis;
10. *Welcomes* the revised methodological guidelines for UNCTAD voluntary peer reviews of competition and consumer protection laws and policies; and decides to discontinue the working group on modalities of UNCTAD voluntary peer reviews of competition and consumer protection laws and policies;
11. *Decides* to renew the mandate of the working group on cross-border cartels, open to member States on a voluntary basis, without any financial implications for the regular budget of the United Nations, to highlight best practices, facilitate information exchanges, consultations and international cooperation, discuss tools and procedures and undertake other projects as agreed in the future by the working group, with a view to further exploration and deeper understanding of the modalities and principles of cross-border cartel investigations, and to report to the twenty-first session of the Intergovernmental Group of Experts on Competition Law and Policy;
12. *Expresses its appreciation* to the Government of Bangladesh for volunteering for a peer review of competition law and policy and for sharing its experiences and challenges with other competition authorities during the twentieth session of the Intergovernmental Group of Experts on Competition Law and Policy and to all Governments and regional groups participating in the review; and recognizes the progress achieved to date in the elaboration and enforcement of the competition law of Bangladesh;
13. *Decides* that UNCTAD should, considering experiences with voluntary peer reviews, continue to undertake peer reviews of competition law and policy following requests from member States and in accordance with available resources;
14. *Invites* all member States and competition authorities 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;
15. *Requests* the UNCTAD secretariat to prepare reports and studies as background documentation for the twenty-first session of the Intergovernmental Group of Experts on Competition Law and Policy on the following topics:
 - (a) Competition law enforcement issues raised by monopsonies;
 - (b) Interaction between competition and industrial policies;
16. *Requests* the UNCTAD secretariat to facilitate consultations and the exchange of views among member States on the topic of competition law and policy and sustainability;
17. *Requests* the UNCTAD secretariat to prepare, for the consideration of the Intergovernmental Group of Experts on Competition Law and Policy at its twenty-first session, an updated review of capacity-building in and technical assistance on competition law and policy, including an impact assessment, based on information received from member States;
18. *Requests* the UNCTAD secretariat to update the commentaries of the Model Law on Competition (part 2) based on submissions to be received from member States;
19. *Notes with appreciation* 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 assistance activities by providing experts, training facilities and financial or other resources; and requests the UNCTAD secretariat to pursue capacity-building and technical assistance activities, including training, and, where possible, to focus such activities on maximizing their impact in all interested countries.

Closing plenary
22 July 2022

II. Chair's summary

A. Introduction

1. The twentieth session of the Intergovernmental Group of Experts on Competition Law and Policy was held at the Palais des Nations, Geneva, from 20 to 22 July 2022, with physical and remote participation. Representatives from 88 countries and 10 intergovernmental organizations, including the heads of competition authorities, attended the high-level discussions.

B. Opening plenary

2. In her opening remarks, the Secretary-General of UNCTAD highlighted the renewed relevance of the subject of competition law and policy in a world of cascading crises, namely, the pandemic, climate change and the war in Ukraine, and the effects they had on markets. She noted that competition was harshest when change, disruption and volatility were strongest and, therefore, effective and sound competition law and policy were key in building resilience and to ensure that crises led to making the international community stronger rather than weaker. She emphasized the relevance of the Intergovernmental Group of Experts on Competition Law and Policy, which included the most salient issues in its discussions, such as an inclusive post-pandemic recovery, big data, digital platforms and climate change. Finally, she addressed issues of relevance to microenterprises and small and medium-sized enterprises.

3. The keynote speaker, the Chair, Federal Trade Commission, United States of America, highlighted the will for change and reform in digital markets. She advocated a holistic approach to enforcing competition law in digital markets.

C. Report on the implementation of the guiding policies and procedures under section F of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices

(Agenda item 3)

4. Under the agenda item, the Intergovernmental Group of Experts on Competition Law and Policy held one round-table discussion. The UNCTAD secretariat detailed progress made in the implementation of the guiding policies and procedures under section F of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices. Since October 2020, UNCTAD had received two requests for the facilitation of cooperation under section F. UNCTAD suggested two methods of further promoting the document titled "Guiding Policies and Procedures under Section F of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices", namely, by designing an advocacy plan for the use of the document in developing countries and by gathering and sharing a comprehensive list of the international cooperation instruments in force to support competition authorities in better understanding existing mechanisms and reflecting on the most suitable areas for exploration. The panel was composed of the President, Administrative Council for Economic Defence, Brazil; a member of the board, Competition Authority, Türkiye; a commissioner, Competition and Consumer Commission, Australia; and a senior associate, Charles River Associates, United Kingdom of Great Britain and Northern Ireland.

5. In considering how to better address the interplay between competition, consumer protection and data protection policies in the digital era, the panellists discussed the nature of digital markets, the need for regulation to keep up with the evolving pace, the significant market power of digital platforms and the use of undertakings to harness this power. In addition, they addressed shortcomings in competition law enforcement (namely with regard to merger remedies), to deal with the breadth of the concerns raised by rapidly changing online marketplaces and the opportunity of taking a holistic approach combining different

instruments. Data-sharing measures, such as data portability, mobility and interoperability, contributed to enhancing competition in digital markets. However, competition-related interventions might not be suitable in introducing such measures and, therefore, there was a move to introduce dedicated regulation and legislation, such as the Digital Markets Act in the European Union.

6. During the ensuing discussion, one delegate noted that the second method proposed by the UNCTAD secretariat was similar to an initiative of the Organisation for Economic Co-operation and Development. Another delegate noted the need to compile instruments from several partners in undertaking future work in order to take advantage of synergies.

D. Report of the working group on modalities of UNCTAD voluntary peer reviews of competition and consumer protection laws and policies

(Agenda item 4)

7. The UNCTAD secretariat presented the report of the working group. At its closing plenary meeting on 22 July 2022, the Intergovernmental Group of Experts on Competition Law and Policy adopted agreed conclusions on this agenda item (see chapter I).

E. Report of the working group on cross-border cartels

(Agenda item 5)

8. The UNCTAD secretariat presented the report of the working group. UNCTAD had organized an ad hoc meeting on cross-border cartels and the working group had held three meetings in the first half of 2022. The UNCTAD secretariat provided suggestions for possible ways forward for the working group, including with the aim of documenting practical examples in developing countries. Several delegates expressed support for the work of the group, highlighting that it had been an important platform for cooperation and discussion among competition authorities on practical solutions to the challenges faced in dealing with multi-jurisdictional cartel investigations. At its closing plenary meeting on 22 July 2022, the Intergovernmental Group of Experts on Competition Law and Policy adopted agreed conclusions on this agenda item (see chapter I).

F. The role of competition law and policy in supporting microenterprises and small and medium-sized enterprises during economic recovery in the post-pandemic period

(Agenda item 6)

9. Under the agenda item, the Intergovernmental Group of Experts on Competition Law and Policy held one round-table discussion. In opening the discussion, the UNCTAD secretariat presented findings, recommendations and lessons learned under a Development Account project on a global initiative towards the post-pandemic resurgence of the microenterprises and small and medium-sized enterprises sector, implemented over 18 months beginning in March 2020. As part of the project, the UNCTAD secretariat had examined the role of competition policy in the economic recovery of small and medium-sized enterprises and provided a platform for discussion among relevant government agencies and competition authorities worldwide. The panel was composed of the President, National Institute of the Defence of Competition and the Protection of Intellectual Property, Peru; the Vice-President, Competition Council, Morocco; the Commissioner, Competition Commission, Philippines; and the Intervention Manager, Access and Usage Pillar, Financial Sector Deepening, Uganda.

10. The first panellist detailed the measures put in place in Peru to support the economic recovery of microenterprises and small and medium-sized enterprises in the post-pandemic period. Market studies had been conducted to provide in-depth analysis of markets and dedicated guidelines had been targeted to such enterprises, to ensure they had a better understanding of their rights. With regard to the monitoring of digital markets, the panellist

stressed that microenterprises and small and medium-sized enterprises should be provided with opportunities and that competition authorities had a key role to play in the post-pandemic recovery of such enterprises.

11. The second panellist discussed the success of competition advocacy among small and medium-sized enterprises in Morocco. She noted that institutional obstacles had hindered access by microenterprises and small and medium-sized enterprises to some markets. Two key problems were international competition in domestic markets and the issue of late or overdue payments. The Government had undertaken advocacy efforts with regard to the effects of overdue payments on such enterprises. The Competition Council had reviewed and simplified investigation and decision-making processes and had waived penalties against such enterprises.

12. The third panellist noted that the pandemic had served to accelerate the shift to online and digital platforms among microenterprises and small and medium-sized enterprises and to reveal the importance of “going digital”, particularly among such enterprises. He expressed concern with regard to targeted advertising in the digital ecosystem, advocating the need to increase awareness of anticompetitive behaviour in order for small companies to report the practices of platforms that might be abusive.

13. The fourth panellist stated that the pandemic had served to show how vulnerable microenterprises and small and medium-sized enterprises were to external shocks and poor business environments. She noted that it was important for the voices of private sector employers and workers to be heard in designing, implementing and monitoring an economic recovery. New innovative approaches were required that harnessed the potential of new technologies and digital platforms to enhance public-private dialogue and social dialogue mechanisms, engaging essential market actors, including employer and worker organizations, in identifying reform priorities. Finally, she highlighted that digitalization was essential to microenterprises and small and medium-sized enterprises as the only way in which they could be integrated into affordable financing networks.

14. During the ensuing discussion, several delegates and experts emphasized the need to support microenterprises and small and medium-sized enterprises and to use competition law and policy instruments to prevent dominant firms from abusing their market power through barriers to entry and growth. Cooperation and collective market arrangements among such enterprises needed to be promoted, to achieve economies of scale and bargaining power.

G. Rethinking competition law enforcement: Lessons learned from the pandemic, particularly in socially important markets – Challenges and opportunities for an effective response during the pandemic and economic recovery in the post-pandemic period

(Agenda item 7)

15. Under the agenda item, the Intergovernmental Group of Experts on Competition Law and Policy held one round-table discussion. In opening the discussion, the UNCTAD secretariat presented the background document on the topic (TD/B/C.I/CLP/63). Sound competition policy had an important role to play as a recovery tool, including, in particular, advocacy targeted to government bodies. Access to digital markets by small and medium-sized enterprises was highlighted, along with their important role in market value chains, as well as the need to guarantee fairness and transparent conditions to promote their inclusiveness in markets. To handle future crises, the necessary enforcement tools needed to be put in place and experience-sharing was critical in this regard. The panel was composed of the Director General, Competition Authority, Kenya; the Commissioner, Federal Economic Competition Commission, Mexico; the Chair, State Commission for the Protection of Economic Competition, Armenia; the Commissioner, Competition Commission, South Africa; the Vice-President, Competition Authority, France; and the President, Competition Commission, Greece.

16. The first panellist noted that, in Kenya, during the pandemic, the use of mobile money and digital platforms had increased exponentially, with online purchases increasing by 79 per cent, and local electronic commerce platforms had been dominant. He highlighted challenges related to market dominance and introducing competition in the market, including the abuse of market power and acquisitions of prospective entrants. The inclusion of small and medium-sized enterprises was increasing but the terms and conditions they faced had not been overly fair. Kenya had amended the law to include provisions to address buyer power, and relevant regulations had been put in place. With regard to the regulation of digital platforms, market inquiries could be used to better understand how such platforms worked. Finally, the panellist highlighted the following: inter-institutional arrangements through memorandums of understanding; peer-learning opportunities; and a joint information-sharing meeting conducted among the competition authorities of Egypt, Kenya, Mauritius, Nigeria and South Africa.

17. The second panellist noted that in Mexico, during the pandemic, institutional cooperation and the enhancement of advocacy through inter-institutional working mechanisms had been adopted. Procurement constraints had been linked to various pandemic-related problems, and amendments had been made to ensure efficiency, for the benefit of small and medium-sized enterprises and new entrants. With regard to advocacy, regulations and guidelines had been used to ensure fairness and transparency in procurement process.

18. The third panellist indicated that, in Armenia, the authority had had to restructure its enforcement approach. A pandemic-related task force had been set up to monitor targeted markets and provide advice to government agencies on competition trends and constraints. Surveillance had been undertaken with regard to supply and distribution constraints related to essential products. In addition, decision-making processes had been shortened to deal with emergency situations, with any legislative amendments that affected competition referred to the authority for review before adoption. The pandemic had served to show that regulation had to be flexible, to adapt to different situations, and more so in law enforcement, including through digital solutions that had become particularly useful.

19. The fourth panellist emphasized the challenge of implementing a clearer and more deliberate approach to ensuring the livelihood of small and medium-sized enterprises in industry value chains. Actions taken in South Africa had included advocating government regulations to allow for fast-track enforcement and decision-making; and the prosecution of price gouging during the pandemic. Inter-institutional working arrangements had been created and the competition authority had actively participated in this process, including through discussions at the Africa Competition Forum, such as on peer learning experiences. Given the increase in electronic commerce activity during the pandemic, a market inquiry into digital platforms had been undertaken, to understand competition and other market dynamics.

20. The fifth panellist noted the need to cooperate with other competition authorities, referring to the work of the competition authority of France with other authorities within the European Competition Network and with a steering committee under the International Competition Network. Advocacy and advisory activities had been conducted to ensure that mechanisms for addressing pandemic-related challenges were not anticompetitive. With regard to mergers, the authority had provided regulatory exemptions for failing firms during the crisis. Competition law and policy needed to add value to favourable economic outcomes in terms of inflation, competitive prices and consumer purchasing power, as well as by assisting small and medium-sized enterprises in being competitive in respective markets, through fair access to digital platforms.

21. The sixth panellist noted that the pandemic had disrupted global food chains, leading to supply disruptions and food shortages. This had led to the exit of some market actors, particularly small and medium-sized enterprises, leading to higher levels of unemployment. In Greece, the competition authority prioritized advocacy through information-sharing on competition issues, and an economic intelligence platform had been created to undertake surveillance of targeted prices, such as of fuel and food, and shared with the task force of the Government. Whistle-blower guidelines had been introduced; cartel enforcement, enhanced; and an electronic commerce inquiry, launched, to understand digital platforms.

Finally, the panellist addressed global institutional cooperation and peer-learning experiences.

22. During the ensuing discussion, one delegate noted the need to review current laws to ensure they were adjusted to the digital economy, particularly those related to international cooperation enforcement. Another delegate noted the importance of cooperation in times of crisis. The representative of one intergovernmental organization advocated effective cooperation in the field of competition policy, noting that no country was an island and that international cooperation equipped agencies in enforcement against anticompetitive conduct. In addition, the UNCTAD secretariat discussed *Review of Maritime Transport 2022*, which, on the theme of consolidation and competition in container shipping, highlighted three trends related to the carrier market and the implications for competition, underlining the supply chain crisis and considering the most appropriate policy options to handle it successfully. A few delegates expressed support for the work of UNCTAD on this matter, including the need to strengthen the Automated System for Customs Data programme with a more comprehensive database and to continue to provide capacity-building to port and competition authorities.

H. Voluntary peer review of competition law and policy: Bangladesh

(Agenda item 8)

23. The voluntary peer review opened with a statement by the Head of the Delegation of Bangladesh, Chair, Competition Commission, who stated that Bangladesh was a thriving country with macroeconomic stability; export earnings had grown exponentially and the country was poised to become the twenty-fifth largest economy in the world by 2035. In this regard, the private sector and microenterprises and small and medium-sized enterprises constituted key drivers of development. The UNCTAD secretariat then presented the main findings and recommendations of the background report (TD/B/C.I/CLP/64), which addressed several substantive competition law issues, as well as institutional issues related to the autonomy of the Commission, investigative tools and private enforcement. Recommendations included proposals for the amendment of the current competition law, including with regard to the sufficient allocation of resources and operational independence, as well as for the training of staff in international best practices, for example with regard to strategy-setting and the prioritization of activities. With regard to broader economic development objectives in the post-pandemic period and the resurgence of microenterprises and small and medium-sized enterprises, UNCTAD recommended that involvement by the Competition Commission in the design of policies related to such enterprises should be formalized through inter-agency collaboration.

24. Representatives of the Governments of India, the Philippines and South Africa acted as peer reviewers. The peer reviewers asked the delegation of Bangladesh about factors taken into consideration in determining relevant markets; market share considerations with regard to infringements; independence and accountability; and merger notification criteria.

25. The Head of the Delegation of Bangladesh addressed the challenges particular to new enforcement regimes, jurisdictional boundaries and relationships with sector regulators, as well as the role of competition policy in the economic development landscape, particularly with regard to the small business community. One peer reviewer stated that in South Africa, in the context of competition law, small and medium-sized enterprises were promoted through the spread of ownership to historically disadvantaged people and exemptions from the enforcement of competition law with regard to conduct that contributed to the competitiveness of such enterprises. For example, the competition legislation had been amended in 2020, to include buyer power provisions. The provisions were expected to prohibit dominant companies from imposing unfair trading conditions on small businesses in the agroprocessing, grocery retail, wholesale, electronic commerce and online marketplace sectors. Guidelines had also been drafted and circulated by the Competition Commission to provide clarity to all concerned businesses.

26. A few delegates expressed appreciation for the peer review and the proposal for a technical assistance project. One delegate expressed interest in volunteering for a peer review of the competition law and policy of the State of Palestine. Another delegate highlighted the investigative process and leniency with regard to collective actions undertaken in the market as matters that would require attention in future intervention.

27. In his closing remarks, a member of the Competition Commission, Bangladesh, stressed the need to build the technical capacity of Commission staff, as well as financial capacity and cooperation at the international and local levels, including cross-border cooperation.

28. The UNCTAD secretariat presented a proposal for a technical assistance project to implement the peer review recommendations. The project would aim at building human and institutional capacity to improve competition enforcement through training, evidence-gathering and documentation management. In addition, the establishment of a working relationship with national universities was proposed, to introduce competition-related programmes in curricula.

I. Review of capacity-building in and technical assistance on competition law and policy

(Agenda item 9)

29. Under the agenda item, the Intergovernmental Group of Experts on Competition Law and Policy held one round-table discussion. In opening the discussion, the UNCTAD secretariat presented the background document on the review of capacity-building in and technical assistance on competition and consumer protection laws and policies (TD/B/C.I/CPLP/31–TD/B/C.I/CLP/65). The panel was composed of the President of the Board, National Competition Commission, Paraguay; the Head, Competition Advocacy, Competition Superintendency, El Salvador; the Head, Competition Policy Division, African Continental Free Trade Area Secretariat; and an economic affairs officer and project coordinator, Economic and Social Commission for Western Asia.

30. The first panellist noted that UNCTAD had assisted in the development of competition law in Paraguay, as well as the training of staff to set up the authority, through the programme on Competition and Consumer Protection Policies for Latin America and regional competition capacity-building programmes. The panellist expressed interest in volunteering for a peer review of the competition law and policy of Paraguay in 2023.

31. The second panellist, stating that sufficient resources were a challenge, including the continuous need to train and retain competent staff, noted an online training session for judges in El Salvador organized by UNCTAD, as well as technical assistance provided with regard to staff training. The training of Supreme Court judges had first been held in 2008 under the auspices of UNCTAD. The role of the judiciary in dispute resolution and impacts on the national economy had been highlighted during training. The competition authority had embarked on anticartel prioritization, following a peer review held in 2012.

32. The third panellist referred to the status of the competition protocol under the African Continental Free Trade Area Agreement and expressed gratitude to UNCTAD for technical assistance and capacity-building in this regard.

33. The fourth panellist stated that the Economic and Social Commission for Western Asia focused on competition issues related to market structures and competitiveness. A memorandum of understanding between UNCTAD and the Organisation for Economic Co-operation and Development with regard to capacity-building in the Arab region, as well as the facilitation of peer learning and experience-sharing, had led to the organization of the annual Arab Competition Forum. In addition, the Development Account project on a global initiative towards the post-pandemic resurgence of the microenterprises and small and medium-sized enterprises sector had led the Commission to streamline focus in supporting such enterprises in the region.

34. During the ensuing discussion, the representative of one intergovernmental organization highlighted inter-agency cooperation facilitated by UNCTAD. The representative of another intergovernmental organization, noting assistance provided by UNCTAD among competition authorities in developing countries, detailed a week-long event held for competition authorities from Africa and Europe in February 2022, which also included representatives from academia; the European Union aimed to organize this event annually.

III. Organizational matters

A. Election of officers

(Agenda item 1)

35. At its opening plenary meeting on 20 July 2022, the Intergovernmental Group of Experts on Competition Law and Policy elected Mr. José Luis Cancela (Uruguay) as its Chair and Mr. Rongvudhi Virabutr (Thailand) as its Vice-Chair-cum-Rapporteur.

B. Adoption of the agenda and organization of work

(Agenda item 2)

36. Also at its opening plenary meeting on 20 July 2022, the Intergovernmental Group of Experts adopted the provisional agenda for the session (TD/B/C.I/CLP/62), as follows:

1. Election of officers.
2. Adoption of the agenda and organization of work.
3. Report on the implementation of the guiding policies and procedures under section F of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices.
4. Report of the working group on modalities of UNCTAD voluntary peer reviews of competition and consumer protection laws and policies.
5. Report of the working group on cross-border cartels.
6. The role of competition law and policy in supporting microenterprises and small and medium-sized enterprises during economic recovery in the post-pandemic period.
7. Rethinking competition law enforcement: Lessons learned from the pandemic, particularly in socially important markets – Challenges and opportunities for an effective response during the pandemic and economic recovery in the post-pandemic period.
8. Voluntary peer review of competition law and policy: Bangladesh.
9. Review of capacity-building in and technical assistance on competition law and policy.
10. Provisional agenda of the twenty-first session of the Intergovernmental Group of Experts on Competition Law and Policy.
11. Adoption of the report of the twentieth session of the Intergovernmental Group of Experts on Competition Law and Policy.

C. Provisional agenda of the twenty-first session of the Intergovernmental Group of Experts on Competition Law and Policy

(Agenda item 10)

37. At its closing plenary meeting on 22 July 2022, the Intergovernmental Group of Experts approved the provisional agenda of the twenty-first session of the Intergovernmental Group of Experts on Competition Law and Policy (annex I).

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

(Agenda item 11)

38. Also at its closing plenary meeting on 22 July 2022, the Intergovernmental Group of Experts authorized the Vice-Chair-cum-Rapporteur to finalize the report after the conclusion of the session.

Annex I

Provisional agenda of the twenty-first 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. Report on the implementation of the guiding policies and procedures under section F of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices.
4. Report of the working group on cross-border cartels.
5. Competition law enforcement issues raised by monopsonies.
6. Interaction between competition and industrial policies.
7. Competition law and policy and sustainability.
8. Voluntary peer review of competition law and policy: Paraguay.
9. Review of capacity-building in and technical assistance on competition law and policy.
10. Provisional agenda of the twenty-second session of the Intergovernmental Group of Experts on Competition Law and Policy.
11. Adoption of the report of the twenty-first session of the Intergovernmental Group of Experts on Competition Law and Policy.

Annex II

Attendance*

1. Representatives of the following States members of the Conference attended the session:

Afghanistan	Kenya
Albania	Kuwait
Algeria	Kyrgyzstan
Angola	Latvia
Argentina	Lebanon
Armenia	Luxembourg
Australia	Madagascar
Austria	Malawi
Azerbaijan	Malaysia
Bahrain	Maldives
Bangladesh	Mali
Barbados	Mexico
Belarus	Morocco
Bolivia (Plurinational State of)	Nicaragua
Brazil	Niger
Brunei Darussalam	Nigeria
Cambodia	Panama
Canada	Paraguay
Chile	Peru
China	Philippines
Colombia	Poland
Congo	Republic of Korea
Costa Rica	Republic of Moldova
Democratic Republic of the Congo	Russian Federation
Dominican Republic	Saudi Arabia
Egypt	Serbia
El Salvador	South Africa
Ethiopia	Spain
France	Sri Lanka
Gabon	State of Palestine
Gambia	Switzerland
Georgia	Thailand
Germany	Türkiye
Greece	Ukraine
Honduras	United Kingdom of Great Britain and Northern Ireland
Hungary	United Republic of Tanzania
India	United States of America
Indonesia	Uruguay
Iraq	Uzbekistan
Ireland	Venezuela (Bolivarian Republic of)
Islamic Republic of Iran	Viet Nam
Italy	Zambia
Jamaica	Zimbabwe
Japan	

* This attendance list contains registered participants. For the list of participants, see TD/B/C.I/CLP/INF.12.

2. The following intergovernmental organizations were represented at the session:
 - African Union
 - Caribbean Community
 - Common Market for Eastern and Southern Africa
 - Commonwealth Secretariat
 - Economic Community of West African States
 - Eurasian Economic Commission
 - European Union
 - General Secretariat of the Andean Community
 - Organisation for Economic Co-operation and Development
 - West African Economic and Monetary Union

 3. The following United Nations organs, bodies and programmes were represented at the session:
 - Economic and Social Commission for Western Asia
 - Economic Commission for Latin America and the Caribbean
 - World Intellectual Property Organization
 - World Trade Organization

 4. The following non-governmental organizations were represented at the session:
 - General category*
 - Consumer Unity and Trust Society International
 - Consumers International
 - Global Traders Conference
 - Institute for Regulation and Competition of the Consumer Unity and Trust Society
 - International Air Transport Association
 - International Federation of Freight Forwarders Associations
 - International Law Association
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