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Report of the Intergovernmental Group of Experts on Competition Law and Policy on its twenty-first session

Held at the Palais des Nations, Geneva, from 5 to 7 July 2023

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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,

Recalling 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, 2020),¹

Recalling 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,

Welcoming the important interventions taken by competition authorities against the cost-of-living crisis consequences through coordinated international and regional actions to mitigate the negative impact on domestic markets, while keeping them open and fair,

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 the need to strengthen the work of UNCTAD in competition law and policy so as to enhance its development role and benefits for consumers, workers and businesses,

¹ TD/RBP/CONF.9/9.

² TD/541/Add.2.

Recognizing that competition law issues arising in monopsony markets need commensurate enforcement attention, since abuse of monopsony power can be as damaging as any other anticompetitive conduct,

Recognizing the need to review the interaction between competition and industrial policies, reflecting recent challenges faced worldwide, including digitalization, sustainable development and the global economic downturn,

Recognizing that further discussions are required on the intersection of competition law and policy with sustainability and on their role in encouraging business innovation and investment in sustainability,

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 twenty-first session,

Taking note with appreciation of the documentation prepared by the UNCTAD secretariat for its twenty-first 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 by Governments and competition authorities in response to the cost-of-living crisis, as well as coordination and information-sharing at the international and regional levels;
3. *Expresses its appreciation* to the Government of Paraguay for volunteering for a peer review of competition law and policy and for sharing its experiences and challenges with other competition authorities during the twenty-first 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 Paraguay;
4. *Encourages* competition authorities to address concerns raised by the abuse of monopsony power through additional enforcement;
5. *Encourages* the improvement of cooperation between competition authorities and ministries of industry and economy and other authorities to enhance their capacity to respond to the recent fast-changing economy and new policy demands;
6. *Encourages* competition authorities to pursue discussions on the intersection of competition law and policy with sustainability and how they can enable markets to work better for sustainable development;
7. *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;
8. *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”;

9. *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 its use by member States;
10. *Emphasizes* the importance of regional cooperation in the enforcement of competition law and policy; and invites competition authorities to strengthen their regional and bilateral cooperation;
11. *Welcomes* the information exchanges and discussions on best practices to promote cooperation between competition authorities in dealing with cross-border cartel cases and common issues in the fight against bid rigging; and decides to renew the mandate of the informal 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, and to report to the twenty-second session of the Intergovernmental Group of Experts on Competition Law and Policy;
12. *Decides* that UNCTAD should, considering past experiences, continue to undertake peer reviews of competition law and policy following requests from member States and in accordance with available resources;
13. *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;
14. *Requests* the UNCTAD secretariat to prepare reports and studies as background documentation for the twenty-second session of the Intergovernmental Group of Experts on Competition Law and Policy on enforcing competition law in digital markets and ecosystems: policy challenges and options;
15. *Requests* the UNCTAD secretariat to facilitate consultations and the exchange of views among member States on the topics of competition policy and poverty reduction; and recent developments in merger control standards;
16. *Requests* the UNCTAD secretariat to prepare, for the consideration of the Intergovernmental Group of Experts on Competition Law and Policy at its twenty-second 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;
17. *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
7 July 2023

II. Chair's summary

A. Introduction

1. The twenty-first session of the Intergovernmental Group of Experts on Competition Law and Policy was held at the Palais des Nations, Geneva, from 5 to 7 July 2023, with physical and remote participation. Representatives from 73 countries and nine 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 emphasized the importance of the role that competition law and policy played in digitalization, and with regard to the current cascading crises and inflation, guarding against harmful market concentration and the concentration of data, which hindered economic growth, innovation and the digital revolution. Competition law and policy were key in ensuring that markets remained vibrant and responsive in the context of increasing economic shocks. The Secretary-General noted that there was a need to foster an environment in which small and medium-sized enterprises could flourish alongside major corporations. She underlined that, without robust competition, there was a risk of stagnating progress towards a cleaner and more sustainable economy. She concluded by stating that competition law and policy were very useful but often overlooked tools in the global policy toolkit, and needed to be utilized.

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)

3. Under the agenda item, the UNCTAD secretariat presented a report on 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 during the period July 2022–June 2023. In May 2023, the UNCTAD secretariat had circulated a survey on member State experiences in using the Set and on better utilization of and possible improvements to the Set, with responses received from 36 competition authorities. The survey results had indicated that the majority of respondents had not used or consulted the Set and that authorities tended to use instruments that were more accessible, long-standing and familiar. However, results also indicated that the Set remained a helpful instrument among younger competition authorities not members of established cooperation frameworks. The results suggested that useful steps could include further dissemination of the Set, the sharing of practical examples of use of the Set and greater active participation and commitments with regard to the Set among competition authorities in developed countries. The UNCTAD secretariat suggested the following recommendations on further work to promote the Set: continuous advocacy activities and further guidance focused on use of the Set; and the gathering and sharing of international and regional cooperation instruments.

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

(Agenda item 4)

4. The UNCTAD secretariat presented the report of the working group. The working group had held three meetings during the period July 2022–June 2023, at which member States had shared experiences of cross-border cartel cases and lessons learned. The secretariat provided suggestions of possible ways forward for the working group, including continuing discussions on practical case studies. Several delegates and the representative of one regional

group 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 associated with multi-jurisdictional cartel investigations. At its closing plenary meeting on 7 July 2023, the Intergovernmental Group of Experts on Competition Law and Policy adopted agreed conclusions on this agenda item (see chapter I).

E. Competition law enforcement issues raised by monopsonies

(Agenda item 5)

5. 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/68). The panel was composed of the following: Commissioner, Federal Trade Commission, United States of America; Acting Director General, Competition Authority, Kenya; Acting Director General, Federal Competition Authority, Austria; Deputy Commissioner, Competition Commission, South Africa; and International Relations Officer, Directorate General for Competition, European Commission.

6. The first panellist emphasized that the exercise of monopsony power in labour markets affected the lives of real people and therefore differed from cases in other input markets. She outlined steps the Federal Trade Commission had taken to better understand and address the exercise of monopsony power in labour markets, including consultations and workshops, law enforcement against non-compete restrictions, incorporation of the analysis of labour markets into merger reviews and the use of other tools such as rules, policies and cross-agency coordination.

7. The second panellist explained the origins and application of the provisions in the Competition Act of Kenya that targeted the abuse of buyer power. He highlighted advocacy measures targeted at consumers and businesses, such as guidelines and codes of conduct, as well as the importance of collaboration with other government agencies and foreign competition authorities.

8. The third panellist outlined legislative provisions applicable to monopsonies in Austria, including on unfair trading practices between suppliers and retailers in the food sector. The panellist suggested that the use of anonymous whistleblowing tools and sectoral inquiries could help overcome the concerns that might prevent competition authorities from receiving complaints or evidence relating to monopsony power.

9. The fourth panellist discussed provisions in the Competition Act of South Africa directed at protecting small and medium-sized enterprises, particularly those owned by historically disadvantaged persons, from unfair prices and trading conditions imposed by dominant buyers. He discussed some of the challenges that the Competition Commission had identified in dealing with monopsonies through advocacy efforts, particularly with regard to attempting to encourage small and medium-sized enterprises to report monopsony practices, given their vulnerability and concerns about being excluded from supply chains.

10. The fifth panellist noted that buyer power was not necessarily contrary to competition law in the European Union, which was consumer-welfare-centric. Instead, it could be assessed through provisions on cartels and abuse of dominance. He suggested that concerns related to monopsony power and unfair competition were often social or political, not strictly a matter of competition law, and might therefore be better addressed through ex ante regulation. With regard to reconciling the position that monopsony power was not anticompetitive per se with the harm that market power caused for consumers, he stated that courts applied competition law principles about market power and its effects on the operation of markets as a whole to decide on cases affecting buyers and sellers.

11. During the ensuing discussion, one delegate stated that action need not be taken against monopsonists if they contributed to downstream markets or advancing consumer welfare, and that the processes of industrialization and privatization had contributed to the development of monopsonies. Some delegates provided an overview of how monopsony power was addressed in their jurisdictions and outlined enforcement actions taken in this

area, with approaches that included legislative provisions that treated monopsonies and monopolies in the same way, dedicated provisions that protected microenterprises and small and medium-sized enterprises, the use of general provisions related to anticompetitive agreements and provisions dealing with unfair practices between buyers and suppliers in the food sector. A few delegates highlighted the difficulties in assessing the market power of buyers. Several delegates identified sectors that exhibited monopsonistic tendencies in food and grocery value chains, digital markets and sports-related labour markets. In addition, some delegates highlighted the use of various advocacy tools such as guidelines and sectoral inquiries to help businesses understand the applicable laws and identify or address monopsony power. A few delegates emphasized the importance of enforcement cooperation between member States with similar laws, noting that codes in the food sector seemed to be a common tool, applied across different jurisdictions.

F. Interaction between competition and industrial policies

(Agenda item 6)

12. 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/69). Both competition and industrial policies aimed at achieving the same goal of economic growth and development, but their interactions might be complementary or in conflict with each other. As new demands for both policies emerged in the context of current economic trends, such as with regard to digitalization, sustainable development and the cost-of-living crisis, there was an opportunity to revisit the interaction and cooperation between competition and industrial policies. The panel was composed of the following: Professor, The George Washington University, United States; Director, Economics Office, Competition Commission, Philippines; Coordinator, Inter-Agency Relations and International Cooperation, Competition Superintendency, El Salvador; and Secretary-General, Consumer Unity and Trusty Society International.

13. The first panellist noted that competition authorities needed to actively monitor cartels and corruption in procurement processes and spend subsidies wisely to respond to the trend of the expansion of subsidies and State aid, underlining the role of competition authorities as advisor and advocate. This could be achieved through cooperation between competition authorities, legislators and ministries of industry. In relation to digitalization, he highlighted the need for competition authorities to strengthen capacity and expertise in digital markets, and the relevance of enforcement-plus measures such as market studies, the building of technical teams within competition authorities, public consultations and accelerated learning through collaboration with academia and other agencies.

14. The second panellist highlighted the importance of improving competitiveness and creating a dynamic industry ecosystem that encouraged entrepreneurship that leveraged new technologies, such as that promoted through the Development Plan of the Philippines. In addition, the National Competition Policy of the Philippines aimed at ensuring collaboration between competition and sectoral regulators; procompetitive policies and government interventions; and competitive neutrality. Industrial policy objectives identified in the Plan and Policy required policy coordination. A competition impact assessment procedure had been established, to systematically examine effects on consumer welfare and market efficiency and identify necessary corrective actions, and the panellist underlined the importance of establishing a mutually beneficial relationship, removing potential policy overlaps and promoting transparency in delivering on policy objectives.

15. The third panellist noted that competition law was cross-cutting across all economic sectors in El Salvador, and highlighted cooperation frameworks for interaction between the competition authority and other public entities, such as on information-sharing, conveying the results of enforcement actions, ex ante merger reviews, market studies, including public policy recommendations, and agreements with other public authorities. She highlighted a successful example of cooperation that had improved the dynamism of the electricity market through a market study by the competition authority that had identified measures the electricity regulator could take to promote competition. She also highlighted other

collaboration mechanisms, in particular, sectoral regulatory laws that mandated collaboration with the competition authority, bilateral and multi-agency agreements with other public authorities and references in public policies to competition, as well as collaboration with the Ministry of Economy in the context of its role in regional competition regulation.

16. The fourth panellist highlighted that there was a re-emerging debate on the role of industrial policy, given the possible conflict between competition and industrial policies. However, they could complement each other in building a successful economic system. The panellist emphasized that a successful model of industrial development needed competition as its basis with, in addition, carefully designed industrial policies, without violating competition rules. He stated that member States needed to look towards fair-market capitalism, which encouraged a diversified global supply chain based on open and fair trade, rather than a protectionist industrial policy approach involving national champions.

17. During the ensuing discussion, one delegate noted that competition authorities needed to promote competition assessment tools to quantify market distortions caused by industrial policies, and encouraged UNCTAD to support Governments in developing such tools. Another delegate highlighted the importance of collaborating with academia and other experts to augment the limited human resources of competition authorities; and stated that there was a need to consider introducing new competition law amendments to digital regulations that would allow external experts to participate in law enforcement. One delegate stressed the importance of advocacy and joint work between competition authorities and sectoral regulators. A few delegates highlighted that international cooperation through international platforms, including UNCTAD, were crucial, for competition authorities to effectively respond to digitalization and to create global governance frameworks.

G. Competition law and policy and sustainability

(Agenda item 7)

18. 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 outlined its activities with regard to competition law and policy and sustainability and provided an overview of actions taken by competition authorities. The panel was composed of the following: President, Competition Commission, Greece; Deputy Director, Coordination Division, Japan Fair Trade Commission; Chair, Competition Committee, Organisation for Economic Co-operation and Development; Managing Partner, Bryan Cave Leighton Paisner; and Global General Counsel, Competition, Unilever.

19. The first panellist provided an overview of the approach of the Japan Fair Trade Commission, under its new green guidelines, for analysing whether horizontal coordination, unilateral conduct (in particular, refusal to deal) and abuse of a superior bargaining position undertaken for sustainability purposes contravened competition law. The “substantial restraint of competition” element of cartel infringements under the competition law allowed the Commission to apply a rule of reason test to non-hardcore cartels and treat contributions to sustainability as procompetitive effects. Finally, he outlined the intention of the Commission to continuously review the green guidelines and actively respond to requests for consultations on their application.

20. The second panellist discussed supply-side and demand-side issues and Government actions with regard to sustainability challenges, exploring the complexities of the relationship between competition and sustainability, which included the risk of greenwashing. The panellist suggested that competition authorities should take a longer-term view in analysis, in particular by considering dynamic efficiency and innovation. In addition, he discussed the disproportionate effect of climate change in developing countries and suggested that competition authorities and frameworks should recognize sustainability benefits delivered to developing countries.

21. The third panellist outlined the challenges in identifying whether collaboration, competition or regulation would best promote sustainability, and discussed whether competition authorities were well placed to promote sustainability. He noted the particular approaches of selected jurisdictions, categorizing them into the following three groups: reformers that had begun to apply total or societal welfare standards to meet sustainability

challenges; retainers that had applied pre-existing competition frameworks to sustainability issues and relied on government policy, not competition law, to promote sustainability; and competition authorities that monitored developments and had not yet decided on an approach. The panellist encouraged the greater convergence of views on competition and sustainability, to give businesses the necessary confidence to invest, stating that UNCTAD could assist in this regard through research and advising on best practices.

22. The fourth panellist noted that competition authorities had changed focus over time, from economic efficiency to consumer welfare, and currently included sustainability considerations. He discussed tensions between achieving the Sustainable Development Goals and competition enforcement, and the difficulties authorities faced when assessing trade-offs involving sustainability. He suggested that the focus of the consumer welfare standard on current customers in certain geographical product markets made it inappropriate with regard to sustainability-related challenges. In particular, competition analysis needed to start accounting for collective benefits and not only benefits to consumers in the relevant market, and for a broader range of dimensions than price and output. Finally, the panellist outlined a “sandbox” tool used in Greece to reduce legal uncertainty and risk for businesses, and suggested that member States could consider introducing laws against unsustainable business practices.

23. The fifth panellist discussed the complementary relationship between competition law and sustainability. Competition could drive businesses to respond to consumer demands related to sustainability, but the first mover disadvantage could lead businesses to avoid innovation. He described this as a gap or residual market failure that could be partly filled through collaboration. Guidelines recently published by competition authorities served as a step towards recognizing sustainability objectives in a competition framework and could aid companies considering sustainability initiatives, yet further clarity was needed on how competition authorities could approach economic efficiencies and other benefits generally. Finally, the panellist noted the risk of greenwashing, whereby businesses might set shared standards at levels that were artificially low.

24. During the ensuing discussion, a few experts suggested that discussions about sustainability and competition should also consider other elements of the Sustainable Development Goals, such as social and economic development. One delegate, noting that additional developing country representatives could have been included on the panel, gave an example of how South Africa had dealt with a sustainability initiative related to maize seeds, and noted that many developing countries had competition laws that did not narrowly focus on consumer welfare.

H. Voluntary peer review of competition law and policy: Paraguay (Agenda item 8)

25. The voluntary peer review opened with a statement by the Head of the Delegation of Paraguay, President, National Competition Commission. The review, which took place 10 years after the enactment of the first competition law in Paraguay and the establishment of the competition authority, aimed to bring the legal and institutional competition frameworks of Paraguay in line with international best practices. The UNCTAD secretariat then presented the main findings and recommendations of the background report (TD/B/C.I/CLP/70), which addressed legal and institutional issues. Recommendations had been made with regard to amendments, including on the adoption of a per se rule for hardcore cartels, the removal of consciously parallel practices from the list of prohibited agreements, the explicit determination that the list of abusive conduct was indicative and not restrictive and the inclusion of a leniency programme that granted total or partial immunity to cooperating companies. Additional proposed improvements included the establishment of a sectoral regulator for electricity and the disqualification from public procurement of participants in collusive conduct.

26. Representatives of the Governments of Brazil, the Republic of Korea and Spain acted as peer reviewers. In response to queries from peer reviewers, the delegation of Paraguay expressed support for the introduction of a leniency programme and a per se prohibition of hardcore cartels; reviewed the outcomes of an assessment of the decisions of the National Competition Commission by the

Court of Auditors; and presented the procedure that the Evaluation Board followed to nominate members of the Board of the Commission.

27. The Head of the Delegation of Paraguay asked questions regarding delays for competition procedures and the use of technological tools in competition enforcement against collusion in public procurement processes. Two reviewers offered to cooperate with Paraguay on improving technological tools for competition enforcement in public procurement. With regard to questions from the Head of the Delegation of Paraguay, one delegate presented the experience of the national competition observatory in the Dominican Republic that covered all economic sectors, and presented a market study on public aid.

28. The UNCTAD secretariat presented a proposal for a technical assistance project to implement the peer review recommendations. The project would involve reviewing the competition law and aim at building human and institutional capacity to improve competition enforcement, as well as advocacy, through training and collaboration agreements with other official bodies, such as regulators, public agencies and the judiciary.

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 two round-table discussions.

1. Capacity-building and technical assistance

30. 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/36-TD/B/C.I/CLP/71). The panel was composed of the following: President, National Commission for the Defense of Competition, Dominican Republic; Secretary-General, Competition Council, Morocco; Analyst, Competition Commission, Democratic Republic of the Congo; Economic Affairs Officer, Economic and Social Commission for Western Asia; and Judge, Court of Appeal, Madrid.

31. The first panellist highlighted UNCTAD assistance in organizing the group on trade and competition with the Latin American Economic System. She stated that the eleventh session would take place in the Dominican Republic in November 2023, to discuss competition, trade and regulation issues in financial technology markets.

32. The second panellist noted the importance of training and awareness-raising activities, and described several events organized on a regular basis to raise awareness of the importance of competition and to train officials in this field. He underlined the importance of UNCTAD support, and referred to a competition and media event and a training course for judges co-organized with UNCTAD.

33. The third panellist expressed gratitude to UNCTAD for support received with regard to the drafting and implementation of the competition law of the Democratic Republic of the Congo. He detailed a technical cooperation project recently launched with UNCTAD, to enable the creation and implementation of competition and consumer protection authorities and policies that would assist sustainable economic development in the country.

34. The fourth panellist highlighted the relationship with UNCTAD, referring to a memorandum of understanding between UNCTAD and the Organisation for Economic Cooperation and Development, aimed at fostering competition law and policy in Arab States, which had enabled the creation of the Arab Competition Forum. She described the discussions that had taken place at the Forum, particularly at the fourth edition held in Riyadh in May 2023.

35. The fifth panellist referred to the role of judges in applying competition law, and emphasized the need to train judges in this complex area, in which economic analysis was crucial. She noted the importance of UNCTAD work in this area.

36. During the ensuing discussion, one delegate welcomed assistance from the Economic and Social Commission for Western Asia and UNCTAD in creating the Arab Competition Forum. Another delegate highlighted UNCTAD technical cooperation with Portuguese-speaking developing countries, the financial contribution from Portugal that had made the project possible and technical cooperation from Brazil. One delegate emphasized the importance of training, which was one of the pillars of the Egypt strategic plan for 2021–2025. Another delegate expressed appreciation to UNCTAD for work on drafting and implementing competition law over the last 10 years in Paraguay.

2. Competition and regional economic organizations

37. The second round-table discussion centred on the importance of and developments related to regional economic organizations. The panel was composed of the following: Director, Office of Competition and Consumer Protection, Poland; Minister in Charge of Competition and Antitrust Regulation, Eurasian Economic Commission; Chief Executive Officer, Competition Commission, Common Market for Eastern and Southern Africa; and Head, Investigations and Litigation Division, Commission, West African Economic and Monetary Union.

38. The first panellist detailed a memorandum of regional cooperation in the field of competition policy signed on April 2023. She highlighted the importance of cooperation with other organizations such as the European Commission, International Competition Network, Organisation for Economic Co-operation and Development and UNCTAD.

39. The second panellist discussed the advantages of regional competition policies, including creating a level playing field for businesses within a region, facilitating regional economic integration, enhancing regional competitiveness and protecting consumer interests. In addition, he provided an overview of issues discussed at recent meetings of the Eurasian Economic Commission.

40. The third panellist highlighted recent discussions of the Competition Commission of the Common Market for Eastern and Southern Africa, which had embarked on a review of competition regulations and rules, identifying areas for improvement. He emphasized that the combined efforts of different stakeholders were important for the success of the regional economic community.

41. The fourth panellist noted achievements by the West African Economic and Monetary Union in intervening in competition rule disputes in member State efforts to improve current systems, such as in the area of ex ante merger control; and success in overcoming difficulties associated with regional cooperation, to implement competition policies consistent with international standards.

42. During the ensuing discussion, one delegate highlighted efforts to establish a Central American competition committee as a regional organization with regional competition regulations and how it actively promoted competition based on efficient communications among representatives and common policy objectives. Another delegate highlighted the work of member States of the Eurasian Economic Commission as helpful for sharing similar experiences and promoting regional cooperation. One delegate noted progress on regional cooperation, based on the expert group on competition of the Association of Southeast Asian Nations. Another delegate indicated a need for technical cooperation in the State of Palestine and interest in discussing issues related to regional organization achievements at future sessions of the Intergovernmental Group of Experts.

43. The UNCTAD secretariat underscored the discussion on consolidation and competition in container shipping in Review of Maritime Transport 2022, highlighting horizontal and vertical consolidation trends in container shipping lines and the impacts of consolidation on markets, which included higher maritime transport costs, lower liner shipping connectivity in small island developing States, less choice for clients and stronger buyer power. Policy considerations in this regard included supporting smaller and vulnerable economies, including through alliances and consortiums with regard to competition assessments; keeping ports competitive; and seizing opportunities for international cooperation.

III. Organizational matters

A. Election of officers

(Agenda item 1)

44. At its opening plenary meeting on 5 July 2023, the Intergovernmental Group of Experts on Competition Law and Policy elected Ms. Doris Tshepe (South Africa) as its Chair and Mr. Gegham Gevorgyan (Armenia) as its Vice-Chair-cum-Rapporteur.

B. Adoption of the agenda and organization of work

(Agenda item 2)

45. Also at its opening plenary meeting on 5 July 2023, the Intergovernmental Group of Experts adopted the provisional agenda for the session (TD/B/C.I/CLP/67), 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 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.

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

(Agenda item 10)

46. At its closing plenary meeting on 7 July 2023, the Intergovernmental Group of Experts approved the provisional agenda of the twenty-second session of the Intergovernmental Group of Experts on Competition Law and Policy (annex I).

D. Adoption of the report of the twenty-first session of the Intergovernmental Group of Experts on Competition Law and Policy

(Agenda item 11)

47. Also at its closing plenary meeting on 7 July 2023, 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-second 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. Enforcing competition law in digital markets and ecosystems: Policy challenges and options.
6. Round table on competition policy and poverty reduction.
7. Round table on recent developments in merger control standards.
8. Voluntary peer review of competition law and policy.*
9. Review of capacity-building in and technical assistance on competition law and policy.
10. Provisional agenda of the Ninth United Nations Conference to Review All Aspects of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices.
11. Adoption of the report of the twenty-second session of the Intergovernmental Group of Experts on Competition Law and Policy.

* Member State to be determined.

Annex II

Attendance**

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

Albania	Greece	Portugal
Algeria	Guinea-Bissau	Republic of Korea
Angola	Haiti	Republic of Moldova
Armenia	India	Russian Federation
Austria	Indonesia	Sao Tome and Principe
Bangladesh	Italy	Saudi Arabia
Barbados	Jamaica	Seychelles
Belarus	Japan	South Africa
Bhutan	Kazakhstan	Spain
Brazil	Kenya	Sri Lanka
Cabo Verde	Kuwait	State of Palestine
Chile	Latvia	Switzerland
China	Malaysia	Thailand
Colombia	Mali	Trinidad and Tobago
Congo	Mexico	Tunisia
Costa Rica	Morocco	Türkiye
Croatia	Mozambique	Ukraine
Democratic Republic of the Congo	Namibia	United Kingdom of Great Britain and Northern Ireland
Dominican Republic	Nigeria	United States of America
Egypt	Pakistan	Uruguay
El Salvador	Papua New Guinea	Uzbekistan
Gabon	Paraguay	Yemen
Gambia	Peru	Zimbabwe
Georgia	Philippines	
Germany	Poland	

2. The following intergovernmental organizations were represented at the session:

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 Asia and the Pacific
Economic and Social Commission for Western Asia

4. The following specialized agencies and related organizations were represented at the session:

World Intellectual Property Organization
World Trade Organization

** This attendance list contains registered participants. For the list of participants, see TD/B/C.I/CLP/INF.13.

5. The following non-governmental organizations were represented at the session:

General category

China-Africa Business Council
Consumer Unity and Trust Society International
Consumers International
Global Traders Conference
International Federation of Freight Forwarders Associations
