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Consultations and discussions regarding peer reviews on competition law and policy, review of the Model Law, and studies related to the provisions of the Set of Principles and Rules

Capacity-building extended to young competition agencies

Note by the UNCTAD secretariat

Executive Summary

UNCTAD provides capacity-building and technical assistance on competition law and policy to developing countries and economies in transition in accordance with the requests received and the resources available. Activities include both national and regional assistance in drafting competition laws and application guidelines, as well as institutional capacity for better implementation of competition laws. In addition, activities include competition advocacy for the creation of a competition culture and promotion of consumer welfare. Since the United Nations Fifth Review Conference on the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices (United Nations Set hereunder) in 2005, a new impetus was given to UNCTAD support to developing countries through the voluntary peer review of the competition policy of some of the countries. Recommendations of the peer reviews are translated into capacity-building projects to enhance the competition regime of the beneficiary country. This document is a progress report on the activities carried out in 2011. It contains information provided by member States and international organizations on technical cooperation activities provided or received, bilaterally or regionally, in the area of competition law and policy.

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Introduction

1. The United Nations Set of Principles and Rules on Competition, adopted by the General Assembly in 1980 (General Assembly resolution 35/63 of 5 December 1980 – TD/RBP/CONF.10/Rev.2), calls on UNCTAD and its member States in Section F, paragraphs 6 and 7, to provide technical assistance, advisory and training programmes on restrictive business practices, particularly for developing countries. The Sixth United Nations Conference to Review All Aspects of the Set, in paragraph 4 of its resolution (TD/B/RBP/CONF.7/L.16, further requests the UNCTAD secretariat – taking into account increased needs for technical cooperation and technical assistance for all developing countries, including small island developing States, landlocked developing countries and other structurally weak, vulnerable and small economies and countries in transition – to carry out, in consultation with other organizations and other providers so as to avoid duplication, a review of technical cooperation activities, with a view to strengthening its ability to provide technical assistance for capacity-building in the area of competition law and policy

2. Subsequently, in paragraph 10 of the agreed conclusions of the eleventh annual session of the Intergovernmental Group of Experts (IGE) on Competition Law and Policy (18–21 July 2011), member States requested the UNCTAD secretariat to prepare for the consideration of the twelfth session of the IGE and to include on its website an updated review of capacity-building and technical assistance.

3. Accordingly, this study contains information on the capacity-building and technical cooperation activities of the UNCTAD secretariat since 2011, as well as information provided by member States and international organizations to UNCTAD on technical cooperation activities in the field of competition law and policy.¹

I. Progress report on UNCTAD capacity-building and technical cooperation activities

4. Since the adoption of the United Nations Set in 1980, UNCTAD has provided capacity-building and technical assistance on competition law and policy to developing and least developed countries as well as countries in transition in accordance with requests received, the needs of the countries concerned and resources available. UNCTAD technical assistance is also conducted in the wake of the recommendation deriving from its Voluntary Peer Review (VPR) on Competition Policy launched in 2005.

5. It should be pointed out that, since 2007, at the request of its member States and in accordance with recommendation 19 of the Report of the Panel of Eminent Persons concerning the “need of consolidation of technical cooperation projects and requested the secretariat to initiate... in consultation with member States” the process of the establishment of “thematic trust funds within and among divisions”.² In response to this

¹ The following member states and organizations responded to our questionnaire on capacity-building: Lithuania, Japan, Korea, Turkey, United States of America, European Union, and International Competition Network (ICN).

² UNCTAD (2010) "Assessment of the application and implementation of the set". Note by UNCTAD secretariat. Sixth United Nations Conference to Review All Aspects of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices, Geneva, 8–12 November 2010.

decision, and in order to streamline UNCTAD's technical assistance activities and increase impact, two initiatives were taken by the secretariat:

- (a) An extension of the COMPAL program, with increased country coverage from 5 to 10, and;
- (b) Launch of a regional program for Africa, AFRICOMP.

In providing its assistance, UNCTAD often collaborate with other member States and development partners.

A. UNCTAD's technical assistance and capacity-building approach

6. UNCTAD's capacity-building and technical assistance to developing countries and economies in transition is based on two approaches:

1. The Intergovernmental Group of Experts on competition law and policy

7. Since the adoption of the Set of Multilateral Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices (United Nations Set hereunder), each year the Intergovernmental Group of Experts on competition law and policy requested the secretariat to prepare an updated review of capacity-building and technical assistance, taking into account information supplied by member States. Accordingly, member States are requested to provide the secretariat with information on technical cooperation activities and advisory and training services in the area of competition policy in order to enable it to prepare the updated review. In particular, information is requested on:

- (a) Technical cooperation provided or planned by States and international agencies, bilaterally or multilaterally, with identification of priorities and the potential for providing this assistance;
- (b) Bilateral or multilateral assistance received by States, and;
- (c) Technical assistance requested by developing countries and countries with economies in transition, identifying specific competition law and policy areas or issues that they wish to receive priority attention.

2. Ad hoc requests

8. Parallel to the IGE approach, UNCTAD's assistance is provided on an *ad hoc* basis. Indeed, it happens that before or after the adoption of a competition law, member States request technical assistance and capacity-building from UNCTAD. In order to respond effectively in providing tailor-made assistance, UNCTAD send a matrix to the recipient country to assess its specific needs. The following information appears in the matrix:

- (a) Specific area of assistance;
- (b) Detail on type, scope and objectives of activities requested;
- (c) Final and intermediate beneficiaries of assistance;
- (d) Expected results;
- (e) Expected contribution by UNCTAD (area and form);
- (f) Contribution by beneficiary;
- (g) Time frame, and;

(h) Possible contribution of other partners/donors.

B. Overview of UNCTAD's technical assistance and capacity-building activities

9. In general, UNCTAD provides its technical assistance on competition laws and policies in conducting activities at national, regional and sub-regional levels.

10. At national level, UNCTAD provides technical assistance related to the preparation, adoption, revision or implementation of national competition legislation and also by building national institutional capacity to enforce effective competition legislation. UNCTAD therefore organizes:

(a) Assistance in the preparation of competition and consumer protection laws and related legislation;

(b) Consultative meetings to review draft competition laws with representatives of Governments. These activities represent an essential step in the way of competition legislation adoption;

(c) Intensive courses on competition laws and policies including training courses on evidence-gathering in competition cases;

(d) Training courses for judges on issues related to competition laws and policies;

(e) Training courses on the implementation of competition law for newly appointed commissioners.

11. At regional level, UNCTAD assists in drafting and implementing regional legislation on competition. It also organizes a number of conferences, seminars and workshops aimed at contributing to capacity-building and multilateral cooperation in the competition area. At the regional and sub-regional level, UNCTAD therefore organizes:

(a) Studies and reports on strengthening institutions in the area of competition;

(b) Regional workshops/conferences on competition law and policy;

(c) International conferences on competition policies for African, Arab, Latin American and Asian countries;

(d) Studies and reports on a possible framework for cooperation on competition policy, trade and related issues for regional integration groupings.

12. The main capacity-building and technical assistance provided by UNCTAD's secretariat are described in the table below.

Table 1
Summary of countries' requests and UNCTAD technical assistance in 2011

<i>Request/Beneficiary</i>	<i>Activities related to drafting or review of laws and policies</i>	<i>Institutional building</i>	<i>Advocacy activities</i>	<i>Training of local officials</i>	<i>Peer reviews and follow-up</i>	<i>Consumer Protection</i>	<i>Regional and sub-regional activities</i>
Angola	x		x	x		x	
Armenia					x		
Benin				x	x		x
Bhutan	x					x	
Botswana	x						
Burkina Faso				x	x		x
Cameroon		x					
Central African Republic	x						
Colombia		x		x			x
Comoros (the)	x						
Congo (the)	x		x				
Costa Rica	x	x				x	x
Côte d'Ivoire				x	x		x
Dominican Republic		x					
Ecuador		x					x
El Salvador	x	x		x		x	x
Gambia (the)	x						
Ghana	x					x	
Guatemala	x						
Guinea-Bissau				x	x		x
Honduras					x		
Kenya		x		x	x		
Malawi		x					
Malaysia			x	x			
Mali				x	x		x
Mongolia			x		x		
Mozambique	x					x	

<i>Request/Beneficiary</i>	<i>Activities related to drafting or review of laws and policies</i>	<i>Institutional building</i>	<i>Advocacy activities</i>	<i>Training of local officials</i>	<i>Peer reviews and follow-up</i>	<i>Consumer Protection</i>	<i>Regional and sub-regional activities</i>
Nicaragua	x	x	x	x		x	x
Niger (the)				x	x		x
Nigeria		x					
Papua New Guinea	x						
Pakistan					x		
Paraguay		x	x	x			x
Peru	x	x		x			x
Qatar			x	x			
Rwanda		x		x			
Saint Lucia	x						
Samoa	x						
Senegal				x	x		x
Serbia			x		x		
Seychelles		x				x	
Sierra Leone	x	x	x	x		x	
United Republic of Tanzania (the)				x	x		x
Togo				x	x		x
Tunisia				x			
Ukraine					x		
Zambia					x		
Zimbabwe				x	x		
SADC*		x					x
WAEMU**		x		x			x

* The Southern African Development Community.

** The West African Economic and Monetary Union.

1. Activities extended to individual countries

13. In 2011, UNCTAD continued its demand-driven efforts to assist in the creation of a competition culture in developing countries. To that end, UNCTAD provided technical assistance in connection with the preparation, adoption, revision or implementation of

national competition and consumer protection policies and legislation, as well as in areas contributing to a better understanding of the issues involved, and building national institutional capacity to enforce effective competition legislation. UNCTAD also assisted Governments in identifying the role of competition policy in development, its implication at national, regional and international levels, as well as strategies for regional and subregional cooperation in this field. In 2011, the main areas of UNCTAD's technical assistance were as follows.

1.1. Competition advocacy

14. UNCTAD's various advisory and training efforts were combined with other or provided through a variety of seminars, workshops, other meetings and activities directed at stakeholders, specific officials or a wide audience including Government officials and academics, as well as business and consumer-oriented circles. These activities contributed to raising awareness of the role of competition and promoting competition culture. In this regard, a national workshop was organized in Sierra Leone in February 2011 to sensitize Government officials, the representatives of the business community and civil society on the benefits of competition law and policy for the national economy. An advocacy workshop was also co-organized with the Government of the Republic of the Congo in Brazzaville in June 2011 to analyze the main provisions of the draft Competition Bill with all stakeholders at the national level, taking into consideration the specificity of its economic structure and its membership with the Central African Economic and Monetary Union (CEMAC) which adopted regional competition rules in 1999.

15. An introductory workshop on competition law and policy was conducted for the Malaysia Competition Commission in Kuala Lumpur in July 2011.

16. Under the national components of the COMPAL programme, workshops were organized in Bogota, Colombia and Lima, Peru from 14 to 19 March to disseminate the main findings of two reports on collusive practices and abuse of dominance. In addition UNCTAD contributed to the Southern African Development Community's roundtable on competition policy in Lusaka (27–28 October 2011). UNCTAD assisted the Indonesian Commission for the Supervision of Business Competition (KPPU) to organize the first Association of Southeast Asian Nations (ASEAN) Competition Conference in Bali (15–16 November 2011). It was an opportunity to explore ways of cooperation with the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) in the ASEAN region, and to network with representatives of competition authorities/ministerial departments in charge of competition issues in ASEAN member States.

1.2. Assistance in the preparation of national competition laws

17. Within the framework of the efforts to help countries draft and/or review their competition legislation, assistance was provided to the Gambia on the guideline and interpretation aid included in its Competition Act. UNCTAD's recommendations were submitted to the government of Ghana on the appropriate provision to be incorporated into its draft Competition Bill. On June 2011, a consultation meeting was organized with the Ministry of Economic affairs of Bhutan and with all the agencies and departments in Thimphu to discuss the general framework of its competition policy. UNCTAD also contributed to the preparation of the outline for the regulation of competition law in Kuala Lumpur, Malaysia, in August 2011.

1.3. Training of case handlers

18. Within the framework of training activities for competition case handlers, several training workshops were organized in 2011. One regional training workshop on mergers for prosecutors was organized in San Salvador in February. Another training workshop on

mergers was organized in Managua in February. In March, a regional training workshop on collusive practices was organized in Bogota, Colombia. UNCTAD conducted a fact-finding mission to the Indonesian KPPU as part of developing the cartel detection and investigation capacities for the KPPU on July 2011 in Jakarta, Indonesia. The manual will be used to train officials working with the commission in Indonesia. A validation workshop of the manual adapted to Indonesian competition law and policy was conducted in Jakarta on October 2011. During the eleventh session of the Intergovernmental Group of Experts on competition policy which was held in Geneva from 19 to 21 July 2011, a training session on competition policy was organized by UNCTAD for competition officials from Sierra Leone in order to equip them with adequate skills to enforce their competition law.

1.4. *Institution-building*

19. UNCTAD support to countries that have adopted national legislation, as well as newly established competition agencies, includes activities in support of institution-building. In this area, bilateral consultations were held in March 2011 with the Government of Tunisia to update planned technical assistance activities, particularly for the training of judges and the training centre on competition law and policy created in compliance with the recommendations of the peer review of their competition policy held in 2006. A training course on competition law and policy was organized by the Tribunal Vasco de la Defense de la Competencia on 27 June 2011. UNCTAD attended and delivered presentations in a seminar on mergers and acquisitions and model organizations for competition authorities in Clark City, the Philippines, 24–25 August 2011.

20. UNCTAD also organized a study tour to the Netherlands Competition Authority (NMa) and the ICN cartels workshop for competition officials from Armenia, Malaysia and Serbia as support for the establishment of the Malaysian competition authority in October 2011. Under the national component of COMPAL, UNCTAD participated in the benchmarking event for the future competition authority in Santo Domingo, Dominican Republic.

1.5. *Consumer protection*

21. UNCTAD has been assisting developing countries and economies in transition on consumer protection issues. In 2011 UNCTAD assisted the following countries in drafting their consumer law: Angola, Bhutan, Seychelles and Sierra Leone. Thanks to the COMPAL programme, UNCTAD also assisted beneficiary countries in the preparation of their consumer law, namely: Nicaragua and Peru. In addition, several activities including advocacy workshops on consumer protection issues were organized under the COMPAL Programme. Table 2 provides information on activities conducted in 2011.

Table 2

Activities on consumer protections issues under COMPAL in 2011

<i>Country</i>	<i>Activities conducted</i>
The Plurinational State of Bolivia	<ul style="list-style-type: none"> • Strategy for sustainable consumption • Consumer Policy Framework
Colombia	<ul style="list-style-type: none"> • Compilation of norms, doctrine, jurisprudence on - Competition & consumer protection laws • Media strategy

<i>Country</i>	<i>Activities conducted</i>
Costa Rica	<ul style="list-style-type: none"> • Software for handling and managing virtually consumer complaints • SAAM (automatic system for monitoring of markets) • Redesign of the institutional website
El Salvador	<ul style="list-style-type: none"> • Educational projects for consumer associations • Training workshops for suppliers with emphasis on - Small and Medium-sized Enterprises (SMEs) • New centres (shop fronts) for consumer complaints • Training workshops for journalists and judges
Ecuador	<ul style="list-style-type: none"> • Technical assistance on mediation and other techniques • Visit tours to Spanish and Hong Kong (China) consumer agencies
Nicaragua	<ul style="list-style-type: none"> • Strategic plan for market organisation and productivity • Market observatories • Consumer education • Promoting the creation of consumer associations • Centres for consumer complaints nationwide
Peru	<ul style="list-style-type: none"> • Compilation of binding administrative rulings on consumer protection • Assessment of the quality/price relationship on goods and consumer satisfaction • Training workshops for the regional offices of the National Institute for the Defence of Competition and Intellectual Property • Labelling manual • Diagnosis of sectors where informality is present • Analysis of barriers to entry into doing business

Source: Information provided by the Programme Manager of COMPAL.

1.6. *Peer review and follow-up*

22. With a view to ensuring coherence between overall governmental approaches to privatization and liberalization of trade and investment regimes, UNCTAD has initiated the organization of *ad hoc* voluntary peer reviews on competition law and policy. Such reviews provide an ideal forum to review how economic reforms can promote development and ensure that markets work for the poor. Since the Fifth United Nations Review Conference the following countries were reviewed: Kenya and Jamaica (2005), Tunisia (2006), Costa Rica (2008), Indonesia (2009), Armenia (2010) and Serbia (2011). UNCTAD plans to conduct a tripartite peer review of competition policy of the United Republic of Tanzania, Zambia and Zimbabwe in 2012 during the twelfth Session of the Intergovernmental Groups of Experts on Competition Law and Policy.

23. The eighth session of the Intergovernmental Group of Experts on Competition Law and Policy provided a framework within which UNCTAD was able to carry out a voluntary peer review on competition law and policy of WAEMU and its eight member States. It was the first-ever review of a regional grouping's competition policy and it highlighted the challenges and opportunities which developing countries face in strengthening their regional cooperation and integration schemes.

24. The peer reviews have become an appreciated part of UNCTAD's work on technical assistance. It gave rise to a range of recommendations on how the application of the legislation might be made more effective at regional and national levels and through UNCTAD to build capacity for the enforcement and advocacy of competition policy. In this regard, during 2011 workshops to follow up peer review recommendations were organized in Armenia and Kenya. The workshops aimed at assessing the progress achieved by the competitions authorities in the respective countries in order to enhance the enforcement of their competition law. Moreover, UNCTAD accompanied the Armenian, Serbian and Malaysian competition officials to the International Competition Network (ICN) cartel workshop as a follow-up capacity-building activity to the UNCTAD peer reviews of competition law and policy in Armenia and Serbia (October 2011).

2. **Regional and subregional activities**

25. UNCTAD technical cooperation and capacity-building activities have been increasingly provided within the framework of regional and subregional groupings.

(a) *COMPAL*

26. Activities carried out under the programme on competition and consumer protection policies for Latin America, supported by the Swiss State Secretariat for Economic Affairs and the Government of Spain contributed to strengthening competition and consumer protection law and policies in the beneficiary countries. Indeed, since the First Annual Conference of COMPAL held in San Salvador in April 2010 and the Second Annual Conference in Bogota in July 2011, UNCTAD, within the framework of the COMPAL II programme, has continued to actively implement technical assistance to beneficiary countries, namely, the Plurinational State of Bolivia, Colombia, Costa Rica, Ecuador, El Salvador, Guatemala, Honduras, Nicaragua, Paraguay, Peru, Uruguay and Dominican Republic. This comprehensive programme comprises the preparation of sectoral in-depth studies, reports, manuals, guidelines, brochures, seminars, workshops and training activities targeting various stakeholders. In order to expand COMPAL's range of activities and establish synergies for the activities initiated during the first year of COMPAL II, building on the name COMPAL, the programme has expanded to include a group of partner countries. Indeed, COMPAL granted technical cooperation to the Dominican Republic with

some funds granted by the Governments of Spain and Ecuador. Paraguay and Uruguay have their national projects and have benefited from the cooperation of COMPAL through the regional component. The Plurinational State of Bolivia benefited from the remaining funds from COMPAL I. It should be noted that COMPAL participants like Brazil and Chile offer technical training. Thus COMPAL coverage in the region of Latin America includes countries in Central America and the Caribbean (Costa Rica, El Salvador, Nicaragua and the Dominican Republic), members countries of the Andean Community of Nations -CAN- (the Plurinational State of Bolivia, Colombia, Ecuador and Peru), Chile and MERCOSUR (Brazil, Paraguay, Uruguay). The programme is open to other initiatives for the remaining Latin American countries and to other countries expressing interest in collaborating with COMPAL.

27. Following the successful implementation of COMPAL I (2005–2008), resources were obtained in 2008 to launch the COMPAL II programme (2009–2012), including Colombia as the sixth beneficiary country and comprising activities at both national and regional levels.

28. In the field of regional cooperation, activities with a regional component complement those that are made in the forums or regional groups. Regional components aim at strengthening cooperation between beneficiary countries and disseminating lessons learned from COMPAL activities throughout Latin America. UNCTAD believes that the exchange of experiences among COMPAL countries is a key element that nourishes the specific activities agreed upon with the donors of COMPAL, under the regional component. In this respect, UNCTAD deployed efforts to further improve these exchanges of experiences which, will doubtless benefit the regional impact at the start of COMPAL II in the regional component.

29. Under the regional component of COMPAL, UNCTAD organized the First International Forum on Consumer Protection at Guayaquil in March 2011. There were representatives from all Latin American countries and the Caribbean, as well as Spain, the Netherlands, and others. At the conclusion of the First Forum, the members discussed the possibility of holding a second forum where they would be able to address topics such as:

- (i) The entry and marketing of industrial products that are defective or originating through border trade;
- (ii) The need for international cooperation in this area;
- (iii) Consumer protection in the information society;
- (iv) Consumer protection in services (tourism and other productive services);
- (v) Consumer education programmes for children and adolescents.

30. UNCTAD, during 2010 and part of 2011, completed the project on analytical techniques in market investigations of collusive practices and unilateral conduct in the Colombian and Peruvian markets. The activity was completed in two consecutive workshops in Bogota and Lima in March 2011. The resulting reports have already been validated by the two competition authorities involved and are expected to be published in the very near future. These reports will be made available at the COMPAL side event during UNCTAD XIII in Doha, Qatar. Another key project undertaken by UNCTAD with the support of COMPAL member countries in the Central American region was to prepare a Central American regional study on the possible existence of cross-border business practices that may be classified as anticompetitive, which has encouraged national agencies to increase cooperation among themselves. The UNCTAD study that started during the second half of 2010 and first half of 2011 has become relevant due to the growing role of Central American companies with a regional scope that conduct strategic business alliances. Such companies increasingly integrate and contribute to intra-regional trade.

UNCTAD also organized a workshop on the role of competition policy during times of crisis, in Buenos Aires, Argentina (21–23 September 2011). During the same period, UNCTAD delivered a presentation at the fifth edition of the Latin-American Forum for Consumer Protection Agencies.

(b) *AFRICOMP*

31. The new Competition Programme for Africa (AFRICOMP) was officially launched in Geneva on 22 June 2009. This new initiative was taken in response to the mandate given by the Accra Accord (paragraph 104 (g)) and it aims at helping African countries develop appropriate administrative, institutional and legal structures for effective enforcement of competition and consumer law and policies. Most of UNCTAD technical cooperation activities in Africa in 2011 were undertaken within the framework of AFRICOMP. The programme provides for a more coordinated and streamlined approach in technical cooperation activities based on the needs of each beneficiary country while promoting regional cooperation. It emphasizes beneficiary ownership and the demand-driven aspect of technical cooperation. The programme further seeks to establish closer links with the private sector, as well as with Non-Governmental Organizations and local learning institutions. In this connection, during 2011 UNCTAD technical assistance conducted within the framework of the AFRICOMP benefited the following countries: Sierra Leone, Kenya, Tunisia and the Congo. In addition, from 28–30 November 2011, UNCTAD in cooperation with the West African Economic and Monetary Union (WAEMU) also organized a regional workshop on investigative tools for case handlers in Lomé, Togo. The workshop was attended by 40 competition officials from eight WAEMU member States. The workshop was conducted by UNCTAD with the participation of experts from the French Directorate General for Competition, Consumer Affairs and Repression of Fraud, the DGCCRF - Ministry of finance, France and the European Court of Justice in Luxembourg. The aim of the workshop was to train participants on modern tools to investigate competition cases.

3. Participation in seminars and conferences

32. Since the adoption of the United Nations Set, staff members of UNCTAD have contributed to the debate and disseminated IGE recommendations in a number of seminars, workshops and conferences related to issues of competition law and policy and consumer protection. This contribution includes participation in regional meetings, ICN, EU and OECD meetings. Accordingly, in 2011 UNCTAD staff members took part in the following events:

- (a) The Organization for Economic Cooperation and Development Global Forum on Competition Policy held in Paris, France on 17–18 February;
- (b) The Fifteenth International Conference on Competition from 13 to 15 April 2011 in Berlin;
- (c) Participation in the International Consumer Protection and Enforcement Network from 18-19 April in The Hague, the Netherlands;
- (d) The First International Forum on Competition Law and Policy on 27 May and the seminar for Authority for Fair Competition and Consumer Protection (AFCCP) staff on 28 May in Mongolia;
- (e) The Consumers International World Congress 2011 co-hosted by the Hong Kong Consumer Council from 3 to 5 May in Hong Kong (China);
- (f) The Seventh Annual Competition and Regulation Meeting on Competition Policy for Emerging Economies: When and How? in Amsterdam, the Netherlands in May;

- (g) Meeting with the Zurich University of Applied Science on 20 June;
- (h) The Sixth Academic Society for Competition Law Conference in London on New Competition Jurisdictions: Shaping Policies and Building Institutions from 1–2 July;
- (i) The ICN cartel workshop in Bruges from 10 to 13 October and meetings with the Netherlands Competition Authority.

II. Information on capacity-building and technical assistance by member states and international organizations

A. Assistance provided by donor countries

(a) Turkey

33. The Turkish Competition Authority (TCA) has carried out the following technical assistance and capacity-building activities since July 2011 – the eleventh session of the IGE:

- (a) A Conference on Needs Assessment of the Organization of Islamic Cooperation (OIC) Member States in the Field of Competition Law and Policy was held in Istanbul, on 21–22 November, 2011. This conference was attended by more than 50 representatives from 32 States including OIC Member States, Observer States as well as by the Islamic Centre for Development of Trade, the Standing Committee for Economic and Commercial Cooperation of the Organization of the Islamic Conference, Coordination Office, Islamic Development Bank, Statistical, Economic and Social Research and Training Centre for Islamic Countries and invited speakers. The Istanbul Conference aimed to address the needs of the OIC Member States in the field of competition law and policy.
- (b) Support provided for the Authority for Fair Competition and Consumer Protection of Mongolia to go through a peer review at UNCTAD. The TCA provided this support based on the Memorandum of Understanding signed with the AFCCP last year during the Ninth ICN Annual Conference in Istanbul on 28 April 2011. Additionally, the Turkish International Cooperation and Development Agency (TIKA) provided financial support in this process.

(b) Japan

34. During 2011, Japanese technical assistance was provided in the framework of the East Asia Top Officials' Meeting on Competition Policy. In this connection, in cooperation with the Competition Commission of Singapore (CCS) and the Asian Development Bank Institute, the Japan Fair Trade Commission (JFTC) held the Seventh East Asia Top Level Officials' Meeting on Competition Policy and the Sixth East Asia Conference on Competition Law and Policy in Singapore. The two events were held from 15 to 16 September in Singapore. They were attended by 18 competition officials from East Asia.

35. The East Asia Top Level Officials' Meeting on Competition Policy was organized for the purpose of strengthening the cooperative relationship among competition authorities/competition-related authorities through a frank exchange of views and information among the top level officials of those authorities. The East Asia Conference on Competition Law and Policy is organized for the purpose of developing a common understanding on importance of competition law and policy in the East Asia.

36. The Japan Fair Trade Commission also held the Sixth Training Course for the Viet Nam Competition Authority (VCA) on the Antimonopoly Act and Competition Policy from

7 to 22 November 2011 in Tokyo, Japan in cooperation with the Japan International Cooperation Agency (JICA). In addition, the Japan Fair Trade Commission held the Seventeenth Training Course for Developing Countries on Competition Law and Policy from 29 September to 26 October in Tokyo and Osaka, in cooperation with JICA. The training course was attended by seven competition officials from Armenia, Mongolia, the Philippines and Viet Nam.

(c) Republic of Korea

37. The Republic of Korea competition authority (KFTC) conducted four workshops on competition law and policy for developing countries in Asia during 2011. The first workshop took place in Seoul in July. The workshop was held to promote a culture of competition in 12 developing countries by transferring experience in competition law and policy. It was attended by competition officials from China, Japan, Taiwan Province of China, Singapore, India, Indonesia, Viet Nam, Mongolia, Malaysia, Uzbekistan and Bhutan. The second workshop was held in Hanoi on October, with the participation of 31 officials from the Netherlands, Japan, India, Korea, Australia, Taiwan Province of China, Mongolia, Viet Nam, Singapore, Indonesia, China, Pakistan and Fiji. The third workshop was held in Seoul in November with the participation of 21 officials from the United Kingdom, Republic of Korea, Australia, Nepal, Taiwan Province of China, Viet Nam, Singapore, India, Indonesia, China, Pakistan and the Philippines. The fourth workshop took place in Pusan with the participation of 22 officials from the United States of America, Japan, Republic of Korea, Taiwan Province of China, Viet Nam, Singapore, India, Indonesia, China, Pakistan, Papua New Guinea, the Philippines and Hong Kong (China).

(d) United States of America

38. The United States Federal Trade Commission (FTC) and the United States Department of Justice's Antitrust Division (DOJ) have provided international technical assistance on competition law policy matters to countries with developing and transition economies since 1991.³ Over the past fifteen years, the programme has reached more than 50 countries in Central and Eastern Europe, the former Soviet Union, South America and the Caribbean, South Africa and, more recently, Asia. DOJ and FTC, in providing technical assistance, share their experience and the know-how that they have accumulated over a century of enforcement. During 2011 they provided their support to the following countries: Dominican Republic (seminar on design of competition regime), India (workshop on inferring agreement and association, workshop on conducting merger review and training seminar on practical skills for investigating an alleged abuse of dominant position), ASEAN members Mongolia and Taiwan Province of China (regional competition training on merger investigations and analysis), China (workshops on abuse of dominance, cartel investigation, merger screening procedures and workshop on horizontal and vertical agreements), Turkey (competition law enforcement), Austria, Bosnia, Bulgaria, Croatia and Czech Republic (South-East Europe Annual Competition Law and Economic Workshop), Colombia (consultation on economic analysis in merger analysis), South Africa (training seminar on identification and proof of agreements, training workshop on cartel investigations), Russia (training programme for Russia's Federal Antimonopoly Service and judges), Taiwan Province of China (workshop on merger economics), Armenia (consultation on competition technical assistance), Peru (training programme for Peru's National Institute for the Defence of Competition and Intellectual Property and Viet Nam (workshop for VCA on investigating and analysing mergers).

³ United States Federal Trade Commission's and Department of Justice's Experience with technical assistance for the effective application of competition laws, 6 February 2008.

B. Assistance reported by recipient countries

(a) Lithuania

39. Jointly with the German Federal Ministry of Economics and Technology the Lithuanian Competition Council (as a junior partner) is currently implementing the EU twinning project “Strengthening the Enforcement of Competition and State Aid Legislation in Armenia”.

40. The contract of the project was signed on 28 December, 2010. Implementation started late in January 2011. The implementation of the project will take 24 months. The officials of the Competition Council are involved in the implementation of the project as short-term experts in the field of competition and State aid.

C. Assistance provided by other international organizations

(a) European Union

41. During 2011, the European Commission expanded its assistance to recipient countries in order to strengthen their capacity for an effective enforcement of competition law. In this regard, the following countries benefited from the European Commission's assistance: Albania (study visit and State aid); Bosnia and Herzegovina (how to detect and investigate cartels and study visit); China (competition week, merger workshop, merger review and study visit); Georgia (Georgia-EU Deep and Comprehensive Free Trade Area preparatory process and study visit); Kosovo⁴ (mid-term assistance, capacity-building and expert mission); Turkey (State aid monitoring and detailed analysis, determination of measures failing under scope of State aid) and Ukraine (expert mission on State aid). The EU also organized a workshop on enhancing the effectiveness of the fight against cartels for ICN member countries from 10–13 October 2011.

(b) Organization for Economic Cooperation and Development

42. The OECD is a key player in capacity-building and technical assistance in the international arena. Its support for developing and emerging countries is provided through the Global Forum on Competition, the Latin American Competition Forum and the regional Centres for Competition in Hungary and Republic of Korea. Most of the OECD's capacity-building advice is delivered in the form of seminars and workshops.⁵ Technical assistance activities provided by the OECD during 2011 can be found on their website.⁶

(c) International Competition Network

43. The International Competition Network (ICN) relies on its members to provide technical assistance to new competition agencies. To make best use of its increasing volume of work, the network has sought ways to facilitate integration of these products in the work of member agencies.⁷ In the light of such developments, the Japan Fair Trade Commission, in cooperation with the Advocacy and Implementation Network (AIN), is

⁴ Reference to Kosovo shall be understood to be in the context of Security Council Resolution 1244 (1999).

⁵ OECD, “Capacity-Building for Effective Competition Policy in Developing and Transitioning Economies”. *OECD Journal of Competition Law and Policy* – Vol.4-ISSN 1560-7771, 2003.

⁶ http://www.oecd.org/pages/0,3417,en_40382599_40382958_1_1_1_1_1,00.html.

⁷ ICN (2012). Activity Report on ICN Advocacy and Implementation network support Program (AISUP), 2011–2012. Vice Chair for Advocacy & Implementation, April 2012.

taking the initiative of promoting and advocating the use of ICN work by competition authorities throughout the world. To this end, a group meeting of volunteer ICN member agencies was convened in AIN to support its activities in 2007, followed by the establishment of a framework named the “Support System” to encourage member agencies to make better use of ICN work in 2008. The name “Support System” was then changed to “AIN Support Programme” (AISUP) upon the agreement of AIN members in 2009 in order to make it clear that the programs were designed specifically to match each recipient’s request rather than serve as a ready-made system, and the assistance did not include financial support. In this connection, JFTC organized an optional breakout session on the AIN and AISUP during the Hague conference in May 2011. Several agencies participating in AISUP as both supporting agencies and recipient agencies shared their experience through AISUP in the session.

In addition, JFTC held three AIN conference calls post-Hague on 26 July, 5 October and 1 December 2011. During the calls, JFTC and AIN members discussed various issues including:

- a) Response to the ICN project;
- b) ICN work catalogue;
- c) Guidance for commenting on existing or draft laws, regulations, and guidelines of agencies seeking ICN support;
- d) Competition law and policy developments in member jurisdictions, and;
- e) AISUP implementation.

JFTC also continued to promote AISUP through various methods (AISUP flyer, ICN Web log, ICN introductory call for newly participating agencies, ICN welcome letter). During this period, ICN provided technical assistance to the following countries; Kazakhstan, Kyrgyzstan, Moldova, Mongolia, Viet Nam and Zambia.
