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**Work programme, including capacity-building in and
technical assistance on competition law and policy**

Capacity-building and technical assistance on competition law and policy

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 resources available. Activities include both national and regional assistance in drafting competition laws and application guidelines, as well as institutional capacity-building for better implementation of competition laws. In addition, activities include competition advocacy for the creation of a competition culture and promotion of consumer welfare. This document is a progress report on the activities carried out in 2016–2017. It also 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.



Introduction

1. The United Nations Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices, adopted by the General Assembly in its resolution 35/63 of 5 December 1980,¹ calls on UNCTAD and its member States in paragraphs 6 and 7 of section F to provide technical assistance and advisory and training programmes on restrictive business practices, particularly for developing countries.

2. Accordingly, this report contains information on the capacity-building and technical cooperation activities in the area of competition law and policy of the UNCTAD secretariat since 2016, as well as information provided by member States and other international organizations on technical cooperation activities in the field of competition law and policy.² The report begins with the framework for provision of capacity-building in competition law and policy in the developing world, and then focuses on capacity-building provided by UNCTAD, other international organizations and member States at the national and regional levels since 2016. Finally, it summarizes some of the lessons learned from the recent implementation of some capacity-building activities.

I. Framework for capacity-building and technical assistance

A. UNCTAD mandate in competition law and policy

3. UNCTAD is the focal point for all work related to competition law and policy and consumer protection law and policy within the United Nations system, which is in turn a part of United Nations work on trade and development. The basis of the work of UNCTAD is an acceptance of the view that the basic norms of competition law, which have long been adopted and implemented by developed countries, should extend to the markets of developing countries and economies in transition. Thus, the section on objectives of the United Nations Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices emphasizes that the interests of developing countries in particular should be taken into account in the elimination of anticompetitive practices that may cause prejudice to international trade and development. Furthermore, this section sees the United Nations Set as an international contribution to a wider process of encouraging the adoption and strengthening of laws and policies in this area at the national and regional levels.

4. In its resolution, the Sixth United Nations Conference to Review All Aspects of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices called upon UNCTAD to “provide technical assistance for capacity-building in the area of competition law and policy by... (e) preparing and executing national, regional and subregional projects on technical cooperation and training in the field of competition law and policy, taking special account of those countries or subregions which have not received such assistance so far, especially in the field of law drafting and staff training, and enforcement capacity” and “(f) mobilizing resources and widening the search for potential donors for UNCTAD technical cooperation in this area”.³

5. In addition, subparagraph 11 (a) of the resolution⁴ of the Seventh United Nations Conference to Review All Aspects of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices requested UNCTAD, in implementing its new global strategy on capacity-building and technical assistance, to

¹ A/C.2/35/6.

² The following member States and organizations responded to a questionnaire on capacity-building: Argentina, Costa Rica, Germany, Italy, Japan, Peru, Swaziland, the Common Market for Eastern and Southern Africa and the European Union.

³ TD/RBP/CONF.7/11.

⁴ See TD/RBP/CONF.8/11, chapter I. Approved by the Seventh United Nations Conference to Review All Aspects of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices, held in Geneva on 6–10 July 2015.

“conduct, in consultation with relevant organizations and technical assistance providers, a review of technical cooperation activities, to avoid duplication and encourage providers and recipients of technical cooperation to recognize the results of the substantive work of UNCTAD”. This was confirmed in paragraph 69 and subparagraph 76 (x) of the Nairobi Maafikiano (see box).

Mandate on competition and consumer policies in the Nairobi Maafikiano

Paragraph 69 states:

Fair, sound and robust national competition and consumer protection laws and policies are also important, as is international cooperation, information exchange and capacity-building in these areas, particularly in light of the expansion of global markets, the increasing role of transnational companies, the need for enhanced transparency and accountability, the information and communications technology revolution and the emergence of e-commerce.

Subparagraph 76 (x) states that UNCTAD should:

Continue to assist developing countries and countries with economies in transition to formulate and implement competition and consumer protection policies and laws, including through voluntary peer reviews and the sharing of best practices; as well as facilitating international cooperation among competition and consumer protection agencies together with other relevant international organizations, taking into account the revised United Nations Guidelines for Consumer Protection.

Source: TD/519/Add.2.

6. Subsequently, in paragraph 9 of the agreed conclusions of the fifteenth annual session of the Intergovernmental Group of Experts on Competition Law and Policy (19–21 October 2016; see TD/B/C.I/CLP/40, chapter I), member States requested the UNCTAD secretariat to prepare for the consideration of the sixteenth session of the Intergovernmental Group of Experts an updated review of capacity-building and technical assistance activities, taking into account information to be received from member States.

B. Global strategy on competition and policy

7. UNCTAD new global strategy on competition and consumer policies was adopted during the Seventh United Nations Conference to Review All Aspects of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices in July 2015. The strategy derived from the experience gained by UNCTAD in implementing its capacity activities in the developing world.⁵ To ensure partner countries’ buy-in and commitment to UNCTAD, all activities are planned and implemented with the involvement of their competition and consumer protection agencies, as well as other national, regional and global networks, where appropriate. The new global strategy focuses on the following areas:

- (a) Technical assistance for competition and consumer protection policies and regulations
- (b) Creating an enabling environment for the private sector
- (c) Competition neutrality
- (d) Expanded regional focus
- (e) Follow-up and impact assessment of activities.

⁵ TD/RBP/CONF.8/7, titled “Capacity-building and technical assistance on competition and consumer protection law and policy: Review and outlook. Note by the UNCTAD secretariat”.

8. Competition and consumer policies seek to promote stable economic conditions, strengthening competitiveness, supporting trade diversification, mobilizing domestic and foreign investment and improving basic infrastructure. Particular emphasis is placed on private sector development as a tool for promoting growth and reducing poverty. These activities are part of the overall framework of UNCTAD technical assistance which, since 2007, has been based on the consolidation of projects and the development of thematic clusters.⁶ The thematic cluster of competition policy and consumer protection encompasses the strengthening of institutional capacities on competition and consumer protection law and policy, the formulation and enforcement of competition and consumer protection rules and the strengthening of national and regional competition policy and consumer protection in Latin America and Caribbean, Africa and Asia and the Pacific.

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

9. In accordance with the above-mentioned mandates, UNCTAD provides technical assistance on competition law and policy in conducting activities at the national, regional and subregional levels.

10. At the national level, UNCTAD provides technical assistance related to preparation, adoption, revision and/or implementation of national competition laws and related legislation and also builds national institutional capacity to enforce competition law effectively. In particular, UNCTAD organizes consultations with representatives of Governments to review draft competition laws, and organizes intensive training on competition law and policy directed at officials of competition authorities and public bodies, the judiciary and other stakeholders advocating the benefits of competition and contributing to dissemination of a competition culture.

11. At the regional level, UNCTAD assists in the drafting and implementation of regional competition legislation. It also organizes a number of conferences, seminars and workshops aimed at providing regional concertation and integration on competition law and policy issues among Governments and relevant stakeholders, such as the judiciary, namely through capacity-building. These initiatives can be supported by the preparation of studies and reports on areas of interest to member States.

A. Country-level activities

12. UNCTAD provided technical assistance related to the adoption, revision and/or implementation of national competition policies and legislation, as well as contributed to a better understanding of the issues involved, building and/or reinforcing national institutional capacities for an effective enforcement of competition laws. In addition, UNCTAD assisted Governments in identifying the role of competition policy for development promotion, its implication at national, regional and international levels, as well as the strategies for regional and subregional cooperation in this field.

13. UNCTAD assisted the following member States:

Albania

14. Following the voluntary peer review on the competition law and policy of Albania under the UNCTAD programme, which has become a core activity in its work in the field of competition,⁷ recommendations on how the application of legislation might be made

⁶ See decision 492 (LIV) of the Trade and Development Board, paragraph 18 and subparagraphs (a) to (d) (TD/B/54/8).

⁷ In 2005, the Fair Trading Commission of Jamaica and Monopolies and Prices Commission of Kenya were the first agencies to undergo the peer review process. Since then, the following have undergone peer reviews on competition policy: Tunisia (2006); the West African Economic and Monetary Union (2007); Costa Rica (2008); Indonesia (2009); Armenia (2010); Serbia (2011); Mongolia (2012); the United Republic of Tanzania, Zambia and Zimbabwe (2012), in a tripartite report; Nicaragua (2013);

more effective paved the way for the design of capacity-building activities for enforcement and advocacy of competition policy. UNCTAD organized an advocacy seminar for parliamentarians and training courses for judges and case handlers in Albania to contribute to implementation of the peer review's recommendations, working closely with the competition authority.

Cambodia

15. Seeking to undertake competition advocacy and contribute to raising awareness of the role of competition and contribute to a competition culture, UNCTAD organized and was involved in a national workshop on competition law and intellectual property in cooperation with the Department of Intellectual Property of the Ministry of Commerce of Cambodia. The objective of the workshop was to review the interface between intellectual property rights and competition law according to international best practices and the current challenges that Cambodia faces. In addition, a bilateral consultation with the ministry in charge of drafting a future Cambodian competition law was held together with the Japan Fair Trade Commission. The meeting was to support the Government of Cambodia to finalize the drafting of the competition law based on the Model Law on Competition of the United Nations and the Japanese experience.

Cabo Verde

16. In the context of the United Nations Development Assistance Framework, technical assistance was provided to Cabo Verde (2012–2016), one of the eight original pilot countries supported by an effective One United Nations fund. The programme goal is improvement of the national policy framework to promote economic development by strengthening employment in key sectors of the economy within the frame of decent work. Considering the aim of improving the national policy framework of Cabo Verde, UNCTAD has proposed a series of policy recommendations that follow an intersectoral approach and include a focus on competition law and policy. These policy recommendations were based on the assessment of the current status the competition framework of Cabo Verde and addressed the contribution of competition policy to fostering economic growth and development.

Ethiopia

17. A project for strengthening competition and consumer protection enforcement capacities in Ethiopia was signed in December 2014 and launched in January 2015 in Addis Ababa. It was designed to achieve the following objectives:

(a) Improve the legal and institutional framework and lay the foundations for more effective competition law enforcement by the Trade Practice and Consumer Protection Authority

(b) Raise awareness on competition and consumer protection of Government officials, sector regulators, policymakers, businesses and consumers

(c) Strengthen the enforcement capacities of the Trade Practice and Consumer Protection Authority.

Since 2015, UNCTAD initiated the drafting of the review of the status of competition policy in Ethiopia, and assisted in the drafting of abuse of dominance guidelines and merger guidelines, which were finalized in 2016. UNCTAD also prepared guidelines on market analysis and definition of relevant market, whose first version was followed by a validation/training workshop.

18. UNCTAD also facilitated the participation of two staff from the Trade Practice and Consumer Protection Authority in the fourteenth session of the United Nations Conference

Pakistan (2013); Ukraine (2013); Namibia (2014); the Philippines (2014); Seychelles (2014); Albania (2015); Fiji and Papua New Guinea (2015), in a bipartite review; and Uruguay (2016). UNCTAD plans to conduct a voluntary peer review on the competition law and policy of Argentina in 2017.

on Trade and Development in Nairobi (July 2016) and in the fifteenth session of the Intergovernmental Group of Experts meeting on Competition law and policy in Geneva.

19. A study tour was also organized for staff from the Trade Practice and Consumer Protection Authority and judges from the Administrative Court and Appeal Tribunal to visit key European institutions, namely the Directorate-General for Competition and Directorate-General for Justice and Consumers of the European Commission and the European Court of Justice, as well as visits to the Competition Authority of Luxembourg and the Competition Commission of Luxembourg.

Indonesia

20. UNCTAD provided advisory services to the Government of Indonesia on competition issues during 2016, from direct technical assistance activities to the Commission for Supervision of Business Competition, to advice targeting parliamentarians in the ongoing reform of the Competition Law for 2017. The following activities summarize the work carried out for Indonesia:

(a) Workshop for the Indonesian legislature on issues related to the ongoing amendment process of the Indonesian Competition Law

(b) Bilateral consultations with the Commission for Supervision of Business Competition on issues related to the amendment of the Competition Law in Indonesia

(c) In association with the Japan Fair Trade Commission, a brainstorming meeting on market studies in the food sector.

Philippines

21. UNCTAD also co-organized together with the German Agency for International Cooperation a high-level round table and technical discussions to raise awareness about the scope and implications of competitive neutrality within the Philippine Competition Commission, while also sharing an update with representatives of the House and Senate concerning the mandate of the newly established Philippine Competition Commission and the main provisions of the Competition Act of 2015.

Viet Nam

22. UNCTAD provided advisory services to the Viet Nam Competition Authority and the Viet Nam Competition Council on two key issues related to the ongoing competition law reform: (a) how to define relevant markets and (b) the institutional design of competition authority. The presentations were based on the experiences of Viet Nam, UNCTAD and the Korean Fair Trade Commission (Republic of Korea). In addition to the discussion with the Viet Nam Competition Authority, UNCTAD and the Viet Nam Competition Council also explored the possibility of preparing a report on the institutional design of Vietnamese competition authorities. At the same time UNCTAD and the Viet Nam Competition Council discussed the cooperation framework for a sector study on promoting competition in a specific sector, particularly in the electricity sector.

Zimbabwe

23. After the 2012 UNCTAD tripartite peer review on competition law and policy in the United Republic of Tanzania, Zambia and Zimbabwe, UNCTAD organized activities to assist in the implementation of the peer review recommendations in Zimbabwe, funded by the European Union. UNCTAD also assisted Zimbabwe in drafting a new competition law. The activities undertaken include an advocacy seminar in Harare for parliamentarians to create awareness and understanding on the benefits of competition and to have their support in the adoption of the new competition law, consultations with the Competition and Tariff Commission to present and discuss the first draft of the new competition law for Zimbabwe and a stakeholders' consultations workshop to get contributions on the draft competition law. Representatives from other government institutions, members of Parliament, the judiciary, business, civil society and academia participated in the workshop and made

comments, which were followed by additional written comments. A final draft was submitted to the Competition and Tariff Commission for further processing.

24. UNCTAD also organized a training seminar for the judiciary in Victoria Falls to familiarize judges with the economics underpinning national competition laws and how that combines with the legal approach to enforcing competition.

B. Regional and subregional activities

1. Sofia Competition Forum

25. The Sofia Competition Forum is a regional initiative organized by Commission for the Protection of Competition of Bulgaria to foster cooperation and the development of regional ties in the Balkan region, and thus ensure uniform application of competition rules in the region. The initiative aims at assisting countries in the region in the adoption and enforcement of competition law and maximizing the benefits of well-functioning markets for these countries. The Forum's key objectives are the creation and improvement of competition legislation, capacity-building, application of best practices in law enforcement and identification of common solutions to specific competition concerns in the region.

26. Within the framework of training activities for competition case handlers, several training workshops were organized in 2016.

27. In November, UNCTAD participated in the Sofia Competition Forum workshop on price abuses of dominance in energy and telecommunications. The Forum covered the following areas: (a) an overview of current abuses and the role of the Government; (b) the tension between sector regulations and competition law; (c) abuses related to network access such as excessive pricing, price discrimination, etc.; (d) illustrations of some cases related to excessive pricing and price discrimination; (e) the relationship between liberalization policy and competition policy; and (f) guidelines for the promotion of competition among businesses.

2. Competition and Consumer Protection for Latin America programme

28. Since 2003, Competition and Consumer Protection for Latin America (COMPAL) has been a technical cooperation and capacity-building programme in the field of competition and consumer protection, with the support of the State Secretariat for Economic Affairs of Switzerland. COMPAL activities aim at improving capacities of stakeholders in the promotion and defence of competition. First and foremost, COMPAL provides training, exchange of best practices and policy tools to governmental competition agencies.⁸

29. COMPAL benefits from its more than 15 years of experience in the region, which has enabled all COMPAL beneficiary countries to have at present a competition law and enforcement agency (except Guatemala, which is debating a competition bill). COMPAL member agencies are motivated and nourish strong cross-border bonds. This has allowed COMPAL to implement 80 per cent of the activities it had planned for 2016. All activities related to exchange of good practices, consensus-building and trainings have been implemented as planned, while only two activities are pending completion: the production of guidelines for the private sector on competition compliance and leniency programmes and a regional study on the impact of competition on public and private entities and economic growth.

30. In May 2016, COMPAL organized a workshop on competition and consumer protection on regulated sectors in Antigua, Guatemala.⁹ The workshop gathered high ranking officials of member agencies and those of advanced agencies in each field (namely, El Salvador, France, Panama, Peru, Switzerland and the United States of America) to discuss competition and consumer protection issues in the regulated sectors of medicines,

⁸ <https://unctadcompal.org>.

⁹ <https://unctadcompal.org/events/taller-regional-cuestiones-de-competencia-y-de-proteccion-al-consumidor-en-los-sectores-regulados> (accessed 21 April 2017).

telecommunications and energy, to identify synergies between both areas and to exchange best practices. This event was co-organized by the Ministry of Economy and the consumer protection agency of Guatemala and the Spanish Agency for International Development Cooperation. The workshop was followed by two round tables to discuss competition and consumer protection issues of best institutional design for regulated sectors and the impact of regional regulated sectors for competition and consumer protection.

31. The workshop also showed how regulated sectors often raise concerns from the competition and the consumer protection perspective due to their impact on people's lives. In particular, anticompetitive practices in these sectors are directly detrimental to consumers, which is noted in turn by consumer protection agencies. For example, the rice cartel in Central America restricts quality of produce and price for the consumer, and in some cases it leads to threats to consumer health. Participating countries included Costa Rica, Dominican Republic, Ecuador, El Salvador, France, Honduras, Mexico, Nicaragua, Panama, Peru, Switzerland and the United States of America.

32. In November 2016, COMPAL also organized a high-level intensive course on competition advocacy for operative staff of competition agencies in cooperation with the Indecopi-Compal School of the National Institute for the Defence of Competition and the Protection of Intellectual Property in Lima.¹⁰ A total of 30 officials in charge of advocacy in their respective agencies were trained in the one-week, face-to-face course which was delivered by academics and representatives from the National Markets and Competition Commission of Spain and from the Federal Trade Commission of the United States of America. The course also included a "training of trainers" to enable participating officials to better replicate training in their home agencies. National replications were completed in January 2017, yielding a total of 550 people trained on the topic. Participants increased their competencies in advocacy by 30 per cent on average. The meeting was attended by competition officials from Colombia, Costa Rica, Ecuador, Honduras, El Salvador, Mexico, Panama, Paraguay and Peru.

33. In March 2017, COMPAL organized a three-day intensive course on the principles of competition for judges of its 16 beneficiary countries, held in Lima. The training was co-organized with the Judicial Academy of Peru and was the first regional training of this kind. The course was based on practical examples and aimed at providing a more harmonious understanding of competition enforcement and the role of judicial review throughout the region. In 2017, COMPAL will organize a comparable course on consumer protection.

34. In November, UNCTAD/COMPAL and the Latin American and Caribbean Economic System gathered 40 participants from competition and trade authorities in Roatan, Honduras, for the sixth Annual Meeting of the Working Group on Trade and Competition.¹¹ The following countries participated in the meeting: Barbados, Belize, the Plurinational State of Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, the Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru and Switzerland, as well as representatives of the Andean Community, the Caribbean Community, the Economic Commission for Latin America and the Caribbean of the United Nations and the World Trade Organization. The discussions focused on the regulation of competition in regional integration agreements and the treatment of dumping by competition and trade regimes, two issues of great importance to the region. Eighty-seven per cent of participants considered discussions "very useful" for their daily work.

35. One of the most ambitious activities of COMPAL in 2016 was the design and implementation of an interactive knowledge management tool, for all products of COMPAL I, II and III (over 200 documents, such as manuals, guidelines, studies, reports, etc.). This has been a key activity to ensure the sustainability and relevance of the

¹⁰ <https://unctadcompal.org/events/segundo-programa-de-formacion-especializada-de-la-escuela-indecopi-compal-de-defensa-de-la-competencia-con-enfasis-en-la-promocion-del-derecho-de-la-competencia/> (accessed 21 April 2017).

¹¹ <https://unctadcompal.org/events/vi-reunion-anual-del-grupo-de-trabajo-sobre-comercio-y-competencia-de-america-latina-y-el-caribe-unctad-sela-bid/> (accessed 21 April 2017).

programme as it ensures more visibility and better interaction among members, between members and with the COMPAL team in Geneva, and between COMPAL and external stakeholders. The tool is publicly available at <https://unctadcompal.org/>.

36. In 2016, COMPAL has also aimed at enhancing a culture of competition among the business community. To do so, COMPAL is producing two sets of guidelines for business to better understand and apply competition law in Colombia and Peru, the first set of guidelines on competition compliance, and the second on leniency programmes. The guidelines are expected by June 2017.

37. Finally, COMPAL facilitated two internships of officials of the Competition Authority of El Salvador to the Competition Commission of Switzerland, for durations of three and six months. The activity has been rated highly relevant by the beneficiary agency.

3. Programme for regional economic integration through the adoption of competition and consumer protection policies, gender equality, anticorruption and good governance in the Middle East and North Africa region, 2015–2020

38. With the support from the Government of Sweden, UNCTAD developed this regional capacity-building programme launched in 2015, which aims at contributing to regional economic integration, anticorruption, good governance and gender equality by strengthening markets through improved competition and consumer protection policies in the Middle East and North Africa region. The programme also seeks to contribute to the achievement of the Sustainable Development Goals. The beneficiaries are Algeria, Egypt, Jordan, Lebanon, Morocco, Tunisia and Yemen, as well as the State of Palestine. The project is designed to ensure the achievement of the following five outcomes:

(a) Outcome 1. Competition policies are effective, sustainable and recognized as tools for regional economic integration in the Middle East and North Africa region

(b) Outcome 2. Consumer rights are respected at the national and regional levels and consumer protection policies are effective, sustainable and recognized as tools for regional economic integration in the Middle East and North Africa region

(c) Outcome 3. Private sector support is increased, and compliance programmes are adopted on competition and consumer protection laws and policies, and gender equality and the economic empowerment of women are increased at the regional level

(d) Outcome 4. Competition neutrality principles are applied, and State-owned enterprises and government departments increase their understanding and awareness of the importance of competition neutrality

(e) Outcome 5. Regional cooperation on competition and consumer protection is improved and strengthened, and the final number of countries from the Middle East and North Africa region participating in the project is increased; and stakeholders' capacities, awareness and commitment at the regional and national level are enhanced.

39. The programme had a diagnostic phase during 2015 with the objective of analysing the regional economic integration context and economic and political situation of its beneficiaries and reviewing the relevant strategies and projects in the region. It was relevant to determine the overall situation, namely at what level beneficiaries were facing basic development constraints.

40. An inception phase report was produced in order to develop a tailor-made plan and ensure successful implementation. After the diagnostic phase, the programme kicked off its implementation phase on 1 March 2016. After nine months of implementation, the UNCTAD Middle East and North Africa programme has implemented more than 100 per cent of the activities planned for 2016, and more than 100 per cent of the publications planned for 2016. All activities have been implemented without pending activities to be completed.

41. During 2016, UNCTAD organized the following activities:

(a) Study visits to the competition authority of Austria focused on addressing the following topics: agency structure, cooperation/information-sharing, economic analysis in

practice in general, economic analysis in abuse of dominance cases, leniency programmes and dawn raids.

(b) A competition glossary and a series of guidelines on competition and good governance: three publications (in Arabic, English and French) on competition law and policy (i.e. guidelines on leniency and a competition glossary) and on good governance were launched at the fourteenth session of the United Nations Conference on Trade and Development in Nairobi. The publications aim at assisting countries in the Middle East and North Africa on improving their frameworks towards increased convergence and efficiency.

(c) Study visits to the competition authority of France addressing the following topics: agency structure, cooperation/information-sharing, economic analysis in practice in general, economic analysis in abuse of dominance cases, leniency programmes, dawn raids and advocacy.

(d) National awareness raising seminars on competition law in Ramallah and in Beirut. Both workshops drew awareness of participants to the importance of having competition law and policy in the context of globalization and deregulation and reviewed in depth the existing draft competition legislation in the light of best practices in other countries of the world, and more specifically of the Middle East and North Africa Project.

(e) Fact-finding missions to Lebanon and the State of Palestine focused on information technology analysis. The objective is to develop an interactive web platform that will include four technical databases (a regional complaint handling system, regional rapid alert system, best practices sharing and competition cases sharing), a virtual institute and country profiles.

(f) Launch of the programme's Regional Training Centre for competition law and policy in Tunis which, together with the interactive web platform, will support national and regional policymaking, capacity-building for technical staff, creation of partnerships and development of a pool of experts in the region. The platform will deliver training and support information exchange in particular in Arabic and French.

(g) First regional training workshop on investigation tools in Tunisia. The workshop addressed the following topics: cartel enforcement (discovery techniques, leniency programmes, search for evidence, decisions and sanctions); abuse of dominant position (defining the relevant market, determination of dominance, deciding on abuse of dominance and determining the appropriate sanctions); and merger control (notifications, defining the relevant market of merging companies, determination of potential dominance and harm to competition and determining the appropriate sanctions). The workshop was attended by 45 participants representing competition authorities and the judiciary from all the beneficiaries.

42. The UNCTAD Middle East and North Africa programme also participated in the League of Arab States meeting of experts and specialists in the field of competition law and policy in Arab countries. The meeting reviewed competition law in member States with a view to increasing cooperation on the subject, for which UNCTAD provided technical expertise.

43. Furthermore, under the project, the Lebanese and Palestinian draft competition laws and the Algerian law were reviewed in depth, in the light of best practices in other countries of the world, and specifically the UNCTAD Middle East and North Africa region.

44. The Middle East and North Africa programme established cooperation with regional organizations and international partners, such as the Arab League, the competition authority of Austria, the competition authority of France and Consumers International, as well as with the following entities of the United Kingdom of Great Britain and Northern Ireland: Citizens Advice, Trading Standards, the Competition and Markets Authority, the Financial Conduct Authority, the Financial Ombudsman and the consumers' association, Which.

45. Within the region, twinning arrangements between the competition authority of Egypt and the Minister of Industry and Trade and Competition Council of Tunisia were established to foster regional cooperation and integration in competition issues.

46. In 2017, the UNCTAD Middle East and North Africa programme has to date drafted guidelines on competitive neutrality, private sector compliance, competition agency structure and effectiveness.

III. Capacity-building and technical assistance by member States and international organizations

A. Assistance provided by donor countries

47. The competition authority of Italy provided assistance under European Union sponsorship to competition agencies from Albania, Algeria, Bulgaria, Croatia, Malta and Romania. Assistance consisted of training courses, advocacy workshops and study visits to the beneficiaries.

48. The Federal Cartel Office of Germany provided assistance to the competition authority of Egypt, detaching an expert to contribute to the drafting of guidelines on abuse of dominance.

49. Japan provided training on competition law and policy to Cambodia, Indonesia, Kenya, Mongolia and the Philippines. The Japan Fair Trade Commission was also a reviewer in the voluntary peer review on the competition law and policy of Uruguay during the fifteenth session of the Intergovernmental Group of Experts on Competition Law and Policy of UNCTAD held in October 2016.

50. The National Markets and Competition Commission of Spain provided assistance to Guatemala, Morocco and the Competition Council of the Republic of Moldova. Assistance consisted of training seminars, advocacy workshops and study visits. The National Markets and Competition Commission also took part in the peer review on the competition law and policy of Uruguay.

51. The Federal Trade Commission of the United States of America used its experience in competition law and policy to continue to provide assistance globally. Assistance consists of the secondment of resident advisers, a training programme on mergers, antitrust and intellectual property, competition issues on retail gasoline, settlements and disruptive innovation, procedural fairness, training of trainers on investigative skills and a training workshop on abuse of dominance and leniency. In this regard, the following developing and emerging countries benefited from assistance: Argentina, Barbados, Botswana, Brazil, Bulgaria, China, Colombia, the Dominican Republic, El Salvador, Honduras, Hungary, India, Indonesia, Mexico, Pakistan, Peru, the Republic of Moldova, Singapore, South Africa, Turkey, Ukraine, United Arab Emirates, the United Republic of Tanzania, Viet Nam and Zambia.

B. Assistance reported by recipient countries

52. Argentina indicated that in 2016 for the first time its competition authority conducted a “competence week”, which featured workshops and conferences by local and international experts. The competition authority of Argentina also commissioned market studies from experts on several markets including milk, meat, credit card services, mobile phone services, air and maritime transportation, aluminium and other areas. In addition, the competition authority organized a workshop with in-house lawyers to promote implementation of compliance programmes and participated in a specialized training programme on defence of competition at the Indecopi–Compal School. Another workshop was organized on effectiveness in anti-cartel enforcement in cooperation with the World Bank.

53. In 2016, Swaziland benefited from the following activities conducted by the Competition Commission of South Africa and the African Competition Forum: the reform of its Competition Act of 2007; a training workshop for the Board of Commissioners and

the staff; and the establishment of a case management system by the Competition Authority of Kenya.

54. Ukraine benefited from capacity-building projects in 2016 funded by the European Union and the Agency for International Development of the United States of America. The objectives of these projects were the following:

(a) To create a State aid monitoring system in Ukraine and share international experience in this field.

(b) To enhance investigation capacities, enforcement of competition law, conduct of market studies and assessment of horizontal mergers.

(c) Implementation of a competition impact assessment in Ukraine.

(d) Harmonization of the public procurement system in Ukraine with European Union standards. During 2016, one lawyer and one economist from the Federal Trade Commission of the United States of America and one lawyer from the Competition Bureau of Canada worked in the competition authority of Ukraine as long-term advisers of a programme to strengthen the capacity of Ukraine to apply competition law and policy.

C. Assistance provided by other international organizations

55. In 2016, the Competition Commission of the Common Market for Eastern and Southern Africa (COMESA) and the International Finance Corporation of the World Bank Group agreed to collaborate on a COMESA anti-cartel project aimed at screening markets that raise the risk of cartels internationally, conduct legal analysis of tools under the legal framework of COMESA and COMESA member States and develop a strategy to combat cartels in COMESA.

56. Training of COMESA member States on investigative procedures, case handling and assessment of restrictive business practices was provided in August and September.

57. The Competition Commission conducted two COMESA business reporter workshops in July 2015 and July 2016 with participants from COMESA member States, and conducted the first diplomatic conference on competition and trade, aimed at sensitizing ambassadors of COMESA member States and other diplomatic corps on the operations of the Commission.

58. The Competition Commission provided technical assistance to selected member States on drafting of laws on domestication of the COMESA Treaty, with a view to facilitating implementation of COMESA laws and regulations, including COMESA competition regulations. The Commission collaborated with national competition authorities on the harmonization of national competition law with COMESA competition regulations. The Commission facilitated the attachment of officials from three more developed competition authorities to three new competition authorities in COMESA.

IV. Impact

59. The assessment of the impact of capacity-building is a difficult and complex process that requires information and data that may be difficult to collect. Nevertheless, in 2016, 95 per cent of participating agencies beneficiaries of the COMPAL believed discussions contributed to building bonds with other agencies, while 82 per cent believed that content was “very relevant” to their institutions.

60. In Zimbabwe, a number of technical backstopping and advisory services were provided to upgrade competition law, namely a competition assessment toolkit, a competition assessment for the information and communications technology sector, a competition policy framework, a review of international best practices report, the development of an online complaint filing system and consultations with the Dean of the Faculty of Law of the University of Zimbabwe in preparation for the competition law course at the level of master of laws. As an outcome of the above outputs, competition

issues were considered within the overall macroeconomic policy of the Government of Zimbabwe. The development of an online complaint filing system enabled the Competition and Tariff Commission to handle competition cases more efficiently, and provided an opportunity for market players to easily file complaints with the Competition and Tariff Commission.

61. Training and awareness raising events promoted competition law and policy principles with a focus on competition authority staff, parliamentarians, judges, academia and stakeholders to enhance their understanding, to assess the benefits of competitive markets and the need for competition regulation and to facilitate the adoption of competition law and policy by the Parliament of Zimbabwe.

62. In Argentina, the effectiveness of the capacity-building programmes developed was high. These activities have been useful not only to train the human resources of the country's competition authority for their everyday work, but also to broaden the knowledge on different issues at the local and international levels. The fact that several international organizations (such as the Organization for Economic Cooperation and Development and World Bank) took part in workshops and seminars also provided for a deep cultural exchange and comparative work approach. Staff knowledge and tools were improved with an impact on the quality of the work in the agency.

63. Bulgaria reported that UNCTAD support contributed significantly to one of the main concerns regarding the judiciary: the need for increased training of judges in the field of competition law that combines both legal and economic aspects.

64. In Ethiopia, awareness raised on competition policy and law and its benefits for the economy (of government officials, consumers, the business community, academics, lawyers and the judiciary) reinforced policy coherence and coordination between the Trade Practice and Consumer Protection Authority and government agencies. Enforcement capacities of Trade Practice and Consumer Protection Authority staff were also enhanced on identification of anticompetitive conduct in the market and in dealing with merger control.

65. Experiences of more advanced countries and jurisdictions show that effective enforcement of competition law requires certain essential conditions such as the independence of a competition agency, adequate financial resources, skilled staff to carry out complex investigations of competition cases, leadership and the ability to advocate compliance with the competition law among businesses and conduct competition advocacy among government agencies and sector regulators, promoting increased cooperation.¹² Most young competition agencies face challenges in these areas.

66. In this regard, and as the report has shown, technical assistance and continuous capacity-building are highly relevant to assist competition authorities of developing countries and economies in transition to overcome those challenges in order to help recipient countries to build an effective and efficient competition framework.

¹² TD/B/C.I/CLP/11/Rev.1