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TRADE AND DEVELOPMENT BOARD

Commission on Investment, Technology
and Related Financial Issues

Intergovernmental Group of Experts on Competition Law and Policy

Second session

Geneva, 7-9 June

Agenda item 3

**Agreed conclusions of the Intergovernmental Group of Experts
on Competition Law and Policy at its second session ***

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 and the Third United Nations Conference to Review All Aspects of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices,

Taking note of the preparations for UNCTAD X, and in particular the pre-UNCTAD X Seminar on the Role of Competition Policy for Development in Globalizing World Markets convened by the Secretary-General of UNCTAD, to be held from 14 to 15 June 1999,

* As adopted at its closing plenary on Wednesday 9 June 1999.

Taking note with appreciation of the cooperation taking place with the World Trade Organization and other organizations active in the field of competition law and policy,

Taking note also with appreciation of the documentation prepared by the UNCTAD secretariat for the present session,

1. Reaffirms the fundamental role of competition law and policy for sound economic development;
2. Stresses the importance of the creation of a competition culture;
3. Recommends in that regard that UNCTAD X should take into account the important and useful work being carried out on competition law and policy issues within the UNCTAD intergovernmental machinery, which has the active support and participation of the competition law and policy authorities of member States;
4. Recalls in that connection that the Intergovernmental Group of Experts on Competition Law and Policy has been able to mobilize a high level of participation of experts and practitioners from capitals, which has allowed it to discuss technical and policy issues in an informal and constructive setting. These working methods have enabled the Intergovernmental Group of Experts to pursue its objectives of clarifying and elucidating principles, concepts and policy issues concerning the formulation and enforcement of competition law and policy. The exchange of experiences and information by member States, in particular during the informal consultations of the Intergovernmental Group of Experts, continues to contribute to a better understanding of the issues concerned, capacity-building for individual countries and the promotion of international cooperation in this area;

5. Recognizes the need for strengthened international cooperation in the area of competition law and policy and invites the Secretary-General of UNCTAD to continue cooperation with the World Trade Organization and other organizations working in the area of competition law and policy;

6. Welcomes the regional initiatives in convening preparatory meetings for the Fourth United Nations Conference to Review all Aspects of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices, with the assistance of the UNCTAD secretariat, focusing on reviewing their respective experiences in the implementation of the Set;

7. Invites the Secretary-General of UNCTAD, to prepare for the Fourth Review Conference an assessment of the operation of the Set;

8. Takes note with appreciation of the voluntary financial and other contributions received from member States and invites all member States to assist UNCTAD on a voluntary basis in its technical cooperation activities by providing experts, training facilities or financial resources; requests the UNCTAD secretariat to pursue its technical cooperation activities within the available resources; and invites the Secretary-General of UNCTAD to explore the feasibility of supporting training and capacity-building on a regional basis within the available resources;

9. Recommends that the Fourth Review Conference consider the following issues related to the better implementation of the Set:

- (a) Experience gained so far with the establishment of competition laws and competition authorities and enforcement of the law and competition advocacy in developing countries, countries with economies in transition, and relevant regional organizations;
- (b) Organization and powers of competition authorities, including how to determine enforcement priorities;

- (c) Treatment of confidential information in competition law and policy;
- (d) The role of competition policy in economic development;
- (e) Competition policy issues in telecommunications; and
- (f) Competition policy and its implications for regulatory and legislative reforms;

10. Requests the UNCTAD secretariat to prepare for consideration by the Fourth Review Conference:

- (a) A revised report on the experiences gained so far with international cooperation on competition policy issues and the mechanisms used, taking into account commentary and information to be received from member States by 31 January 2000;
- (b) An updated review of technical assistance, taking into account the information to be submitted by member States and international organizations no later than 31 January 2000;
- (c) A report on how competition policy addresses the exercise of intellectual property rights, taking into account commentary and information to be received from member States by 31 October 1999; and
- (d) An updated version of the model law taking into account recent trends in competition legislation and its enforcement. It should be understood that the Model Law and its commentary do not affect the discretion of countries to choose policies considered appropriate for themselves, and that the Model Law and its commentary should be periodically reviewed in the light of reforms and trends at the national and regional levels;

11. Requests the secretariat to continue to publish the following documents on a regular basis and to make them available on the Internet:

- (a) Further issues of the Handbook on Competition Legislation, including regional and international instruments, which should be complemented with a summary of the main provisions of competition laws on the basis of inputs to be submitted by member States;
- (b) An updated version of the Directory of Competition Authorities; and
- (c) An information note on recent important competition cases, with special reference to competition cases involving more than one country, and taking into account information to be received from member States;

12. Requests the UNCTAD secretariat to make available on its web site a compendium of all existing national competition laws and to establish where possible direct linkages to competition web sites of countries and relevant regional and international organizations.