



**United Nations  
Conference  
on Trade and  
Development**

Distr.  
GENERAL

TD/B/COM.2/CLP/43  
24 August 2004

ENGLISH  
Original: ENGLISH/FRENCH/  
SPANISH

TRADE AND DEVELOPMENT BOARD  
Commission on Investment, Technology  
and Related Financial Issues  
Intergovernmental Group of Experts on  
Competition Law and Policy  
Sixth session  
Geneva, 8-10 November 2004

**REVIEW OF CAPACITY-BUILDING AND TECHNICAL ASSISTANCE  
ON COMPETITION LAW AND POLICY**

**Note by the UNCTAD secretariat**

**Executive summary**

UNCTAD provides various types of capacity-building and technical cooperation activities on competition law and policy to developing countries as well as countries with economies in transition in accordance with requests received, the needs of the countries concerned and resources available. This includes both national and regional assistance in drafting competition laws and policy guidelines as well as capacity-building in the implementation of competition policy with a long-term perspective in line with the United Nations Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices and the requests made by the Fourth United Nations Conference to Review All Aspects of the Set. This document includes a progress report on the technical cooperation activities of the UNCTAD secretariat. These activities are divided into three categories - national activities, regional and subregional activities, and participation in seminars and conferences - each of which is discussed in a separate section. The document also contains extracts from replies by member States and international organizations to the note by the Secretary-General of UNCTAD requesting information on technical cooperation activities provided, planned or received, bilaterally or multilaterally, in the area of competition law and policy. Extracts from replies identifying specific competition law and policy areas or issues which States or international organizations would like to receive priority attention are presented in a separate subsection.

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## **Introduction**

1. Section F, paragraphs 6 and 7, of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices adopted by the United Nations General Assembly in 1980 (TD/RBP/CONF.10/Rev.2) calls for technical assistance and advisory and training programmes on restrictive business practices, particularly for developing countries. The Fourth United Nations Conference to Review All Aspects of the Set, in paragraph 14 of its resolution (TD/RBP/CONF.5/16), noted with appreciation the voluntary financial and other contributions for capacity-building and technical cooperation; invited all member States to assist UNCTAD on a voluntary basis in its technical cooperation by providing experts, training facilities and resources; requested the UNCTAD secretariat to continue and, resources permitting, expand its technical cooperation activities; and invited the Secretary-General of UNCTAD to explore the feasibility of mobilizing financial and human resources on a more predictable and regular basis and to address the cooperation needs of developing countries and countries with economies in transition in relevant official languages of the United Nations. UNCTAD's activities in this field also respond to the request contained in paragraph 24 of the Doha Declaration, namely to help developing and least developed countries "better evaluate the implications of closer multilateral cooperation" in the field of competition law and policy for their development objectives.

2. Subsequently, in the agreed conclusions of its fifth session, the Intergovernmental Group of Experts on Competition Law and Policy (July 2003) took note with appreciation of the voluntary financial and other contributions received from member States; invited all member States to assist UNCTAD on a voluntary basis in its capacity-building and technical cooperation activities by providing experts, training facilities or financial resources; and requested the UNCTAD secretariat to pursue and, where possible, expand its capacity-building and technical cooperation activities (including training) in all regions, within the available resources, taking into account the deliberations and consultations that took place at that session. It further requested the UNCTAD secretariat to prepare for consideration by the next session of the Intergovernmental Group of Experts an updated review of capacity-building and technical assistance, taking into account the information to be submitted by member States and international organizations no later than 31 January 2004 (TD/B/COM.2/52-TD/B/COM.2/CLP/39).

3. Accordingly, this note contains information on the capacity-building and technical cooperation activities of the UNCTAD secretariat in 2003, as well as extracts from replies of member States and international organizations to the note by the Secretary-General of UNCTAD requesting information on technical cooperation activities in the field of competition law and policy (UNCTAD/DITC/CLP/MISC/2003/3 of 14 November 2003). The Secretary-General is grateful for the replies to his note.

### **I. PROGRESS REPORT ON UNCTAD CAPACITY-BUILDING AND TECHNICAL COOPERATION ACTIVITIES**

4. UNCTAD provides assistance on competition law and policy to developing countries and countries with economies in transition in accordance with requests received and resources available. The main types of requests for technical assistance received by UNCTAD are as follows:

(a) States without any competition legislation may request information about anti-competitive practices, including their existence in and possible adverse effects on their economy. This may involve a study of the anti-competitive practices in their economy;

(b) States without competition legislation may request introductory seminars directed at an audience including government officials and academics as well as business and consumer-oriented circles;

(c) States which are in the process of drafting competition legislation may request information on such legislation in other countries and may seek advice about drafting their competition legislation;

(d) States which have just adopted competition legislation may seek advisory services for setting up the competition authority. These services usually include training of officials responsible for the actual control of anti-competitive practices and may involve training workshops and/or on-the-job training with competition authorities in countries that have experience in the field of competition;

(e) States which have already adopted competition legislation and have experience in the control of anti-competitive practices may wish to consult one another on specific cases and to exchange information. Seminars may be organized for such exchanges between competition authorities;

(f) States wishing to revise their competition legislation might seek expert advice from competition authorities in other States so as to amend their laws in the most effective manner possible;

(g) States may also seek assistance from UNCTAD so that they may better evaluate the implications of closer multilateral cooperation in the competition area for their development.

5. The main capacity-building and technical cooperation activities of the UNCTAD secretariat in 2003 are described below.

#### **A. National activities**

6. In the area of preparation, adoption, revision or implementation of national competition and consumer protection policies and legislation, UNCTAD provided assistance to Malawi, the Islamic Republic of Iran, Malaysia, Jamaica, Poland, Swaziland, Bangladesh, Cambodia, Saint Lucia, Ghana, Zimbabwe, Brazil, Costa Rica, Guatemala, Honduras, Nicaragua, El Salvador, Kenya, Thailand, Zambia, Tunisia, the Lao People's Democratic Republic, Viet Nam, Angola, Lesotho, Botswana and Namibia. Moreover, a number of national seminars organized by UNCTAD contributed to capacity-building in the field of competition and consumer protection as well as in the area of consensus building in closer multilateral cooperation on competition policy, including the work mandated to UNCTAD by the WTO Ministerial Doha Declaration.

(a) Within the framework of the TRAINFORTRADE project national seminars for high-level officials and competition experts on the implementation of competition law and policy were held by UNCTAD in cooperation with the Ministries of Industry and Trade of *Mali* and *Benin* in Bamako from 18 to 22 March 2003 and in Cotonou from 24 to 28 March 2003;

(b) A training for trainers course on competition law and policy for Thai competition experts was organized by UNCTAD and the Australian Competition and Consumer Commission together with the Government of *Thailand* from 4 to 5 and from 8 to 10 September 2003 in Bangkok;

(c) A national seminar on the role of competition policy and law in oil-export-dependent economies aimed at examining the draft competition legislation and its implications for oil-export-dependent developing countries was jointly organized by UNCTAD and the Ministry of Commerce of *the Islamic Republic of Iran* from 20 to 22 September 2003 in Tehran;

(d) A national training seminar on the implementation of competition legislation was co-organized by UNCTAD and the Ministry of Tourism and Commerce of *Tunisia* from 1 to 7 October 2003 in Tunis;

(e) Together with the Ministry of Justice and Ministry of Finance of *Brazil*, UNCTAD held an intensive training course on the implementation of competition law for experts from the three main Brazilian law enforcement agencies from 29 October to 4 November 2003 in Brasilia;

(f) A joint commercial diplomacy and competition law and policy training programme course for experts from Cambodia and the Lao People's Democratic Republic was organized by UNCTAD together with the Ministry of Commerce and Industry of *Cambodia* from 8 to 10 December 2003 in Phnom Penh.

## **B. Regional and subregional activities**

7. Together with assisting in the drafting and revision of competition legislation by member States of the Common Market for Eastern and Southern Africa (COMESA) and in the implementation of the recently adopted legislation of the West African Economic and Monetary Union (UEMOA), in May 2003 UNCTAD held in Gaborone (Botswana) a preparatory workshop for South African Customs Union (SACU) member countries on the elaboration of a regional competition annex agreement. UNCTAD also organized a number of other conferences, seminars and workshops which contributed to capacity-building and multilateral cooperation in the area of competition and consumer protection.

8. As part of its capacity-building programmes in the field of competition law and policy and in line with requests made in the WTO Ministerial Doha Declaration, UNCTAD, in cooperation with WTO and other relevant intergovernmental organizations, organized a series of regional post-Doha meetings aimed at helping beneficiary countries, and in particular LDCs, to "better evaluate the implications of closer multilateral cooperation for their development policies and objectives", as requested in paragraph 24 of the Doha Declaration. At the UNCTAD post-Doha meetings, which had a similar agenda, an attempt was made to bring together not only

government officials and competition experts from capitals, but also independent experts and top Geneva negotiators to WTO in order to enable a full exchange of views of competition experts with Geneva WTO negotiators. The first of these meetings, the Asian Regional Conference on Post-Doha Competition Issues was held in Kuala Lumpur (*Malaysia*) from 26 to 27 February 2003. It was followed by the African Regional Conference held in Nairobi (*Kenya*) from 9 to 10 April 2003, the Regional Post-Doha Seminar for Latin America and the Caribbean in São Paulo (*Brazil*) from 23 to 25 April 2003 and the Competition Conference for Countries in Transition held in Tashkent (*Uzbekistan*) from 5 to 6 June 2003.

9. Regional seminars and conferences were also held in other countries:

(a) An “Asian Conference on Consumer Protection, Competition Policy and Law” for a wide range of participants from Asia and the Pacific was held from 28 February to 1 March 2003 in Kuala Lumpur, *Malaysia*. It was co-organized by UNCTAD and the Consumer International Regional Office for Asia and the Pacific (CI ROAP);

(b) A “Judicial Training Seminar” on competition law and policy for judges from Kenya, Zambia and Zimbabwe was held from 30 to 31 May 2003 in Livingstone, *Zambia*, by UNCTAD in cooperation with the Zambia Competition Commission;

(c) A regional seminar on strengthening institutional and capacity-building in the area of competition and consumer policy for the Central American countries was held from 8 to 10 December 2003 in San Jose, *Costa Rica*. It considered the cases of Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua and was organized by UNCTAD together with the Costa Rican Competition Agency (COPROCOM), the Swiss Competition Agency (COMCO) and the Swiss State Secretariat for Economic Affairs (SECO).

### **C. Participation in seminars and conferences**

10. UNCTAD staff members also took part in a number of seminars, workshops and conferences related to issues of competition law and policy and consumer protection. In particular, resource persons from UNCTAD made substantive presentations and/or participated in discussions at the following meetings:

- (1) The International Workshop on Consumer Rights and Law, held from 12 to 13 January 2003 in Dhaka (Bangladesh);
- (2) The Seminar on Trade and Competition (London, 24 January 2003);
- (3) The WTO Regional Workshop on Competition Policy, Economic Development and the Multilateral Trading System: the Doha Mandate and Options for the Future, held in Bangkok from 21 to 23 January 2003;
- (4) The WTO “Capacity-Building Seminar for African Countries” with a special emphasis on investment and competition, held in Cairo (Egypt) from 1 to 5 February 2003;

- (5) OECD meetings: Working Party No. 2 on Competition and Regulation, Working Party No. 3 on International Cooperation, Competition Committee meetings, Joint Group on Trade and Competition meetings, Global Forum on Competition and Joint Global Forum on Trade and Competition meetings held in February, May and October 2003 in Paris;
- (6) The Asian Conference on Fair Competition, Law and Policy in the ASEAN Free Trade Area (AFTA), held in Bali (Indonesia) from 5 to 7 March 2003;
- (7) The WTO Regional Conference on Competition Policy held in Kingston (Jamaica) on 3 April 2003;
- (8) The First Meeting of the Latin American Competition Forum (Paris, 7-8 April 2003);
- (9) The UEMOA “Regional Seminar on the Community Competition Legislation” held in Dakar (Senegal) from 5 to 9 May 2003;
- (10) The WTO Regional Workshop on Competition Policy, Economic Development and the Multilateral Trading System (Cairo, Egypt, 6-7 May 2003);
- (11) The Conference on Governance and Poverty, held in Hamburg from 7 to 9 May 2003;
- (12) The Workshop on “Strategies for Competition Advocacy in East and Southeast Asia” and the Eleventh Conference on Competition, held in Bonn from 17 to 20 May 2003;
- (13) The WTO Workshop on Competition held in Buenos Aires from 18 to 20 June 2003;
- (14) The International Competition Network Second Annual Conference (Merida, Mexico, 23-25 June 2003);
- (15) The Fifth Caribbean Consumer Conference on Globalization and its Impact on Consumerism, held in Castries (Saint Lucia) from 25 to 27 June 2003;
- (16) The WTO Regional Competition Workshop for African Countries, held in Nairobi from 10 to 11 July 2003;
- (17) The ITC “Business for Cancún” meeting, held in Kingston (Jamaica) from 11 to 12 July and in Dakar (Senegal) from 1 to 2 August 2003;
- (18) The Third Meeting of the Arab Experts Committee on Competition and Antitrust, held in Cairo from 13 to 16 July 2003;
- (19) The WTO Regional Workshop on Competition and Multilateral Trading System (Budapest, 17-18 June 2003);

- (20) The APEC Training Programme on Competition Policy meeting, held in Hanoi from 5 to 7 August 2003;
- (21) The open session of the Interstate Antimonopoly Council of CIS Countries, which took place in St. Petersburg (Russian Federation) from 17 to 18 September 2003;
- (22) The JICA Training Course on Antimonopoly Act and Competition Policy, held in Osaka, Japan, from 24 to 25 September 2003;
- (23) The “After Cancún - Where Next for Development?” and “Follow-up of Cancún” international conferences, held in Brussels on 14 October and from 24 to 27 November 2003 respectively;
- (24) The Centre of Regulation and Competition Annual Conference held in Manila from 13 to 15 October 2003;
- (25) The Consumers International 17th World Congress (Lisbon, 13-17 October 2003);
- (26) The Fair Trade Centre of Japan Round Table and the International Symposium of the Japan Association of International Economic Law, held respectively in Tokyo on 29 October and in Nagoya on 1 November 2003;
- (27) The seminar on selecting, preparing and winning competition cases, held in Miami from 2 to 4 December 2003.

## **II. INFORMATION ON CAPACITY-BUILDING AND TECHNICAL COOPERATION OF MEMBER STATES AND INTERNATIONAL ORGANIZATIONS**

### **A. Assistance provided, planned or received**

11. This subsection provides a summary of the replies received to the Secretary-General's note UNCTAD/DITC/CLP/MISC/2003/3 of 14 November 2003, which requested information on technical cooperation activities in the area of competition law and policy.

#### **Austria**

12. No technical cooperation is provided or planned by Austria in the field of competition law and policy to developing countries. Austria cooperates with the member States of the EU and with the acceding countries within the European Competition Network. The Commission, member States and future member States of the EU make use of a special intranet for the ECN.

#### **Azerbaijan**

13. In 2004 the Ministry of Economic Development had still not received technical assistance in the field of competition policy. Negotiations on the provision of technical assistance are being conducted with the Asian Development Bank.



## **Botswana**

14. The Government of Botswana is developing a competition policy with technical assistance from UNCTAD. The expected completion date for the policy is 2004.

## **Brazil**

15. As a result of a partnership between the Brazilian Competition Policy System (SBDC) and UNCTAD, in 2003 Brazilian experts participated in two important events in the trade and competition area: (a) "Regional Seminar for Latin America and Caribbean Countries on the Post-Doha WTO Competition Issues", held in São Paulo in April; and (b) the first set of sessions of the "Training for Trainers" programme, held in Brasilia in October. In June a representative of SBDC participated as a trainer at the "WTO Regional Workshop on Competition Policy and the Multilateral Trading System: Looking Ahead to Cancún", held in Buenos Aires. In September the SBDC and the OECD organized in Brasilia an "International Workshop on the Interface between Competition and Regulation in the LPG, Fuel and Natural Gas Sectors.

16. Also, through the implementation of cooperation agreements with Argentina and the United States, the Brazilian antitrust authorities have been able to share input on merger and anti-competitive conduct cases with multi-jurisdictional impact. In addition to specific information related to cases being investigated by more than one jurisdiction, these agreements have enabled the authorities to receive and share assistance on general antitrust matters.

## **Burkina Faso**

17. Technical assistance in competition law and policy takes the form of working meetings and training for officials responsible for the formulation and implementation of legislation on competition. Thus, Burkina Faso has participated in the following meetings:

(a) Two regional seminars on implementation of competition legislation, organized under the UNCTAD TRAINFORTRADE project, involving Benin, Burkina Faso and Mali, held in November 2001 and October-November 2002;

(b) A regional training seminar for co-instructors from Benin, Burkina Faso and Mali under the UNCTAD TRAINFORTRADE project, at the National Foreign Trade Office (ONAC) in Ouagadougou, in March 2002;

(c) A training seminar for trainers under the TRAINFORTRADE project, held in Cotonou in June 2002 by UNCTAD for Benin, Burkina Faso and Mali;

(d) The holding in Geneva in 2001 and 2002 of the third and fourth sessions of the Intergovernmental Group of Experts on Competition Law and Policy, organized by UNCTAD;

(e) A conference for the least developed countries on economic development and the multilateral trading system, in Capetown in February 2001, organized by the World Trade Organization (WTO), UNCTAD and the South African Government;

(f) A regional workshop on competition policy, economic development and the multilateral trading system in October 2002 in Libreville, organized by WTO, UNCTAD and the Gabonese Government;

(g) A colloquium on competition and consumer law in the West African Economic and Monetary Union (UEMOA) area, organized by the Centre for European Studies and Integration, in February 2002 in Ouagadougou;

(h) A regional conference on competition issues in the context of post-Doha negotiations, held in April 2003 in Nairobi;

(i) A regional seminar on competition policy and the multilateral trading system, held in July 2003 in Nairobi, organized by WTO;

(j) A regional seminar on community competition legislation, held in May 2003 in Dakar, organized by UEMOA.

### **Czech Republic**

18. The Office for the Protection of Competition (OPC) has signed bilateral agreements with the competition authorities of the Russian Federation, Bulgaria, Romania and Ukraine. Experts from Russian, Estonian, Croatian and Romanian competition offices visited the OPC in 1997/1998 and an OPC's expert participated in the meeting on competition law and policy in South-East Europe held in 2001 in Bulgaria. In 2003 the Declaration of the Central European Initiative was signed by the competition offices of the Czech Republic, Hungary, Poland, Slovakia and Slovenia; it is aimed at facilitating the exchange of information and experiences through seminars, conferences and exchange of staff.

19. In 1999 an important exchange of experiences between competition authorities took place at the Forum on New Competition Laws and their Implications for Business in Central and Eastern Europe, held in Brno. In 2000, the OPC in collaboration with the European Commission and the Italian Competition Authority organized a seminar on cartel agreements investigation in the Czech Republic and Italy. In 2001 the OPC together with the European Commission and the Danish competition authority organized a similar seminar in Brno. In 2001-2002 the OPC received technical assistance from the European Institute in Denmark in the form of lectures related to all areas of the Office's activities.

20. The OPC has been one of the beneficiaries of the Phare Programme activities, the latest of which is a twinning project aimed at supporting competition structures in the Czech Republic. This two-year project, launched in September 2002, is carried out in cooperation with experts from Italy and Germany. Its overall objective is to strengthen market mechanisms in the Czech Republic and to build up capacities to cope better with competitive pressures and market forces within the EU. This implies, in particular, the achievement of an effective degree of implementation and enforcement of the *acquis communautaire* in the field of competition as well as identification of major challenges related to the application of the EC competition rules upon accession.

## **Fiji**

21. In June 2003 the Australian Aid Agency approved funding of the first phase of the technical assistance proposal provided by the Australian Competition and Consumer Commission. In September 2003 an implementation plan was developed. It assesses the existing legislation, administration structures, commercial profile and the compliance culture of Fiji. This action plan aims at strengthening Fiji's capacity to administer its competition legislation.

## **Finland**

22. The Finnish Competition Authority (FCA) provided various types of technical assistance to Estonia in 1996-2002 and to the Russian Federation in 1994-2004. Experts from FCA participated as panellists in OECD seminars held in the Russian Federation (2000-2001) and Latvia (2002). Short-term visits to FCA were organized for officials from Lithuania (1997, 2001-2002), Poland (1998), China and Ukraine (2001), and Bulgaria (2002).

## **Germany**

23. In 2003 the Bundeskartellamt (Federal Cartel Office) participated in consultation meetings held within the framework of the EU twinning project in Hungary (two meetings) and Poland (six meetings) as well as in the following international seminars/workshops: OECD case study seminar in Vienna; three EU twinning project workshops in Brno (Czech Republic); an international workshop on competition organized by the OECD and the Korea Fair Trade Commission in Seoul; OECD workshop in Vilnius (Lithuania); two workshops held in Budapest by the German Foundation for International Legal Cooperation (GFILC) in cooperation with the Hungarian competition authority as well as within the framework of the EU TAIEX project; a GFILC symposium held in Budapest; and a seminar organized in Islamabad by InWent Capacity Building International, Germany.

## **Indonesia**

24. In 2002-2003 the Commission for Business Competition (KPPU) received technical assistance from the World Bank, GTZ, JICA, FTC and ELIPS. This assistance was very helpful for KPPU and was provided in the form of training, seminars, workshops, research, internships and scholarships. Also, in 2002 the Korean Development Institute co-sponsored a workshop, held with the aim of developing cooperation between the Republic of Korea and Indonesia in the field of implementing competition law and policy as well as sharing the Republic of Korea's experience in this area.

25. In 2004 the KPPU was granted technical assistance by GTZ and US FTC. The GTZ will provide until 2006 training for KPPU staff and law enforcement officers along with seminars, internships and scholarships. The FTC plans to conduct several training programmes and to provide one long-term expert. Also, a Technical Cooperation Project on Competition Policy proposed by KPPU will be implemented in 2004 and funded by JICA, which also approved the project on the Development Study on Competition Policy.

### **Latvia**

26. In November 2003 a six month Twinning Light project entitled "Strengthening the Competition Council" was launched. The main objective of the project is to strengthen the administrative capacity of the Competition Council and to improve effectiveness for implementing EU legislation and procedures. A partner in the project is the Federal Ministry of Economics and Labour of Germany, whose experts will work within the Competition Council. The project includes working on a strategic development plan, as well as the development of the Council's organization and internal procedures. Staff of the Competition Council will also benefit from training and study visits to the German Competition Authority.

### **Madagascar**

27. Since 1999 Madagascar has organized several seminars with UNCTAD officials and has participated on a number of occasions in international workshops on competition policy and economic development (South Africa, Gabon, Namibia, Geneva, Tunisia, etc.). The Malagasy bill on competition has been submitted to UNCTAD for review, and an expert recruited for this purpose. In this connection a substantial report was prepared by the expert, offering general observations on the bill, together with article-by-article commentary, plus proposals for provisions, where appropriate.

### **Malawi**

28. UNCTAD has agreed to assist Malawi in the process of institutionalizing the competition authority and has provided assistance to Malawi in the following areas:

(a) In the country's efforts to formulate competition policy and draft a competition bill (provision of experts to aid the latter process);

(b) Providing experts to workshops as resource persons; in October 2003, experts from UNCTAD participated in the workshop on the regulatory framework on the institutionalizing of the competition law; UNCTAD also funded the workshop;

(c) Affording the country an opportunity to interact with other member States and international organizations and share experiences with each in the area of competition law and policy;

(d) Organizing training programmes;

(e) UNCTAD organized and funded the fact-finding missions to Norway, the United Kingdom and Zambia to learn from the experiences of these countries in establishing and running competition authorities;

(f) UNCTAD also assisted Malawi financially and technically in organizing a national stakeholders consultative workshop in Blantyre on the implementation of the Competition Act, 1998.

29. Other sources of assistance were as follows:

(a) UNDP provided financial assistance to pay for the services of an expert during the drafting of the competition bill;

(b) The country has benefited from studying the experience of neighbouring countries which had gone through earlier stages of introducing competition policy and law, namely South Africa, Zimbabwe, Zambia and Kenya;

(c) The Competition Commission of South Africa formed part of the team that compiled a national competition document entitled "Towards Competition Policy in Malawi: A Situational Analysis", together with an UNCTAD competition expert;

(d) The Southern and Eastern African Competition Commission offers a forum for capacity-building, whereby member States indicated their willingness to open their doors to Malawian officials to enable them to learn from experiences relating to the establishment and operation of competition authorities;

(e) The Monopolies and Prices Commission of Kenya, in conjunction with UNCTAD, has invited and sponsored participants from Malawi to a number of workshops;

(f) The Competition Commission of South Africa in conjunction with OECD organized and sponsored the participation of Malawi in various forums;

(g) COMESA also organizes and solicits the participation of Malawian delegates in its training and other forums.

### **Malaysia**

30. Japan offers technical assistance in the form of seminars in Malaysia related to competition policy and law. It also offers a one-month training programme in anti-monopoly legislation and competition policy through JICA; this course is designed not only for Malaysia but also for other countries.

### **Mauritius**

31. Technical assistance was received from UNCTAD for the drafting of the Competition Act. Also, training has been provided by the OECD in collaboration with the South African Competition Commission to some officers of the Ministry of Commerce and Cooperation.

32. Technical assistance has been requested from UNCTAD for the establishment of the Office of Fair Trading and Competition Tribunal. In this regard, a consultant has already been appointed to undertake the following: (a) identify precise facts that can be considered by the Office of Fair Trading and the Competition Tribunal; (b) offer some alternative models for the appropriate organization of these new institutions; (c) identify core capabilities that would be required; and (d) briefly indicate matters to be covered in the regulations.

## **Mexico**

33. In 2003 the following major assistance activities were undertaken to enhance the work of the Federal Competition Commission:

(a) Implementation began of the programme to support capacity-building for the implementation of competition policy in Mexico. The programme was funded by the Inter-American Development Bank, with training undertaken by the United States Department of Justice and the Federal Trade Commission. The programme components cover regulators and judges. The programme also provides technical assistance for diagnosis of causes and effects of judicial delay, a review of offices and other executive units, and design of a human resources development strategy;

(b) Progress was made in preparations for a programme of technical assistance to facilitate implementation of the cooperation mechanism included in the European Union-Mexico Free Trade Agreement;

(c) The Federal Competition Commission participated in the second session of the Ibero-American School for Competition Defence, organized by the Tribunal for Competition Defence and the Department of Ibero-American Cooperation in Spain. This school is run under the aegis of the Forum of Ibero-American Competition Authorities, which submitted a statement on strengthening cooperation links and supporting the establishment of competition agencies to the Ibero-American summit of Heads of State and Heads of Government;

(d) The Federal Competition Commission participated as a provider of technical assistance in the seminar on strengthening institutional and capacity-building in the area of competition and consumer policy for the countries of Central America, in December 2003 in San José, Costa Rica. The seminar was organized by UNCTAD and the Costa Rica competition authority, and sponsored by the Swiss State Secretariat for Economic Affairs. The aim of the meeting was to review progress in the first phase of the UNCTAD project supported by the Swiss authority.

## **Peru**

34. The National Institute for the Defence of Competition and Consumer Protection (INDECOPI) offers an in-service training programme for government officials in the Americas. The aim of the programme is to contribute to the development and modernization of economies through successful experience-sharing by participating organizations, so as to increase awareness of policies that promote genuine and true competition as well as of other subjects worked on by INDECOPI, such as intellectual property and consumer protection.

35. In 2003 INDECOPI conducted the fifth in-service training programme, for 20 officials from various institutions in Latin America. In November 2004 the sixth exchange programme will be conducted. In addition, at the request of interested government offices, in-service training on competition issues will be offered. For example, a visit was received from a

Venezuelan competition policy official in the context of the European Union-Andean Community project. In 2003 the following events will be held in Lima: (a) a subregional seminar on abuse of market dominance, organized by the European Union and the Andean Community; (b) a consultancy in the context of the European Union-Andean Community competition project; (c) an exploratory mission in the context of the first phase of the UNCTAD project to strengthen competition and consumer protection in Latin America. INDECOPI officials also participated in nine seminars and meetings at the regional and international levels.

### **Switzerland**

36. In 2003 the secretariat of the Competition Commission (COMCO) played an active role in two seminars organized by UNCTAD: (a) a regional seminar for Latin America and Caribbean countries on post-Doha WTO competition issues, in São Paulo, Brazil; and (b) a seminar on strengthening institutional and capacity-building in the area of competition and consumer policy for Central American countries, in San José, Costa Rica. Secretariat representatives also took part in two meetings on competition policy organized by UNCTAD in Geneva.

37. An exchange agreement between Switzerland and the countries of Latin America has been concluded between COMCO, UNCTAD and the State Secretariat for Economic Affairs (SECO). This will begin in 2004 with the arrival of Latin American trainees in Switzerland in the Secretariat for two to three months each. A reciprocal exchange, involving placement of a COMCO secretariat official in a Latin American body dealing with competition, is scheduled for 2004.

### **Syrian Arab Republic**

38. The Syrian Arab Republic has taken part in numerous meetings, including: (a) the 2002 UNCTAD meeting of the IGE on Competition Law and Policy in Geneva (and received a number of important publications); (b) the second and third meetings of the Committee of Experts on the Formulation of Draft Standard Arab Rules on Competition, held in 2002 and 2003 at the headquarters of the League of Arab States in Cairo; (c) the Arab regional seminar on capacity-building in the areas of competition and monopoly control, held in Cairo in July 2002; (d) the workshop on competition organized by the European Commission as part of the MEDA Programme in December 2003 in Barcelona. The draft Syrian-European Association Agreement (chapter II) covers many aspects of competition. It includes an undertaking by both parties to cooperate in the future application of competition policies. Syria was studying article 82, which regulates competition in the EU.

### **European Commission**

39. The European Commission made available the communication submitted in August 2003 to the WTO's Working Group on the Interaction between Trade and Competition Policy (WT/WGTCP/W/223/Rev.1), which represented the most up-to-date picture of the assistance activities of the Commission and its member States.

## **World Trade Organization**

40. Paragraph 24 of the Doha Ministerial Declaration states that WTO Members “recognize the needs of developing and least-developed countries for enhanced support for technical assistance and capacity-building in [the area of trade and competition policy], including policy analysis and development so that they may better evaluate the implications of closer multilateral cooperation for their development policies and objectives, and human and institutional development. To this end, we shall work in cooperation with other relevant intergovernmental organizations, including UNCTAD, and through appropriate regional and bilateral channels, to provide strengthened and adequately resourced assistance to respond to these needs”. In 2003, a range of activities was undertaken by the WTO Secretariat in response to this mandate, including the organization of several regional and national workshops in addition to a symposium in Geneva and participation in a number of workshops organized by other intergovernmental organizations, notably UNCTAD.

41. More specifically, the following regional workshops were organized by the WTO Secretariat during the year: (i) a workshop for the countries of the Asia-Pacific region in Bangkok, Thailand; (ii) a workshop for the countries of the Caribbean, in Kingston, Jamaica; (iii) a workshop for the countries of the Arab and Middle Eastern region, in Cairo, Egypt; (iv) a workshop for the countries of Latin America in Buenos Aires, Argentina; (v) a workshop for the countries of Africa in Nairobi, Kenya; and (vi) a workshop for the countries of Central and Eastern Europe/Central Asia in Budapest, Hungary. National workshops were organized by the Secretariat for Kuwait and Venezuela, and a one-day symposium was held in Geneva for Geneva- and capital-based delegates. These events dealt with a range of questions relating to the role of competition policy in the process of economic development, approaches to dealing with anti-competitive practices of particular concern for developing countries, and the pros and cons of a possible multilateral framework on competition policy, as has been proposed by some Members of the WTO.

42. In addition to the above-mentioned activities organized by the WTO Secretariat itself, representatives of the Secretariat participated in a number of regional and other workshops and seminars that were organized by other intergovernmental organizations during the year. These included regional workshops organized by UNCTAD in Kuala Lumpur for the benefit of a number of Asian countries; in Nairobi for the benefit of African countries; in São Paulo for the countries of Latin America and the Caribbean; and in Tashkent for various transition economies. The Secretariat also participated in an international workshop and forum that was organized by the Fair Trade Commission of Korea in cooperation with the OECD, and in a national workshop for Tunisia, organized by UNCTAD.

43. Cooperation with UNCTAD was a hallmark of the Secretariat’s technical assistance programme on trade and competition policy throughout the year. In particular, UNCTAD contributed speakers to all of the above-mentioned regional workshops organized by the Secretariat. In reciprocal fashion, the Secretariat contributed speakers to the various workshops organized by UNCTAD, which are listed above.



44. In 2004, the WTO Secretariat will continue its programme of activities in response to the mandate contained in paragraph 24 of the Doha Ministerial Declaration. In response to requests made during the workshops held in 2003, longer-term intensive courses on competition policy will be presented for the countries of English- and French-speaking Africa, in addition to shorter regional workshops to be held in other parts of the developing world. In addition, the Secretariat's plans call for a further Geneva symposium, one or more national workshops and participation in a number of activities to be organized by UNCTAD and other intergovernmental organizations.

## **B. Requests for assistance**

45. This subsection contains extracts from the replies received, which are related to requests for technical assistance with identification of specific competition law and policy areas or issues which States wish to receive priority attention.

### **Brazil**

46. The staff of the competition authorities could benefit from training sessions and/or conferences which would address the following topics:

(a) Anti-cartel enforcement: advice on interrogation procedures; training on methods for search and seizure of documents during raids; suggested measures to guarantee effectiveness of leniency programme; additional investigation techniques;

(b) Interface between competition and regulation: open access in regulated markets (oil, electricity, telecom etc.); regulatory models for sewerage services that would create incentives for competition in the sector; proposed models for integration of the transportation sector which could result in a more efficient market and lower tariffs;

(c) New economy markets: the interface of antitrust and intellectual property; impact of digital convergence in antitrust analysis;

(d) Retail markets: logistics and conditions of entry; identification of geographically relevant markets;

(e) Merger control: appropriate techniques to analyse conglomerate mergers; alternative forms to identify market power; use of econometric models for the definition of relevant markets; optimal remedies;

(f) Antitrust in financial services: prudential regulation versus antitrust; relevant market identification in financial services.

### **Burkina Faso**

47. In general Burkina Faso needs more technical assistance to strengthen competition law and policy. To this end training and participation by officials in international seminars and workshops are essential. In this connection a request for increased assistance will shortly be submitted to such agencies as UNCTAD and WTO.

### **Czech Republic**

48. The Phare twinning programme is due to finish in August 2004. The experts collaborating with the OPC on the basis of the twinning project will have brought the necessary theoretical input required for full application of the EC competition law by the OPC immediately after the Czech Republic's accession to the European Union on 1 May 2004. However, substantial changes in application of EC competition law are expected as a result of its modernization now under way. As the modernization constitutes the biggest change in the competition legal framework in recent decades, it will be necessary to maintain very close cooperation with the EU competition experts in the area of the new legal structure.

### **Ethiopia**

49. Ethiopia has recently adopted a Trade Practice Proclamation which provides for the establishment of a Commission (drawn from government, private and consumers' associations) within the organizational structure of the Ministry of Trade and Industry (MOTI). The Commission has the power to investigate complaints submitted to it by any aggrieved party alleging violation of the provisions of the new law. To efficiently discharge its responsibilities, the Commission also has its own secretariat, members of which are employees of the MOTI. Since the concept of competition law and policy is a very new phenomenon in Ethiopia, both the secretariat and members of the Commission need training in this area.

### **Fiji**

50. The implementation of the second phase of the technical assistance proposal of the ACCC has been put on hold as funding from the Australian Aid Agency was withdrawn. In view of this, the Fiji Commerce Commission urgently requests financial assistance from member States to facilitate capacity-building. This includes the development of the Commission's human resources in terms of in-country training, providing a wide variety of workshops, appointment of advisers to steer the Commission towards more effective and efficient administration of the legislation, staff attachment to overseas competition agencies, etc., as well as training to cover restrictive trade practices and consumer protection issues.

### **Indonesia**

51. The KPPU was established in 2000 and as a newly established institution it needs assistance to run its activities. The assistance will be aimed at improving the KPPU's ability to ensure that the market provides the same level playing field for business players and also enforcement of competition policy in the market. Since competition policy itself is a new theme for Indonesia, the assistance is a major help for the KPPU.

### **Jamaica**

52. Given the necessary resources, the Fair Trade Commission (FTC) would like to undertake the following projects in order to improve its capabilities and enhance its ability to contribute meaningfully to national development:

- (a) Capability-building and service improvement, comprising the following activities:
  - (i) Organization of a course on competition in Jamaica;
  - (ii) Study visits to the Federal Trade Commission;
  - (iii) Occasional visits by consultants;
  - (iv) Attendance by Jamaican experts at international seminars;
- (b) Development of telecommunications capabilities;
- (c) Development of the FTC's web site and improvements in the FTC's database management;
- (d) Creation of an international policy stance for the FTC;
- (e) Assistance with public education;
- (f) Development of a library.

### **Latvia**

53. Areas where international technical support could be successfully used, which were identified in the previous UNCTAD report, are still current. These relate in particular to the development of the IT system to strengthen cooperation and improve information exchange between competition authorities within the EU and with other countries, as well as the development of internal procedures in the Competition Council and the provision of necessary data safety measures.

### **Madagascar**

54. When the national seminars referred to above were held in Madagascar, the Competition Office was still under the organizing department, which is no longer the case. This is reflected in the current bill on competition and consumer protection, and has been noted by international agencies such as UNCTAD, WTO and the International Trade Centre (ITC).

55. As a result, technical assistance is sought in strengthening the capacities of the competent authorities and in prioritizing competition and consumer protection, since if the draft provisions enter into force there will be no host structure at the department level with direct responsibility for these matters. The priority of the State must then be to direct the attention of political leaders to the importance of the institutional framework for competition and consumer protection so that new authorities are established to oversee these areas and thereby, in due course, attain the "institutional maturity" which is essential to the sustainable economic development currently advocated.

### **Malawi**

56. Malawi requires both technical and financial assistance in the following areas:

- (a) Competition culture advocacy/consumer education;
- (b) Training at various levels - attachments, internships, in-house training, seminars, workshops;
- (c) Staff exchange programmes;
- (d) Study tours;
- (e) Institutional framework review;
- (f) Development of terms of reference;
- (g) Institutionalization of the Malawi Competition Commission;
- (h) Networking with other competition authorities, UNCTAD, COMESA, SADC, etc.;
- (i) Identification of other cooperating partners, e.g. USAID, World Bank, EU, Norway;
- (j) Any other relevant technical assistance that may be required.

### **Malaysia**

57. Malaysia wishes to request:

- (a) An attachment programme for two officers in UNCTAD for a duration of six weeks. During this programme intensive training on competition policy and issues is needed;
- (b) Assistance in drawing up a curriculum for advocacy programmes which should include the benefits of introducing competition policy and law, losses accruing from not having such a policy and law, as well as the impact on consumer/industry/business.

### **Panama**

58. The Competition and Consumer Affairs Commission (CLICAC) offered a technical assistance programme aimed at strengthening the system of free competition, with the following main components:

(a) Improvements in the functional capacity of CLICAC, establishment of the CLICAC Publications Centre, establishment of the CLICAC Information and Documentation Centre, local and external training, institutional modernization;

(b) Design and implementation of dissemination strategies: development of higher education and research centres.

## **Peru**

59. INDECOPI submitted a list of technical assistance requirements, comprising consultancies, training, seminars and publications.

## **Syrian Arab Republic**

60. The country needs to draw up a draft competition law and looks for bilateral or multilateral technical assistance from States or international agencies. This assistance could be provided in the following areas:

(a) Submission of information;

(b) Holding of a preparatory seminar for the largest possible number of stakeholders in the Syrian Arab Republic (government officials, individuals and groups involved in consumer-related commercial and trade activities), with contributions by speakers from UNCTAD, to throw light on modern methods of guaranteeing a competitive climate, protecting the consumer and supporting product quality;

(c) Drafting of competition legislation, including the provision of information about similar legislation in other countries and with reference to the revised text of the Model Law on Competition;

(d) At a later stage, after the completion of the draft of the competition law, assistance in establishing a competition authority.

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