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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
Eighth session
Geneva, 17–19 July 2007
Agenda item 3

**AGREED CONCLUSIONS ADOPTED BY THE INTERGOVERNMENTAL
GROUP OF EXPERTS AT ITS EIGHTH 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,

Recalling the provisions relating to competition issues adopted by UNCTAD XI in the São Paulo Consensus (TD/410), including the provisions in paragraphs 89, 95 and 104 of the São Paulo Consensus,

Further recalling the resolution adopted by the Fifth United Nations Conference to Review All Aspects of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices (Antalya, Turkey, November 2005),

Noting that UNCTAD XII will focus on addressing the opportunities and challenges of globalization for development,

Underlining that competition law and policy is a key instrument for addressing globalization, including by enhancing trade and investment, resource mobilization and the harnessing of knowledge,

Recognizing that an effective enabling environment for competition and development may include both national competition policies and international cooperation to deal with cross-border anti-competitive practices,

Recognizing further the need to strengthen UNCTAD's work on competition law and policy so as to enhance its development role and impact,

Noting with satisfaction the important written and oral contributions from competition authorities of members participating in its eighth session,

Taking note with appreciation of the documentation prepared by the UNCTAD secretariat for its eighth session,

1. *Expresses appreciation* to the West African Economic and Monetary Union (WAEMU) and the Governments of Benin and Senegal for volunteering for a peer review during the eighth session of the Intergovernmental Group of Experts and to all Governments and regional groupings participating in the review; *recognizes* the progress achieved so far in the elaboration and enforcement of WAEMU's competition rules; *invites* all member States to assist UNCTAD on a voluntary basis by providing experts or other resources for future activities in connection with voluntary peer reviews; and *decides* that UNCTAD should, in the light of the experiences with the voluntary peer reviews undertaken so far and in accordance with available resources, undertake further voluntary peer reviews on the competition law and policy of member States or regional groupings of States, back to back with the ninth session of the Group of Experts;

2. *Underlines* the key roles that competition policy and intellectual property rights play in attaining development objectives and the need to strengthen international cooperation in this area, particularly for the benefit of developing countries; and *requests* the UNCTAD secretariat to prepare a report on this subject, taking into account the proceedings and written contributions of the Roundtable on Competition Policy and the Exercise of Intellectual Property Rights and comments received from member States to be sent in writing by 31 January 2008, for submission to the ninth session of the Group of Experts;

3. *Underlines further* the importance of competition at the national and international levels in energy markets; and *notes* the reported persistence of significant market power problems in some electricity and natural gas sectors and the challenges that developing countries face in reforming their energy markets and taking into account the proceedings and written contributions of the Roundtable on Competition at the National and International Levels: Energy;

4. *Emphasizes* the importance of elaborating and applying criteria for evaluating the effectiveness of competition authorities adapted to the needs and conditions of developing countries as a tool for enhancing competition enforcement and taking into account the proceedings and written contributions of the Roundtable on Criteria for Evaluating the Effectiveness of Competition Authorities;

5. *Calls upon* States to increase cooperation between competition authorities and Governments for the mutual benefit of all countries in order to strengthen effective international action against anti-competitive practices as covered by the Set, especially when these occur at the international level; such cooperation should take particular note of the needs of developing countries and economies in transition;

6. *Decides* to consider at its ninth session how to further develop bilateral and regional cooperation mechanisms in the competition policy area;
7. *Requests* the UNCTAD secretariat to continue publishing as non-sessional documents and to include in its website the following documents:
 - (a) Further issues of the *Handbook on Competition Legislation*;
 - (b) An updated version of the *Directory of Competition Authorities*;
 - (c) A further 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 no later than 31 January 2008;
 - (d) An updated review of capacity-building and technical assistance, taking into account information to be received from member States no later than 31 January 2008; and
 - (e) A further revised and updated version of the Model Law on Competition on the basis of submissions to be received from member States no later than 31 January 2008;
8. *Further requests* the UNCTAD secretariat to prepare a report on abuse of dominance;
9. *Recommends* that the ninth session of the Group of Experts consider the following issues for better implementation of the Set:
 - (a) The attribution of competence between community and national competition authorities and the application of competition rules; and
 - (b) Independence and accountability of competition authorities;
10. *Takes note* of the convening by the UNCTAD secretariat of an ad hoc expert group on the role of competition law and policy in promoting growth and development;
11. *Further takes note* with appreciation of the voluntary financial and other contributions received from member States; *invites* member States to continue to assist UNCTAD on a voluntary basis in its capacity-building and technical cooperation activities by providing experts, training facilities or financial resources; and *requests* the UNCTAD secretariat to pursue and, where possible, expand its capacity-building and technical cooperation activities (including training) in all regions, within available resources.