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Twelfth session

Geneva, 9–11 July 2012

**Report of the Intergovernmental Group of  
Experts on Competition Law and Policy on its  
twelfth session**

**Held at the Palais des Nations, Geneva, from 9 to 11 July 2012**

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## **I. Agreed conclusions adopted by the Intergovernmental Group of Experts adopted at its twelfth 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 XIII in Doha, including the provisions in paragraphs 50 and 56(m) of the Doha Mandate,

*Further recalling* the resolution adopted by 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 (Geneva, November 2010),

*Reaffirming* the fundamental role of competition law and policy for sound economic development and the need to further promote the implementation of the Set of Principles and Rules,

*Noting* that UNCTAD XIII has focused 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,

*Further recognizing* the need to continue UNCTAD's work on competition law and policy so as to enhance the development impact,

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

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

1. *Expresses appreciation* to the Governments of Mongolia, the United Republic of Tanzania, Zambia and Zimbabwe for volunteering for a peer review during the twelfth 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 the peer-reviewed countries' competition law; and invites all member States to assist UNCTAD on a voluntary basis by providing experts or other resources for future and follow-up activities in connection with voluntary peer reviews and their recommendations;
2. *Decides* that UNCTAD should, in light of the experiences with the voluntary peer reviews undertaken so far by UNCTAD and others and in accordance with available resources, undertake a further voluntary peer review on the competition law and policy of a member State or regional grouping of States during the thirteenth session of the Intergovernmental Group of Experts;
3. *Emphasizes* the importance of applying competition law to public procurement; takes note of the discussions and written contributions of member States on this issue; and requests the UNCTAD secretariat to disseminate the summary of the discussions of the Intergovernmental Group Of Experts on this topic to all interested States, including through its technical cooperation activities;

4. *Underlines* the importance of knowledge management as a tool for enhancing agency effectiveness; and requests the UNCTAD secretariat to disseminate the summary of the discussions of the Intergovernmental Group of Experts on this topic to all interested States, including through its technical cooperation activities;
5. *Calls upon* UNCTAD to promote and support cooperation between competition authorities and Governments in accordance with the Doha Mandate in paragraphs 50 and 56(m);
6. *Recommends* that the thirteenth session of the Intergovernmental Group of Experts consider the following issues for better implementation of the Set:
  - (a) The impact of cartels on the poor;
  - (b) Prioritization and resource allocation as a tool for agency effectiveness;
  - (c) Modalities and procedures for international cooperation in competition cases involving more than one country;
  - (d) Voluntary peer reviews on the competition law and policy of interested countries.
7. *Requests* the UNCTAD secretariat, with a view to facilitating the round-table discussions, to prepare reports on items 6(a), (b), (c) and (d) above. With a view to facilitating the consultations at the peer review, requests the secretariat to prepare an executive summary of the peer review report in all working languages, as well as a full report of the peer review in its original language to be submitted to the thirteenth session of the Intergovernmental Group of Experts;
8. *Further requests* the UNCTAD secretariat to continue publishing as non-sessional documents and to include on its website the following documents:
  - (a) An updated review of capacity-building and technical assistance, taking into account information to be received from member States and observers no later than 31 January 2013;
  - (b) Further issues of the Handbook on Competition Legislation containing commentaries on national competition legislation providing the basis for further revision and updating of the Model Law to be received from member States no later than the end of April 2013;
9. *Takes note of with appreciation* 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, focus its capacity-building and technical cooperation activities (including training) on maximizing their impact in all interested countries.

## II. Proceedings

### A. Statement of the Secretary-General

1. The full text of the opening statement, which was made on behalf of the Secretary-General by the Director for International Trade in Goods and Services, and Commodities of UNCTAD, Mr. Guillermo Valles, is available online at [http://unctad.org/meetings/en/Presentation/ciclp2012\\_Opening\\_Valles\\_en.pdf](http://unctad.org/meetings/en/Presentation/ciclp2012_Opening_Valles_en.pdf).

## B. General statements

2. The twelfth session of the Intergovernmental Group of Experts on Competition Law and Policy organized by UNCTAD was held at the Palais des Nations in Geneva, on 9–11 July 2012. Representatives from 93 countries and 6 intergovernmental organizations, including the heads of competition authorities, attended the high-level discussions.

3. Several delegates shared their experiences as young competition agencies. An increasing number of countries, including developing countries, had gained experience in the application of the competition laws that they had adopted in recent years. Furthermore, there was a need to recognize the difference between the adoption of competition law and its enforcement and to meet the challenges that lie between those phases. One delegate highlighted the importance of advocacy programmes for a newly established agency, reporting that his agency had carried out a number of such programmes, targeting mainly businesses. Further remarks related to the preparation of institution-building instruments, such as guidelines on procedures and core competition law concepts, including the definition of the relevant market.

4. Delegates cited several examples of the success in strengthening their respective institutions through legislative reforms and independent evaluation. One delegation spoke of initiating a stocktaking of legislations that may have compromised competition law enforcement. In the context of success stories, one delegate reported on the gender balance achieved at the level of commissioners and staff of the respective competition authority.

5. Other delegates highlighted the importance of international support, especially when faced with a lack of domestic competition expertise. A number of delegates praised UNCTAD for its technical assistance and organization of intergovernmental meetings on competition issues. Several delegations expressed their appreciation to UNCTAD for organizing the meeting, as it was an important forum for the exchange of ideas and experiences with peers, and cited the Model Law as a key resource for competition authorities.

6. Ministers who headed the delegations of two countries that had taken part in UNCTAD voluntary peer reviews expressed their appreciation for the importance and usefulness of the process in strengthening domestic competition law and policy. They were grateful to those who had contributed to the reviews. They highlighted the relevance of the peer review recommendations for overall development strategies in their countries. One delegate stated that the tripartite peer review had shown that the relationship between sector regulators and competition authorities remained challenging in the countries under review.

7. With regard to the ad hoc expert meeting on consumer protection that was scheduled to take place after that of the Intergovernmental Group of Experts, one delegate conveyed an intention to attend the meeting in order to gain insight on a possible merger of competition and consumer protection matters under a new umbrella agency. Another reported on the recent Third Annual Conference of Competition and Consumer Protection Policies for Latin America (COMPAL)<sup>1</sup> and highlighted its importance in setting priorities and identifying needs in the field of competition and consumer protection for the 12 members of COMPAL at the regional level. One delegate from a COMPAL beneficiary country thanked UNCTAD for putting the agencies' focus on consumer protection for the benefit of the poor.

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<sup>1</sup> Under the COMPAL programme, UNCTAD provides technical assistance in competition and consumer protection law to selected Latin American countries.

8. Several delegations reaffirmed their belief that competition policy was an important tool to promote economic growth. One delegate said that competition was a highly complex concept, especially due to conflicting approaches by developed and developing nations. The market access approach might have been the problem in the negotiation of a multilateral agreement on competition policy in the World Trade Organization (WTO) in 2004.

9. A representative of WTO explained the interaction between competition and trade, stressing that both were mutually reinforcing and important instruments for well-functioning markets. Although competition was not part of the current WTO work programme, it still played an important role in the WTO agenda, for example, in WTO trade policy reviews. Further, several WTO agreements contained provisions on competition policy. The WTO Secretariat was pleased to cooperate with UNCTAD and the World Intellectual Property Organization, among other organizations.

10. The representative of the Common Market for Eastern and Southern Africa (COMESA) gave an update on the activities in the area of competition. By the end of 2013, all COMESA members should have a competition law in place. UNCTAD and the COMESA Competition Commission worked together within the framework of the UNCTAD Africa Competition Programme, known by its acronym, AFRICOMP.

### **C. Closing plenary**

11. Given that no delegation wished to take the floor in the closing plenary, the Chair thanked UNCTAD, in particular the head of the Competition and Consumer Policies Branch, and the delegates participating in the meeting.

### **D. Tripartite Peer Review of Competition Law and Policy: United Republic of Tanzania, Zambia, and Zimbabwe**

12. The tripartite peer review of competition law and policy in the United Republic of Tanzania, Zambia and Zimbabwe was moderated by Sean Ennis, Chief Executive Officer (CEO), Competition Commission of Mauritius. The reviews were prepared by Alberto Heimler, Tulasoni Kaira, Alex Kububa and Allan Mlulla. The peer reviewers were George Lipimile, CEO, COMESA Competition Commission; Simon Roberts, South Africa Competition Commission; Russell Damtoft, Associate Director, Office of International Affairs, Federal Trade Commission of the United States of America; and David Ong'olo, Chairman, Competition Authority of Kenya. The delegation of the United Republic of Tanzania was headed by Abdallah Omar Kigoda, Minister of Industry and Marketing; and Nikubuka Shimwela, Chairman, Fair Competition Commission. The delegation of Zambia was headed by Encyla Chishiba Tina Sinjela, Ambassador and Permanent Representative of Zambia to the United Nations in Geneva; and Chilufya P. Sampa, Executive Director, Zambia Competition and Consumer Protection Commission. The delegation of Zimbabwe was headed by Welshman Ncube, Minister of Industry and Commerce; and Alex Kububa, Director, Competition and Tariff Commission.

13. The morning session of the tripartite peer review was devoted to the presentation of the three reviews and their comparative assessment.

14. Mr. Kaira presented the main findings of the report on the United Republic of Tanzania. After its experience with a centrally planned economy, the country had adopted its first competition law in 1994. The current Fair Competition Act had been in force since 2003. The institutional framework provided in the law comprised the Fair Competition Commission, the Fair Competition Tribunal and the National Consumer Advocacy Council. However, the latter was not operational. The Act

regulated the prohibition of anticompetitive agreements, the abuse of market power, the control of mergers and the protection of consumers

15. After analysing the competition regime and its enforcement in the United Republic of Tanzania, the reviewer made several recommendations, including the following:

(a) Vertical restraints and joint dominance should be covered by the Tanzanian competition regime;

(b) The minimum level for fines should be lowered from the current level of 5 per cent to 0 per cent in order to allow for the introduction of a leniency regime;

(c) The introduction of criminal sanctions against individuals should be considered;

(d) Investigation, prosecution and adjudication powers currently vested in the Director General of the Commission should be separated;

(e) Several procedural mechanisms should be reformed so as to allow appeals of decisions of the Fair Competition Tribunal before the Court of Appeals, which should also have the power to oversee the conduct of regulators.

16. In general, the reviewer recommended revising the funding system for all three institutions to make it more sustainable.

17. Mr. Kububa presented the main findings of the peer review on Zambia. The country's first competition law had also been adopted in 1994, and the current Competition and Consumer Protection Act had been in force since 2010. It regulated restrictive business and anticompetitive trade practices, mergers, market inquiries and consumer protection issues. Regarding the institutional layout, the Competition and Consumer Protection Commission had two operating arms: the Secretariat (investigation and advocacy) and the Board of Commissioners (adjudication). Decisions were subject to the review of a specialized tribunal. The reviewer made several recommendations: The Commission should disseminate its criteria for merger control and vertical agreements among the business community, enter into memorandums of understanding with sector regulators and clarify the nature of the ex officio membership of the Executive Director in the Board to avoid conflicts of interest. He also proposed some amendments to the current Act and recommended that funding of the Commission should be strengthened and come entirely from government grants. Finally, more training for members of the Tribunal and other judicial organs would be welcome.

18. Mr. Mlulla presented the main findings of the peer review for Zimbabwe. He started by giving an overview of the historical and political context in which Zimbabwe's competition regime needed to be seen, including economic challenges due to the war with the Democratic Republic of the Congo (1998–2002) and the economic sanctions by some of Zimbabwe's key trading partners as a response to Zimbabwe's land reform programme of 1999. Zimbabwe's first competition legislation dated back to 1996, the Zimbabwe Competition Act. In 2001, it was amended to provide for the combination of the former Industry and Trade Competition Commission and the Tariff Commission to form the Competition and Tariff Commission, as a cost-saving measure. An incomplete adaptation of the wording of the Act at that time had led to a major shortcoming of the Zimbabwean competition regime. While the Act distinguished various forms of objectionable conduct, namely unfair business practices, restrictive agreements and unfair trade practices, there was no general prohibition of anticompetitive agreements. Only unfair trade practices (e.g. dumping) constituted an offence and were sanctioned by a fine or imprisonment. In contrast, unfair business practices, which comprised generally restrictive practices and specific practices that were individually listed in the First Schedule, were only sanctioned by nullity. Further issues of the current legislative framework were discussed. The reviewer recommended, inter alia, an

increase in Competition and Tariff Commission staff pay (currently 700 per cent lower than the pay for sector regulators); the establishment of an information technology (IT) department; and most importantly, the revision of the Act following a comprehensive study reflecting the social, economic and political challenges to competition and the establishment of a graduate competition law and policy course.

19. Mr. Heimler presented a comparative assessment report on all three countries. After describing common and distinct characteristics of each competition regime, the reviewer shared some reflections on the regional competition regimes to which the three peer-reviewed countries belonged (COMESA, the East African Community (EAC) and the Southern African Development Community (SADC)). He recommended that all competition authorities (a) strengthen the scope of dawn raids aiming at stronger enforcement; (b) interpret exemptions restrictively; (c) conduct training of case-handling procedures and training to the judiciary, (d) impose deterrent sanctions, highlighting the need for reform of the Zimbabwean law on cartels; and (e) enhance regional cooperation.

20. The Tanzanian Minister for Industry and Trade welcomed the comparative aspect of the peer review and underscored its importance in strengthening regional integration efforts under EAC, SADC and COMESA. The tripartite peer review forum was a learning opportunity for all competition authorities from developing and developed countries.

21. The chairman of the Fair Competition Commission praised the review for having pinpointed certain areas of the Tanzanian competition law for amendment, which needed to be addressed for better enforcement: the relationship of the Commission with sector regulators, the crop marketing boards, the omission of geographical and customer allocation under the prohibition of anticompetitive agreements, issues relating to thresholds for cartel investigations, merger control and issues relating to separation of powers.

22. The Zambian Ambassador to the United Nations noted both the impartial and rigorous nature of the peer review process and the importance that her Government gave the recent competition law reform (2010 Competition and Consumer Protection Law), which focused on both the national and regional levels. She said that Zambia had played an active part in the establishment of the COMESA regional competition framework.

23. The head of the Competition and Consumer Protection Commission said that Zambia had originally adopted its competition law to ensure that gains from economic liberalization had not been negated or diminished by the existence of anticompetitive behaviour. Although competition law enforcement had initially faced some opposition, it was widely recognized that the economy and the citizens had greatly benefited from better-functioning markets. In the early years, emphasis had been placed on advocacy, but now stronger enforcement would be appropriate. In addition, enforcement experience over the years had enabled Zambia to identify areas of weakness, which had led to the revision of the competition law in 2010.

24. The Zimbabwean Minister of Industry and Commerce said that the review was a well-founded and balanced review of Zimbabwe's competition regime. The Government had actively supported the Commission by making previous amendments to the law and funding improvements. Describing the comprehensive and ongoing assistance of UNCTAD, he said that the findings and recommendations of the peer review report were comprehensive and that their implementation would contribute significantly to the more effective application of competition law and policy in Zimbabwe.

25. The statements by the three delegations were followed by a question-and-answer session. The questions raised by the reviewers related to the following areas: (a) enforcement practice, (b) the interplay between competition law and sector

regulation, (c) the regional dimension and (d) the relationship between the national competition authorities and wider governmental stakeholders.

26. Questions covered, *inter alia*, the investigative powers of competition authorities, in particular the requirement of proving an intentional competition law infringement in the United Republic of Tanzania, leniency programmes as a tool to detect cartels in Zambia, the importance of public interest criteria in assessing restrictive business practices in Zimbabwe and institutional arrangements for collaboration with sector regulators. Each country reviewed answered those questions in a spirit of transparency and good will. In most cases, efforts were being conducted to tackle the most pressing challenges, although there was still room for action. For example, the United Republic of Tanzania had been able to prove intent in investigations, although it wished to modify the requirement through legislative reform. Zambia argued that leniency programmes were necessary for better cartel detection and expressed the hope that there would be more regional commitment on that point. Zimbabwe recognized that “public interest” was an ambiguous concept; however, its law identified several specific aspects of the public interest criterion. All agencies emphasized the need for strengthening institutional coordination with regulatory bodies to avoid conflict of jurisdiction.

27. Following the questions from the reviewers, the floor was opened to questions by other delegates relating to the issue of determining the optimal number of personnel in a competition agency and how to retain talent. Asked if they had any jurisdiction to assess State aid, the three competition authorities of the peer-reviewed countries agreed that several studies had been conducted to determine the optimal number of staff, although it was subject to change because of economic developments. Incentives and training were the best way to retain talent in an agency. All three countries lacked jurisdiction over State aid, but actively reported to governments on the impact of specific State aid measures on competition and the best way to avoid distortions of competition.

28. During the second part of the review, the three peer-reviewed countries had an opportunity to exchange experiences and best practices in an interactive debate with representatives from other competition authorities. Reviewed authorities expressed an interest in learning how the European Union, Germany and the United States of America managed to guarantee due process while maintaining investigative and adjudicative powers vested in a single agency. In their responses, participants stressed the importance of upholding transparent and independent processes and subjecting all decisions to judicial review. The reviewed countries also showed an interest in learning about the relationship between competition authorities and sector regulators in Australia, Namibia, South Africa and the United States. Most answers pointed to the need to enter into some sort of formal cooperation between competition authorities and sector regulators to avoid concurrent or even clashing jurisdictions.

29. On the follow-up to the peer review, the UNCTAD secretariat presented a project proposal outlining the activities to be undertaken to implement the peer review recommendations. The proposed activities included country-specific programmes as well as certain regional activities in collaboration with regional groupings. UNCTAD called upon development partners and other competition authorities to assist the three countries in implementing the peer review recommendations

30. In conclusion, the heads of delegation of the three competition authorities expressed their satisfaction at the peer review process and informed the meeting that their Governments were committed to the implementation of the recommendations. They also called upon UNCTAD to continue offering technical assistance in this area and requested that other donors join these efforts.



## **E. Round table – Competition policy and public procurement**

31. The round table was moderated by the Chair of the twelfth session of the Intergovernmental Group of Experts. Mr. Ennis delivered the keynote speech. The panellists for the session were Mikhail Evraev, Director of Public Procurement Department, Russian Federal Anti-Monopoly Service; Anna Müller, Legal Affairs Officer, WTO; Antonio Maudes, Director for Advocacy, Spanish Competition Commission; and Jaeho Moon, Korea Fair Trade Commission, Republic of Korea.

32. At the opening of the round table, the UNCTAD secretariat presented the key findings from the background note prepared for the round table.<sup>2</sup> While the topic of competition issues in public procurement had been discussed at various other international forums, it was the first time the Intergovernmental Group of Experts had addressed this issue. For this reason, the background paper adopted a broad approach covering aspects of an institutional framework that promoted competition, as well as prevention, detection and prosecution for bid-rigging.

33. The keynote speaker said that public procurement was important in terms of shares in gross domestic product (GDP) in member countries of the Organization for Economic Cooperation and Development (OECD) and developing countries. In addition, 2011 United Nations Commission on International Trade Law (UNCITRAL) Model Law on Public Procurement was useful. He described different forms of collusive behaviour affecting public procurement and said that it would result in overcharges of around 30 to 40 per cent. He explained the regulatory framework for public procurement in Mauritius and emphasized that complementarily, bid-rigging was prohibited by the Mauritian competition law. While the Mauritius Competition Commission had not prosecuted a bid-rigging case to date, it had prepared the ground by entering into a memorandum of understanding with the Public Procurement Authority and providing training and guidance to public procurement officials. In addition, the Mauritius Competition Commission had carried out some advocacy activities aimed at educating private enterprises on procurement rules.

34. The keynote speech was followed by presentations from the panel. The first presentations, made by Mr. Evraev, focused on the reform of the public procurement system in the Russian Federation, as well as the efforts of the Russian competition authority to fight collusion in public procurement. The reform undertaken in 2006 comprised the creation of a single website, where all information on public tenders within the Russian Federation was advertised. Furthermore, a compulsory e-tendering system and an appeal mechanism for frustrated bidders were introduced. Over the past six years, more than 1,448 billion roubles (36 billion euro) in aggregated savings had been realized, thanks to the reformed public procurement system. Finally, Mr. Evraev mentioned some of the persistent challenges that required further action.

35. The next panellist, Ms. Müller, presented the main characteristics of the Agreement on Government Procurement, a plurilateral agreement open to members of WTO that had recently been re-negotiated by the parties to the Agreement. Accession to the Agreement would require the opening of domestic public procurement markets to companies established in other member countries of the Agreement. In turn, access to the public procurement markets of the latter would be granted to domestic companies, with important additional market access being offered by the parties to the Agreement under the revised Agreement. In this way, accession to the Agreement would broaden the scope of potential bidders and stimulate competition for public contracts. Furthermore, the implementation of the Agreement, notably of its streamlined and modernized revised text, required the

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<sup>2</sup> UNCTAD (2012). Competition policy and public procurement. TD/B/C.I/CLP/14. 17 April.

establishment of a public procurement system based on the principles stipulated in the plurilateral agreement, including the principle of competition. In this context, accession to the Agreement did not oblige countries to take preventative or remedial measures regarding collusive tendering, although that was certainly encouraged. Currently, 42 members of WTO had become parties to the Agreement, including both developed and developing countries.

36. Mr. Maudes reported on the Spanish system for public procurement and the efforts of the Spanish competition authority to fight collusive behaviour in that field. Government spending on public procurement accounted for around 15 per cent of the country's GDP. He estimated that bid-rigging inflated costs for public procurement by around 20 per cent. Before giving a short overview of the legal framework of the Spanish procurement system that essentially incorporated the respective legal acts of the European Union, he emphasized that while competition authorities were not in charge of carrying out public procurement or designing the respective rules, they were well-advised to use their advisory function in order to promote a public procurement system based on the principle of competition. The prosecution of bid-rigging cases was very important in order to ensure competition for public contracts. In this context, some areas of government procurement, such as the health sector and road construction, had been recently affected by collusive behaviour in Spain. The Spanish competition authority had recently published a practical guide on public procurement that provided guidance for procurement entities on how to promote competition in public procurement and prevent bid-rigging through an adequate design of public tenders.

37. The final presentation was made by Mr. Moon, who described the Korean public procurement system. It was characterized by a central government organization responsible for carrying out procurement on behalf of other government agencies. Procurement procedures included an appeal mechanism for frustrated bidders. He gave a brief overview of the history of the Korean system for public procurement that dated back to 1951 and explained the different phases through which it went by trial and error. He placed particular emphasis on the interplay and possible tensions between competition, efficiency and transparency.

38. The second part of his presentation was devoted to the prevention of, and law enforcement against, bid-rigging. Various measures were undertaken to prevent bid-rigging, including the introduction of an electronic bidding system, the inclusion of a prearranged damage clause in public contracts, the disqualification of bid riggers from future tender procedures, training sessions for the business community and the establishment of a bid-rigging indicator analysis system. Finally, the panellist reported on the fight against bid-rigging in turnkey projects in which one company dealt with both the design and building of public constructions.

39. The panel presentations were followed by statements from the floor. Many speakers described their domestic system for public procurement and its interplay with the competition law. In several countries, bid-rigging was not only sanctioned by domestic competition law, but by criminal law, as well. Referring to the role played by competition authorities in the fight against bid-rigging, he said that there were several success stories concerning the prosecution of severe bid-rigging, for example, in the Swiss construction industry, the Moroccan pharmaceutical industry, the Mexican health-care sector and the procurement of fire engines in Germany. There appeared to be consensus among the speakers from the floor that cooperation and coordination between competition authorities and public procurement authorities were crucial in the fight against bid-rigging.

40. Several delegates reported on public procurement guidelines issued by competition authorities in order to assist procurement entities with the prevention and detection of bid-rigging. At times, these guidelines were issued with external support, for example, by OECD. A brief report on the latter's work on competition and public procurement was also shared, highlighting the tension between the

principle of transparency in public procurement in order to prevent corruption and the principle of competition, which might be put at risk when excessive transparency facilitated collusion.

41. Several delegates spoke of efforts to newly introduce a public procurement system based on competition, and on recent or ongoing reforms of their public procurement systems. In this context, competition authorities played an important role in advocacy. Several speakers said that the 2011 UNCITRAL Model Law on Public Procurement was a useful guide.

## **F. Round table – Cross-border anticompetitive practices: The challenges for developing countries and economies in transition**

42. The round table was moderated by the Chair of the twelfth session of the Intergovernmental Group of Experts. Ariel Ezrachi, Director of the University of Oxford Centre for Competition Law and Policy, delivered the keynote speech. The panellists for the session were (a) Paulo Burnier da Silveira, Head of the International Unit of the Brazilian Competition Authority (CADE); (b) Anna Maria Tri Anggraini, Commissioner, Commission for the Supervision of Business Competition; and (c) Zunaid Mohamed, a private competition law practitioner at Fairbridge Arderne and Lawton Inc., South Africa.

43. The UNCTAD secretariat presented a background study on cross-border anticompetitive practices and the challenges for developing countries and economies in transition. Drawing upon selected jurisdictions with a strong record of cross-border cartel enforcement and merger control, it identified specific challenges faced by developing countries in dealing with international cartels and cross-border mergers. For a way forward in addressing international cartels, the secretariat suggested some national-level measures, including setting up leniency programmes and increasing enforcement efforts into domestic cartels. At the international level, it encouraged international cooperation and proposed the establishment of an international intelligence network. In dealing with cross-border mergers, the secretariat highlighted the importance of building capacities and the development of skills at the national level.

44. The keynote speaker, Mr. Ezrachi, described the specific factors pertaining to international competition law enforcement and touched upon the enforcement realities in developing countries and economies in transition. The latter included exposure to the negative transfer of wealth from one jurisdiction to another resulting from cross-border restraints on competition, limited ability to benefit from enforcement by other countries, capacity constraints, exposure to externalities from enforcement actions elsewhere and the complexity of multinational infringements. As a response to challenges posed by cross-border anticompetitive practices, he proposed aggregating enforcement capabilities; one way to achieve this could be through the creation of a “focused-multinational information sharing platform”. The key features of the “collaborative information platform” included pooling resources to create a visible flow of non-confidential information. Each jurisdiction would log information, such as past and ongoing cartel and merger investigations, and market studies, onto the platform. Such a platform would enable information gathering and sharing as well as facilitating collaboration in ongoing investigations. The benefits of the platform would include reduced fragmented enforcement, enhanced agency effectiveness and deterrence, and facilitated follow-on investigations and domestic remedies. The databank would also contribute to capacity-building, learning and informal ad-hoc cooperation. He proposed that the databank should be established by UNCTAD.

45. Mr. Burnier da Silveira shared Brazil’s experience in international cartels and cross-border merger control. He gave a brief overview of the Brazilian cartel enforcement efforts during the last decade and the particular challenges that Brazil

had faced in its fight against international cartels. First, international cartelists had been following increasingly sophisticated strategies and this made it more difficult for the authorities to find evidence. Second, Brazil's vast territory created another challenge, given the authorities' limited resources. Lastly, while competition enforcement was limited to national boundaries, the nature of business was global. With regard to cross-border merger control, a pre-merger notification system had recently been adopted in his country. Brazil had started with domestic enforcement against cross-border anticompetitive practices and then moved to international enforcement. He stressed the importance of convergence in procedures and time lines on merger control across jurisdictions, which facilitated Brazil's efficient cooperation with foreign competition agencies. To foster international cooperation, it was essential to forge trustful relationships between authorities. He suggested the promotion of informal information sharing.

46. Ms. Tri Anggraini provided the Indonesian perspective on cross-border anticompetitive practices. She provided an overview of the legal framework and international cooperation schemes in Indonesia to deal with cross-border anticompetitive practices. She described their enforcement efforts by providing statistics on cartel and merger cases and highlighted the high transaction values of cross-border mergers involving foreign companies compared with mergers between local firms. Based on the Indonesian experience, she referred to some challenges in enforcement against cross-border anticompetitive practices, such as different legal systems and institutional structures, different levels of protection or priorities by governments, the lack of formal cooperation in enforcement and the amount of time required by international coordination versus a limited period of time for case examination. As a way forward, she pointed to the importance of increased efforts towards bilateral cooperation and informal information sharing between authorities, and to the need to standardize competition law enforcement.

47. Mr. Mohamed shared the South African experience on cross-border merger control and international cartels from the perspective of a private practitioner. As regards cross-border merger control in South Africa, different jurisdictions applying different public interest tests could create uncertainty for private practitioners and merging parties. Differences in remedies imposed by different jurisdictions might result in the divestiture of too many assets in different jurisdictions by a particular company. In addition, differences in decisions (approval or prohibition) on mergers and the time required to achieve approval in different jurisdictions might affect the implementation of a merger. Leniency programmes were the most effective tool in fighting against cartels. South Africa was the only country among the 15 members of SADC to have a corporate leniency programme in place. This caused uncertainty for cartel members operating in both South Africa and other SADC countries, as they might hesitate to apply for leniency in South Africa due to a fear of being prosecuted in other SADC countries that had no leniency policy.

48. Many delegates emphasized the importance of international cooperation in dealing with cross-border anticompetitive practices and provided examples where international cooperation was of great value. One delegate referred to the benefits of international cooperation with regard to obtaining waivers, quality of evidence, theories of harm, state of play of investigation and timing of proceedings. Another delegate stressed the need to establish early communication through the exchange of informal information. Many delegates supported the idea of setting up a collaborative information databank, as suggested by the keynote speaker and in the background note. Several delegates urged UNCTAD to lead the initiative. One delegate stated that a similar initiative had already been adopted at the regional level and proposed to expand it within the UNCTAD regional cooperation framework. The keynote speaker said that the databank should not be a heavy network to handle and suggested that it could start with a pilot project on a small scale, growing to include more countries over time. Several delegates stressed the importance of a greater coordination effort to avoid conflicting remedies or decisions, as increasing

numbers of jurisdictions reviewed cross-border mergers. Two delegates mentioned the implications that free trade agreements could have on cross-border merger reviews and international cooperation.

### **G. Round table – Knowledge and human-resource management for effective enforcement of competition law**

49. The keynote speaker for the round table was Sue Brelade, from SCH Associates. The panellists for the session were Simon Roberts, Manager, Policy and Research, South Africa Competition Commission; Francis Kariuki, Acting Director General, Competition Authority of Kenya; Tony Penny, Know-How Team, General Counsel's Office, Office of Fair Trading, United Kingdom of Great Britain and Northern Ireland; and Lerzan Kayihan Unal, International Relations Coordinator from the Turkish Competition Authority.

50. The keynote speaker said that managing people in a knowledge environment was enterprise-wide, multidisciplinary and value-led; the organizational culture supported knowledge management and human resource management. Changes in this culture were easier to implement if they were bottom-up and contained existing cultural elements. Rewards for engaging in the system should be informal and formal, not just monetary. Rewards should not be based on length of service (incremental) but instead reflect experience and contribution to the organization. Knowledge should be shared across social, professional, managerial and individual boundaries, with new forms of social media being important insofar as they transformed the way people worked, breaking down work-life and internal and external organizational boundaries. Further, it was important to see individual social media as an asset to the business environment, rather than a threat. More risks would arise from individual behaviour than from technology, thereby reinforcing the need for protocols within a value led cultural framework. Management had a role as coach and facilitator and should look to move away from command and control styles, which were not effective in an environment where information and knowledge flowed freely. Current challenges to knowledge management and human resource management included today's global financial situation – cost-cutting tended to reinforce command and control management styles – and the need to build culture based on shared, visible values, as anti-corruption measures. Embracing and using web 2.0 and ensuring top-level commitment remained key priorities.

51. Mr. Roberts said that it was important for young competition authorities to be proactive on the issue of knowledge management. Effective knowledge management created an efficient, professional and authoritative organization that commanded respect. The South African Competition Commission had indeed been late in identifying the need to move away from a pure case management system to one of knowledge management. A knowledge management strategy was a good response to a rapidly increasing caseload, staff turnover, a lack of organizational memory and ineffective organizational learning from past cases. Workflows, document libraries and a corporate portal were key features of the new knowledge management system and there was a need to integrate people, processes and technology under the system. Change management, support networks (super users and "knowledge champions"), good communication and performance reviews were important factors. Taking into account the difference between ideal and actual workflows, the South African competition authority had rectified past mistakes, such as overcomplicated software systems.

52. Mr. Kariuki said that implementing knowledge management and human resource management was essential in competing for funds and providing a better service to a demanding business community. Knowledge management involved locating, organizing, transferring and efficiently transmitting information and expertise within an organization, all aimed at facilitating the incorporation of past

experiences in current and future decisions. Knowledge within the Kenyan competition authority was isolated and appeared in knowledge silos. This led to costly “info-famine”. The physical mapping of resources through a differentiated categorization facilitated users to efficiently visit information required to find the optimal solution to their specific problem. He stressed the importance of developing IT architecture to facilitate knowledge transfers, especially the benefits of interacting with other agencies. It was important to recognize the differences and similarities in dealing with tacit and explicit knowledge. The importance of human resource management support for knowledge management was acknowledged by the enactment of a strategic plan to develop the “knowledge worker”, through a system of recruitment, appraisal, rewards and sanctions. It was estimated that in Kenya, effective application of knowledge management reduced the cost of merger cases by 30 per cent and the time frame by 10 days.

53. Mr. Penny described the establishment of the know-how team at the Office of Fair Trading, a means of ensuring that knowledge was gathered and disseminated throughout the organization. Key tools at the team’s disposal included intranet pages, an electronic float file (enabling different units to interact and learn), cross-office presentations and a dedicated enforcement training academy. As outlined by previous speakers, the importance of knowledge management was reaffirmed, as was the need to develop and embed a supportive culture, including valuing diversity and creating knowledge champions. Further issues, such as the use of requirements and incentives, the evaluation of strategy and the identification of priorities, were discussed. The importance of retaining the knowledge and skills of leaving staff and of training new staff was stressed. Examples of best practice sharing with younger competition agencies included participation in international conferences, contributions to international projects and bilateral inter-agency visits, with knowledge management and human resource management agendas as key modes.

54. Mr. Kayihan Unal said that human resource management and knowledge management were not luxuries for young competition agencies. Knowledge management provided continuity for a competition agency, as it safeguarded institutional memory. More knowledge did not necessarily result in better or more efficient decisions. In fact, the quality of retained knowledge was even more important. This led to the question of the longevity of retained knowledge. She described some of the technical support to knowledge management, the creation of the Knowledge Management Department within the Turkish Competition Authority, its meritocratic recruitment system and other characteristics.

55. Several speakers took the floor. One speaker outlined some important factors attributed to the success of knowledge management and human resource management: fostering an environment of integrity with zero tolerance for unprofessional behaviour, implementing teamwork and synergy principles, and acknowledging all contributions from staff. An open-door culture as a facilitator of knowledge flows and networking, gender balance and a youthful staff were also important. Another speaker reaffirmed the need for effective knowledge management to strengthen young competition authorities and retention of the knowledge and skills of leaving staff. Finding good matches between people and roles was critical for knowledge flows in young competition authorities, as was the ability to remove deadwood. It was important to have a budget for knowledge and human resource management activities, as well as technical support. Team work, the creation of an associated work culture and staff training were also important. The recruitment of young professionals through a highly competitive process, having them work alongside experienced senior staff and taking part in peer-to-peer knowledge management training, conferences abroad and specialized workshops to facilitate experience sharing were applauded. There were difficulties in knowledge and human resource management faced by a small young competition authority, including staff turnover and limited funds. In one case, cooperation with a local

university had led to the establishment of internship schemes and courses in competition law and policy.

#### **H. Round table – Effectiveness of capacity-building and technical assistance extended to young competition agencies: Needs and challenges related to human resources and human resource management**

56. The keynote speaker was Russell Damtoft, Associate Director, International Affairs, Federal Trade Commission, United States. The panellists were Yukinari Sugiyama, Director, International Affairs Division, Japan Fair Trade Commission; and Sam Pieters, International Relations Officer, Directorate General for Competition, European Commission.

57. Mr. Damtoft said that to build an effective competition agency, it was necessary to define its goals and set priorities first. This could be considered as part of knowledge management. Knowledge management was about what people already knew, what they could learn, what they could retain and what they could share about economic principles, markets, firms, conducts and know-how in dealing with cases. The most sophisticated tool for knowledge management was not necessarily the answer. A key task for an effective knowledge management system was to build a knowledge-sharing culture within the agency. Technical assistance currently focused on building institutional capacity. Since the right solution depended very much on jurisdiction-specific issues, the idea was to look into what had worked best in different contexts. Useful references included the Agency Effectiveness Manual and the curriculum project of the International Competition Network. New approaches, such as online training and regional networking, could help supplement traditional technical assistance.

58. Mr. Sugiyama said that the Japan Fair Trade Commission carried out technical assistance activities through the Japan International Cooperation Agency and the use of international frameworks. It was important to share skills and knowledge internationally. With the Agency's support, one-month group training sessions had been held almost every year since 1994, from which 181 people from 49 countries had already benefited. Other more country-focused technical assistance was provided through long-term experts and training in Japan or on site. Through Asia-Pacific Economic Cooperation and the Association of Southeast Asian Nations, the Japan Fair Trade Commission participated in training courses and competition conferences. He mentioned the benefits of the Advocacy and Implementation Network Support Programme of the International Competition Network for young competition authorities.

59. Mr. Pieters said that knowledge management and human resource management were essential to institution-building, since they improved the efficiency of a competition authority. The Directorate General for Competition supported both knowledge and human resource management multilaterally and bilaterally with the aim of assisting the establishment of effective competition institutions. A good job description was essential for human resource management, since it would help the agency to think carefully about its actual needs. The structure of the Directorate General facilitated the sharing of experiences on industrial sectors and differing areas of competition law. Staff specialized in both and rotated on a regular basis. The best platform for knowledge sharing depended on the specific context. In the Directorate General, in addition to specifically appointed information officers, there was an IT-based platform to share cases, court cases and academic papers.

60. The delegation of Switzerland introduced a video clip on COMPAL and briefly reported on the findings of an independent evaluation of the programme, which had recently been carried out. Several delegates stressed the need to

reorganize information gathering and sharing processes to safeguard institutional memory. IT-based systems had to be tried out and adapted to an organization's specific needs. It was important that the senior management of agencies take part in the process of knowledge management, and listen to staff at all levels, taking into account that it could take time to roll out the application programmes, therefore calling for patience. One speaker noted that the existence of management vacuums could lead to staff de-motivation, in which case the effort of re-motivating them became a challenge. Others spoke of appropriate rewards for knowledge sharing and other aspects of establishing an effective knowledge management system. In that context, another delegate described the Korean Think Fair knowledge management system. A number of delegates acknowledged the role of non-governmental organizations and non-governmental advisors in disseminating information on competition issues.

## **I. Voluntary peer review of competition law and policy in Mongolia**

61. The voluntary peer review of competition law and policy in Mongolia was moderated by Baris Ekdi of the Turkish Competition Authority. The peer reviewers were Tigran Khechoyan of the State Commission for the Protection of Economic Competition of Armenia, Yukinari Sugiyama of Japan Fair Trade Commission, Mikhail Evraev of the Federal Antimonopoly Service of the Russian Federation and William Kovacic of George Washington University. The Mongolian delegation was headed by Nyamjav Darjaa, Deputy Chief of the Cabinet Secretariat of the Government of Mongolia. The Authority for Fair Competition and Consumer Protection (AFCCP) was represented by Lkhagva Byambasuren, Chairman, and several staff members.

62. The first session was devoted to the presentation of the main findings of the peer review report, followed by a statement by the Head of the Mongolian delegation and a question-and-answer session.

63. Vladimir Kachalin, UNCTAD consultant, presented the peer review report. He recalled how Mongolia had moved from a centrally planned economy to a market economy in the early 1990s, resulting in impressive economic growth (17 per cent in 2011) based on natural resource extraction and inflows of foreign direct investment, mainly dominated by small and medium-sized enterprises. Mongolia had adopted its first competition law in 1993, although AFCCP had only been established in 2005. The speaker outlined the scope and substantive provisions of the competition law and policy, as well as its exemptions. The institutional layout of AFCCP was also described. The report provided several recommendations. Regarding enforcement, AFCCP would need to acquire expertise in conducting investigations, dawn raids and collecting evidence. The AFCCP Board should become fully operational in the decision-making process. There was a need to enhance the capacity of AFCCP in the planning and prioritization of work, and to keep institutional memory in order to ensure policy coherence. In addition, it was important to improve competition legislation with regulations and guidelines, and to develop coordination with sector regulators and dialogue with the judiciary. Competition advocacy was necessary to raise awareness and enhance competition culture.

64. In his observations on the report, the Deputy Chief of the Cabinet Secretariat stressed the importance of enhancing the legal and business environment to ensure economic growth. There was a lack of a competition policy and opportunities for private entrepreneurship, limited selection of products and excessive State intervention in the economy. Mongolian markets did not operate on the basis of fair competition principles, hence the need for competition law enforcement. In an overview of the improvements in the competition regime introduced by the 2010 Law on Competition and competition law enforcement under the new law, he said that the Board members had been appointed in March and had held five meetings.



He stressed Mongolia's commitment to implement the recommendations laid out in the peer review report.

65. The questions raised by the reviewers and speakers from the floor related to the following areas: (a) the vision and priorities of AFCCP, (b) the legal framework of the Mongolian competition regime, (c) international cooperation, (d) institutional capacity, (e) competition law enforcement, (f) sanctions and investigation powers of AFCCP and (g) the leniency programme.

66. The Mongolian delegate described AFCCP priorities as follows: detecting and reducing market entry barriers, enforcing antitrust laws and raising public awareness on competition. Improvements of the competition law were on the agenda, particularly in relation to anticompetitive agreements. She stressed the need to clarify the investigation procedures laid down in the law by developing substantive and procedural guidelines. AFCCP had not yet acquired any experience in the area of international cooperation, but was exploring how to establish the legal framework for information sharing with other competition agencies.

67. Although AFCCP was understaffed, the number of investigations had grown steadily since 2005, owing to the specialization of inspectors, which allowed them to gain more experience. Further, the awareness of competition law in the business community and the public had increased, along with the number of complaints received. Nevertheless, there was still a need for competition advocacy.

68. The 2010 Law on Competition provided more powers to AFCCP, thereby enhancing its authority. Decisions were made by the Board, whereas before they had been made by the Chairman. In addition, State inspectors' powers in obtaining information and evidence and carrying out dawn raids had been strengthened, leading to an increase in the detection of violations of the law, and hence, in sanctions. Mongolian authorities considered this increase in the level of fines prescribed by the law as an important deterrent of anticompetitive practices.

69. AFCCP had not yet implemented the leniency provisions in the law. Under the law, regulations on the implementation of the leniency provisions needed to be adopted.

70. In response to one delegate's inquiry about exemptions from the law and his request for a definition of strategic products, one participant said that in Mongolia they covered products such as basic food staples. The law exempted the purchasing and stocking of those products during times of crisis, emergencies and natural disasters.

71. In the second session, AFCCP was given the opportunity to ask questions to other competition authorities, with a view to benefiting from their experience. The Mongolian delegate asked whether competition policy should apply equally to all sectors of the economy, how to strike a balance between sector regulation and competition policy and what mechanisms existed to enable cooperation between sector regulators and the competition authority. One delegate said that in his country sector regulators had concurrent powers with the competition authorities. However, competition policy should be uniform – not sector-specific – and should prevail over sector regulation. With regard to cooperation, there was a concurrency working party in his jurisdiction to ensure consistency and information sharing. There were no memorandums of understanding in force, and it was important to identify clear and easy contact points in sector regulators.

72. The Mongolian delegation asked a question about determining excessive pricing in cases of abuse of dominance and the role of the competition authority in the case of uncontrolled price increases, especially during the transition from a centrally planned economy to a market economy. One delegate shared his country's experience during such a transition period, stressing that once competitive conditions had been established in the market, the State should not intervene in price setting. If there was a need to control the process in specific sectors or under certain

circumstances, it should be done by sector regulators. The competition authority should in no way intervene in setting or determining prices.

73. In response to a question by the Mongolian delegation on how to deal with antitrust abuses in public procurement tenders, one delegate said that his country offered tenders on the Internet. Bid-rigging was difficult because tenders were kept confidential, and contract provisions could not be changed.

74. Given the need for competition advocacy, the Mongolian delegation sought the experiences of others regarding the most effective means to advocate for competition among the public and the business community. In response, one delegate said that there was no one-size-fits-all solution. A country's history, culture and economic and political structure were all factors to be considered in advocating for competition. He highlighted two aspects: permanent promotion of competition among stakeholders and the maintenance of deterrence by law enforcement. A national day to fight cartels in his country had been designated, during which the President of Mongolia had recalled the illegality of cartels and the need for prosecution.

75. The UNCTAD secretariat presented the proposed technical assistance activities based on the findings and recommendations of the peer review, prepared in conjunction with AFCCP. The representative of the Turkish Competition Authority announced that it would organize a technical assistance activity in the following months for AFCCP.

76. In conclusion, the head of the Mongolian delegation expressed his satisfaction with the peer review process and informed the meeting that his Government was committed to the implementation of the peer review recommendations. He thanked the Turkish Competition Authority and the Turkish International Cooperation and Coordination Agency for their contributions during the peer review process and called upon UNCTAD and development partners to support the Mongolian Government in its efforts to promote competition law and policy enforcement in Mongolia in the future.

## **J. Discussion of the revised chapters III and VIII of the UNCTAD Model Law on Competition**

77. The UNCTAD secretariat introduced the revised chapters III and VIII of the UNCTAD Model Law on Competition. Chapter III, dealing with anticompetitive agreements, provided an overview of how different competition laws could prohibit anticompetitive agreements, including both anticompetitive horizontal and vertical agreements. Comparative assessments provided the basis for the formulation of core principles that could guide developing countries when drafting or revising their legislations. Chapter VIII, which was devoted to possible elements of consumer protection in a competition law, gave an overview of how different jurisdictions designed the interface between consumer protection and competition law and policy, including the institutional set-up for competition and consumer protection authorities.

## **III. Organizational matters**

### **A. Election of officers (Agenda item 1)**

78. At its first plenary meeting on Monday, 9 July 2012, the Group of Experts elected its officers, as follows:

Chair: Mr. Ashok Chawla (India)

Vice-Chair-cum-Rapporteur: Ms. Anissa Lazrak (Morocco).

**B. Adoption of the agenda and organization of work  
(Agenda item 2)**

79. The Group of Experts adopted the provisional agenda contained in document TD/B/C.I/CLP/13. The agenda was thus as follows:

1. Election of officers
2. Adoption of the agenda and organization of work
3. (a) Consultations and discussions regarding peer reviews on competition law and policy, review of the Model Law, and studies related to the provision of the Set of Principles and Rules  
(b) Work programme, including the effectiveness of capacity-building and technical assistance to young competition agencies
4. Provisional agenda for the thirteenth session
5. Adoption of the report of the Intergovernmental Group of Experts on Competition Law and Policy.

**C. Provisional agenda for the thirteenth session of the  
Intergovernmental Group of Experts on Competition Law and  
Policy**

80. At its closing plenary meeting, on 12 July 2012, the Group of Experts approved the provisional agenda for the thirteenth session of the Intergovernmental Group of Experts on Competition Law and Policy (annex 1).

**D. Adoption of the report on the Intergovernmental Group of  
Experts on Competition Law and Policy**

81. At its closing plenary meeting, on 12 July 2012, the Intergovernmental Group of Experts authorized the Rapporteur to finalize the report of the session.

## **Annex I**

### **Provisional agenda of the thirteenth session of the Intergovernmental Group of Experts on Competition Law and Policy**

1. Election of officers
2. Adoption of the agenda and organization of work
3. (a) Consultations and discussions regarding peer reviews on competition law and policy, review of the Model Law, and studies related to the provisions of the Set of Principles and Rules  
(b) Work programme, including the effectiveness of capacity-building and technical assistance to young competition agencies
4. Provisional agenda for the fourteenth session
5. Adoption of the report of the Intergovernmental Group of Experts on Competition Law and Policy

## Annex II

### Attendance\*

1. Representatives of the following States members of UNCTAD attended the meeting:

Albania	Malaysia
Algeria	Maldives
Angola	Mali
Armenia	Mauritius
Austria	Mexico
Benin	Mongolia
Bhutan	Morocco
Botswana	Mozambique
Brazil	Namibia
Brunei Darussalam	Netherlands
Bulgaria	Niger
Burkina Faso	Nigeria
Cambodia	Oman
Cameroon	Pakistan
China	Peru
Colombia	Philippines
Costa Rica	Poland
Côte d'Ivoire	Portugal
Cyprus	Qatar
Democratic Republic of the Congo	Russian Federation
Dominican Republic	Rwanda
Ecuador	Saint Lucia
Egypt	Saint Vincent and the Grenadines
Gambia	Senegal
Germany	Serbia
Georgia	Seychelles
Ghana	Solomon Islands
Greece	South Africa
Guyana	Spain
Haiti	Sudan
Hungary	Suriname
India	Swaziland
Indonesia	Switzerland
Iraq	Thailand
Italy	Togo
Japan	Tunisia
Jordan	Turkey
Kazakhstan	Uganda
Kenya	Ukraine
Republic of Korea	United Arab Emirates
Kosovo (in accordance with United Nations Security Council resolution 1244 (1999))	United Republic of Tanzania
Kuwait	United Kingdom
Lao People's Democratic Republic	United States
Libya	Viet Nam
	Zambia
	Zimbabwe

\* For the list of participants, see document TD/B/C.I/CLP/Inf.3.

2. Representatives of the following Observers attended the meeting:  
Occupied Palestinian Territory
  
3. The following intergovernmental organizations were represented at the meeting:  
African Union  
Caribbean Community  
Central African Economic and Monetary Community  
Economic Community of West African States  
European Union  
Organization for Economic Cooperation and Development  
West African Economic and Monetary Union
  
4. The following United Nations organs, bodies and programmes were represented at the meeting:  
Economic and Social Commission for Western Asia
  
5. The following specialized agencies or related organizations were represented at the meeting:  
World Intellectual Property Organization  
World Trade Organization
  
6. The following non-governmental organizations were represented at the meeting:  
General Category:  
Consumers International  
Consumer Unity and Trust Society (CUTS)  
Ingénieurs du monde  
International Bar Association  
Pan African Institute for Development
  
7. The following panellists made contributions to the meeting:  
Mr. Sean Ennis, CEO, Competition Commission of Mauritius  
Mr. George Lipimile, CEO, COMESA Competition Commission  
Mr. Simon Roberts, South Africa Competition Commission  
Mr. Russell Damtoft, Associate Director, Office of International Affairs, Federal Trade Commission, United States  
Mr. David Ong'olo, Chairman, Competition Authority of Kenya  
Mr. Thulasoni Kaira, Expert for UNCTAD  
Mr. Alex Kububa, Expert for UNCTAD  
Mr. Allan Mlulla, Expert for UNCTAD  
Mr. Alberto Heimler, Expert for UNCTAD  
Mr. Abdallah Omar Kigoda, Minister of Industry and Marketing, United Republic of Tanzania  
Mr. Nikubuka Shimwela, Chairman, Fair Competition Commission, United Republic of Tanzania  
Ms. Encyla Chishiba Tina Sinjela, Ambassador and Permanent Representative of Zambia to the United Nations in Geneva  
Mr. Chilufya P. Sampa, Executive Director, Zambia Competition and Consumer Protection Commission  
Mr. Welshman Ncube, Minister of Industry and Commerce, Zimbabwe  
Mr. Alex Kububa, Director, Competition and Tariff Commission, Zimbabwe

Mr. Mikhail Evraev, Director of Public Procurement Department, Russian Federal Anti-Monopoly Service

Ms. Anna Müller, WTO

Mr. Antonio Maudes, Spanish Competition Commission

Mr. Jaeho Moon, Korea Fair Trade Commission, Republic of Korea.

Mr. Ariel Ezrachi, Director, Oxford University Centre for Competition Law and Policy

Mr. Paulo Burnier da Silveira, Head, International Unit, Administrative Council for Economic Defense (CADE), Brazil

Ms. Anna Maria Tri Anggraini, Commissioner, Commission for the Supervision of Business Competition, Indonesia

Mr. Zunaid Mohamed, Director, Fairbridge Arderne and Lawton Inc, South Africa

Ms. Sue Brelade, SCH Associates

Mr. Simon Roberts, Manager, Policy and Research, South Africa Competition Commission

Mr. Francis Kariuki, Acting Director General, Competition Authority of Kenya

Mr. Tony Penny, Know-How Team, General Counsel's Office, Office of Fair Trading

Ms. Lerzan Kayihan Unal, International Relations Coordinator, Turkish Competition Authority

Mr. Russell Damtoft, Associate Director, International Affairs, Federal Trade Commission, United States

Mr. Yukinari Sugiyama, Director, International Affairs Division, Japan Fair Trade Commission

Mr. Sam Pieters, International Relations Officer, Directorate General for Competition, European Commission

Mr. Barış Ekdi, Head, Enforcement and Supervision Department, Turkish Competition Authority

Mr. Yukinari Sugiyama, Director, International Affairs Division, Japan Fair Trade Commission

Mr. Tigran Khechoyan, Head of Staff, State Commission for the Protection of Economic Competition, Armenia

Mr. Bill Kovacic, Professor of Law, George Washington University

Mr. Mikhail Evraev, Director, Public Procurement Department, Russian Federal Anti-Monopoly Service

Vladimir Kachalin, Expert for UNCTAD

Mr. Nyamjav Darjaa, Deputy Chief of the Cabinet Secretariat, Mongolia