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TRADE AND DEVELOPMENT BOARD
Commission on Investment, Technology
and Related Financial Issues

**DRAFT REPORT OF THE INTERGOVERNMENTAL GROUP OF EXPERTS ON
COMPETITION LAW AND POLICY ON ITS THIRD SESSION**

Held at the Palais des Nations, Geneva
from 2 to 4 July 2001

Rapporteur: Ms. V. Steeples (United Kingdom)

Speakers:

Zimbabwe

Libyan Arab Jamahiriya

Benin

Thailand

Zambia

Georgia

China

Canada

France

Russian Federation

UEMOA

Note for delegations

This draft report is a provisional text circulated for clearance by delegations. Requests for amendments to statements of individual delegations –to be submitted in English or French – should be communicated by **Wednesday, 11 July 2001** to:

UNCTAD Editorial Section, Room E.8102, *Fax:* (022) 907 0056, *Tel:* (022) 907 5654

General statements - continued

1. The representative of **Zimbabwe** reported that his country had enacted a competition law in 1998, and that as a result of the experience gained, certain amendments had been prepared for presentation. These amendments touched on merger notifications, seize and seizure provisions, concentration and the relationship with trade policy. The number of cases being handled by the Competition Commission was steadily increasing. He hoped that he would be able to inform UNCTAD by the end of the year when the amendments would be passed.
2. The representative of the **Libyan Arab Jamahiriya** said that his country did not have a competition law at present, but that this was a subject of growing interest in the Ministry of Economy and Commerce. He called upon UNCTAD to provide for capacity-building in this area.
3. The representative of **Benin** stated that a project to adopt a competition law in his country had been stopped when the West African Economic and Monetary Union, of which Benin was a member, decided on the adoption of a common competition regulation that would supersede competition laws at the national level. What was now important for Benin was to strengthen its human resources so as to enforce that regulation. Assistance from UNCTAD would be appreciated in this connection.
4. The representative of **Thailand** noted that while globalization had brought about benefits in many countries, it had also increased foreign direct investment through mergers and acquisitions of local firms. If not properly regulated, domestic markets would rapidly see powerful transnational corporations forcing local small and medium-sized enterprises out of the market. Competition law and policy were needed in order to prevent the adverse effects of liberalization. International cooperation was essential in this respect. He proposed the development of a model cooperation agreement along the lines of the resolution of the Fourth Review Conference. Cooperation would be needed when domestic competition law was inappropriate: it would promote harmonization of rules and cooperation in enforcement, and would involve technical cooperation.
5. The representative of **Zambia** informed the meeting that the number of cases dealt with by the Competition Commission had been increasing in the four years that it had been in operation. A total of 69 cases had been handled on anti-competitive practices, 64 on mergers, 15 on horizontal agreements and 25 on consumer welfare. The greatest challenge facing competition authorities in the region, and especially Zambia, was the prosecution of competition cases. In this connection, he requested UNCTAD to send an expert on prosecutions to Zambia to look at the pending competition cases and advise on how to prosecute them. He thanked UNCTAD for all its technical assistance work and expressed his appreciation that COMESA was planning to draft competition policy for its member States in the next 12 months.
6. The representative of **Georgia** said that his country's Antimonopoly Service was supervising the competition legislation, which consisted of three laws adopted in recent years

– on monopoly activity and competition, on consumer rights protection and on advertising. In addition, two sector regulation commissions – on energy and telecommunications – had been established. Although the Antimonopoly Service was part of the Georgian Government, the latter was considering the possibility of making it independent.

7. The representative of **China** referred to a draft competition law that her Government was finalizing, which would include rules relating to administrative monopolies and market dominance. The application of this law would be supported by a law against illicit transactions. In preparing the law, China had benefited from cooperation provided by competition experts from other countries and from international organizations. More cooperation would now be required, as there was a substantial need for training, and as her country would soon be facing the transition problems arising from its pending accession to the World Trade Organization.

8. The representative of **Canada** brought to the attention of the Expert Group the chapter on competition policy (chapter XI) of the recently signed Canada–Costa Rica Free Trade Agreement (CCRFTA). He presented it as an example of the kind of agreement which was possible between countries, even if they were at different levels of economic and institutional development. The chapter provided a framework for countries in the design, implementation and application of competition law and policy at the national or subregional level and also in respect of cooperation and coordination among competition authorities. The framework included a commitment to the principles of transparency, non-discrimination and procedural fairness, and mechanisms for cooperation to assist in the dissemination of information on anti-competitive activities and their consequences. While the competition chapter reflected the intent of the CCRFTA as a whole to forge a closer relationship between the two countries, he hoped that it would serve as a useful example in guiding the deliberations of the WTO Working Group.

9. The representative of **France** recalled that his country's Parliament had adopted in May 2001 amendments to the French Competition Act making prior notification of mergers an obligation. It had also considerably increased investigatory powers, including a leniency programme for whistle-blowers. In addition, it had adopted the notion of abuse of economic dependency. The amendments also strengthened the Competition Council's powers to cooperate with other States and the European Commission on competition matters, subject to confidentiality requirements and in line with positive comity principles.

10. The representative of the **Russian Federation** emphasized the growing importance of competition policy in the implementation of economic reforms in her country. For more than a year the antimonopoly authority had existed in the form of an independent ministry, its head being a member of the Russian Government. Recently, most attention had been given to the efficient implementation and improvement of the competition legislation, adopted ten years ago. In view of the size of the country, regional institutions had been established to implement this legislation. In the year 2000 alone the ministry had dealt with more than 3,000 claims in the area of economic concentration. It not only controlled the implementation of legislation, but also contributed to the pro-competitive development of the economy. It participated in the drafting of economic laws and in the reform of natural monopolies in the

areas of transportation and energy, as well as in the regulation of foreign investments with a view to ensuring that competition legislation did not become a barrier to these investments. Special attention was given to the transparency of competition legislation. In conclusion, she referred to the important role played by UNCTAD and other international organizations in the development of competition law and policy in her country.

11. The representative of the **West African Economic and Monetary Union (UEMOA)** stated that a common competition regulation had recently been adopted by the UEMOA Commission. Its particular characteristic was that it superseded the national competition laws of member countries. The main problem was to develop cooperation with national authorities to enforce the regulation. It was a priority to train officials at national and regional levels before its entry into force, and he requested assistance from UNCTAD in this connection.