



**United Nations  
Conference  
on Trade and  
Development**

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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, 14–18 November 2005  
Item 4 of the provisional agenda

**ADOPTION OF THE AGENDA AND ORGANIZATION OF THE WORK  
OF THE CONFERENCE**

**Annotated provisional agenda and organization of work**

## **ADOPTION OF THE AGENDA AND ORGANIZATION OF THE WORK OF THE CONFERENCE**

### **I. Provisional agenda**

1. Opening of the Conference
2. Election of the President and other officers
3. Adoption of the rules of procedure
4. Adoption of the agenda and organization of the work of the Conference
5. Credentials of the representatives to the Conference:
  - (a) Appointment of a Credentials Committee
  - (b) Report of the Credentials Committee
6. Review of All Aspects of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices:
  - (a) Review of application and implementation of the Set
  - (b) Consideration of proposals for the improvement and further development of the Set, including international cooperation in the field of control of restrictive business practices
7. Other business
8. Adoption of the report of the Conference

## **II. Annotations to the Provisional agenda**

### **Introduction**

1. The General Assembly in its resolution 55/182 of 20 December 2000, paragraph 27, reaffirmed the role of competition law and policy for sound economic development, took note of the important and useful work of UNCTAD in this field and in this regard decided to convene a 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 under the auspices of UNCTAD in 2005. The Intergovernmental Group of Experts on Competition Law and Policy at its sixth session, which took place from 8 to 10 November 2004, acted as the preparatory body for the Conference and approved the provisional agenda for the Fifth Review Conference. The report of the Intergovernmental Group is contained in document TD/B/COM.2/CLP/48.

### **Item 1: Opening of the Conference**

2. The Conference will be opened on Monday, 14 November 2005, in the premises of the Gloria Convention Centre in Belek, Antalya (Turkey), by the Secretary-General of UNCTAD.

### **Item 2: Election of the President and other officers**

3. Rule 7 of the provisional rules of procedure of the Conference (TD/RBP/CONF.3/2/Rev.1) provide that the Conference shall elect a President and a Rapporteur and 17 Vice-Presidents from among the participating States, with due regard to equitable geographical distribution. The President, the 17 Vice-Presidents and the Rapporteur shall constitute the Bureau of the Conference.

4. In accordance with past practice, the Bureau should have the following regional distribution: Groups A and C combined: 9; Group B: 6; Group D: 3; and China: 1.

5. Following past practice, it is customary for the head of the delegation of the host country to be elected as the President of the Conference.

### **Item 3: Adoption of the rules of procedure**

6. The provisional rules of procedure of the Conference, as adopted by previous Conferences, are contained in TD/RBP/CONF.3/2/Rev.1

#### *Documentation*

TD/RBP/CONF.3/2/Rev.1 Provisional rules of procedure of the Conference

### **Item 4: Adoption of the agenda and organization of the work of the Conference**

7. The text of the provisional agenda, as set out in section I above, was approved by the Intergovernmental Group of Experts on Competition Law and Policy at its sixth session (see chapter IV, paragraph 28, and annex I of TD/B/COM.2/CLP/48).

#### *Documentation*

TD/RBP/CONF.6/1 Provisional agenda of the Conference

## **Organization of the work of the Conference**

### **(a) Negotiating Group and subsidiary bodies**

8. Rule 44 of the provisional rules of procedure of the Conference provides that the Conference shall establish a Negotiating Group and that it may establish such other subsidiary bodies as it deems necessary. Rule 45 states that the President of the Conference shall perform the function of Chairman of the Negotiating Group and other subsidiary bodies shall elect their own officers as may be required.

### **(b) Facilities available**

9. There will be interpretation facilities for official meetings into six official languages (ACEFRS) and Turkish (provided by the host Government) available from 10 a.m. to 1 p.m. in the mornings and from 3 p.m. to 6 p.m. in the afternoons throughout the duration of the Conference.

### **(c) Work of the Conference and the Negotiating Group**

10. The Conference has available to it five working days. It is suggested that the first meeting following the inaugural session, on 14 November, be devoted to procedural matters, namely items 1 to 5 (a) of the provisional agenda, as well as to opening statements, and the last meeting, on 18 November, be devoted to item 5 (b) – Report of the Credentials Committee, item 7 – other business, and item 8 – Adoption of the report of the Conference. The remaining meetings would be devoted to the substantive item on the agenda (item 6 (a) and (b)) and to presentations and exchanges of views on issues referred to in paragraph 17 below. A proposed programme of work is provided in the annex to this document.

## **Item 5: Credentials of the representatives to the Conference**

11. Rule 5 of the provisional rules of procedure provides that a Credentials Committee of nine members shall be appointed at the beginning of the Conference. Its composition shall be based on that of the Credentials Committee of the General Assembly of the United Nations at its current (sixtieth) regular session. It shall examine the credentials of representatives and report to the Conference.

## **Item 6: Review of All Aspects of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices**

### **(a) Review of application and implementation of the Set**

12. The Intergovernmental Group of Experts on Competition Law and Policy at its sixth session from 8 to 10 November 2004, which acted as the preparatory body for the Fifth Review Conference, adopted agreed conclusions which are being forwarded to the Fifth Review Conference, as contained in chapter I of its report TD/B/COM.2/CLP/48. The Intergovernmental Group invited the UNCTAD secretariat to prepare an assessment of the application and implementation of the Set. This note will be submitted to the Conference in document TD/B/COM.2/CLP/45/Rev.1. In addition, Governments will be invited to present their views on the implementation of the Set under this agenda item.

13. The Intergovernmental Group of Experts also requested the UNCTAD secretariat to prepare for consideration by the Fifth Review Conference:

- (a) A presentation of types of common provisions to be found in international, particularly bilateral and regional, cooperation agreements on competition policy, and their application;
- (b) A synthesis of recent cartel investigations that are publicly available;
- (c) 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 2005;
- (d) An information note on recent important cases involving more than one country; and
- (e) An updated version of the Model Law, taking into account recent trends in competition legislation and its enforcement.

14. The Conference will have before it a note containing a presentation of types of common provisions to be found in international agreements, particularly bilateral and regional cooperation agreements on competition policy, and their application (TD/RBP/CONF.6/3). Moreover, under this general theme, a book on "Trade and Competition Issues: Experiences at Regional Level", prepared with the support of IDRC, Canada, will be launched during the conference. A Synthesis of Recent Cartel Investigations that are Publicly Available (TD/RBP/CONF.6/4) will be made available to the Conference, as well as an information note on Recent Important Cases Involving More Than One Country (TD/RBP/CONF.6/5) and an updated Review of Capacity Building and Technical Assistance (TD/RBP/CONF.6/6). In addition, the latest version of the Model Law on Competition, with amendments received by 31 January 2005, will be made available in CD-ROM.

15. Moreover, as requested in paragraph 2 of the Agreed Conclusions of the November 2004 IGE, the following documents revised/updated in the light of comments made by member States at the sixth session or sent by 31 January 2005 will be submitted to the Conference:

- Roles of Possible Dispute Mediation Mechanisms and Alternative Arrangements, including Voluntary Peer Review on Competition Law and Policy (TD/B/COM.2/CLP/37/Rev.2.);
- Best Practices for Defining Respective Competencies and Settling of Cases which involve Joint Actions of Competition Authorities and Regulatory bodies (TD/B/COM.2/CLP/44/Rev.1);
- Ways in which Possible International Agreements on Competition might apply to Developing Countries, including through Preferential or Differential Treatment, with a view to enabling these Countries to introduce and enforce Competition Law and Policy consistent with their Level of Economic Development (TD/B/COM.2/CLP/46/Rev.1.);
- Experiences Gained So Far on International Cooperation on Competition Policy Issues and the Mechanisms Used (TD. TD/B/COM.2/CLP/21/Rev.3.).

**(b) Consideration of proposals for the improvement and further development of the Set, including international cooperation in the field of control of restrictive business practices**

16. In order to assist the Review Conference in its work, the Intergovernmental Group of Experts, in its agreed conclusions, recalled the relevant paragraphs related to competition law and policy adopted in the São Paulo Consensus at UNCTAD XI and invited the Secretariat to further strengthen its analytical work and capacity-building activities to help ensure that anti-competitive practices do not impede or negate the realization of the benefits that should flow from liberalization in globalized markets, in particular for developing countries and LDCs, as well as for economies in transition.

17. The Intergovernmental Group of Experts on Competition Law and Policy further recommended that the Fifth Review Conference consider the following issues for better implementation of the Set:

- (a) An ad hoc voluntary peer review during the Conference;
- (b) Techniques for gathering evidence on cartels;
- (c) The role of economic analysis in competition law enforcement;
- (d) The role of the judiciary in competition law enforcement;
- (e) Application of competition law and policy to the informal sector; and
- (f) How to operationalize special and differential treatment for developing countries in competition law and policy.

18. Accordingly, the Conference will hold UNCTAD's first voluntary peer reviews on competition law and policy, namely on the competition law and policy of Jamaica and Kenya. As basic documents for the peer reviews, the Conference will have before it two country reports, namely on Jamaica's Competition Law and Policy (TD/RBP/CONF.6/7) and on Kenya's Competition Law and Policy (TD/RBP/CONF.6/8). The Conference will also exchange views on the other important competition policy issues listed under (b) to (f) in specific panel discussions. On all these issues, Governments are invited to submit short notes on their interventions in advance to the UNCTAD secretariat in order for these to be reproduced and made available to participants during the Conference.

**Item 7: Other business**

**Item 8: Adoption of the report of the Conference**

19. Rule 52 of the provisional rules of procedure states that the Conference may recommend to the General Assembly the adoption of amendments to the Set of Principles and Rules. Rule 52 also provides that the Conference may approve and open for signature a Final Act. It may also, as was the case for the Fourth Review Conference in 2000, adopt a resolution.

20. Rule 52 of the provisional rules of procedure provides that the Conference shall adopt a report on its proceedings. The final report, along with any resolution, will be submitted to the United Nations General Assembly.

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**Annex I**  
**Proposed draft work programme**  
14 to 18 November 2005

	Monday 14 November	Tuesday 15 November	Wednesday 16 November	Thursday 17 November	Friday 18 November
a.m.	<p style="text-align: center;">INAUGURAL CEREMONY</p> <p style="text-align: center;"><i>Followed by</i></p> <p>1<sup>st</sup> PLENARY  Procedural matters items 1 to 5 (a)  General statements:  Item 6(a) and (b)</p>	<p style="text-align: center;">Item 6</p> <p>Review of all aspects of the Set:  Voluntary peer review: Jamaica</p>	<p style="text-align: center;">Item 6</p> <p>Review of all aspects of the Set:  Voluntary peer review: Kenya</p>	<p style="text-align: center;">Item 6</p> <p>Review of all aspects of the Set, <i>Panel V</i>:  "Techniques for gathering evidence on cartels"</p> <p>Items 6 (a) and (b) cont'd</p>	<p>Forum discussion on "CLP: Creation of an enabling environment for enterprises in developing countries for enhancing their productive capacity and improving their ability to compete on regional and global markets"</p>
p.m.	<p style="text-align: center;">Item 6</p> <p>Review of all aspects of the Set, <i>Panel I</i>:  "Application of competition law and policy to the informal sector"</p> <p style="text-align: center;"><i>Panel II</i></p> <p>"How to operationalize special and differential treatment in the application of competition law and policy"</p>	<p style="text-align: center;">Item 6</p> <p>Review of all aspects of the Set, <i>Panel III</i>:  "The role of economic analysis in competition law enforcement"</p> <p style="text-align: center;"><i>Panel IV</i></p> <p>"The role of the judiciary in competition law enforcement"</p>	<p style="text-align: center;">Item 6 (a) and (b)</p> <p>Review of application and proposals for improvement of the Set</p> <p>- Review of capacity-building and technical assistance activities and member countries' needs in this area</p> <p>- Review of future work programme</p>	<p style="text-align: center;">Item 6 (b)</p> <p>- International cooperation, including regional agreements on competition law and policy</p> <p>- Review of future work programme (continued)</p>	<p style="text-align: center;">CLOSING PLENARY</p> <p>Item 5 (b) – Report on credentials  Item 6 – Adoption of resolution  Item 7 – Other business – Adoption of the provisional agenda for the IGE, seventh session  Item 8 – Adoption of the report</p> <p style="text-align: center;">CLOSING CEREMONY</p>