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ALL ASPECTS OF THE SET OF MULTILATERALLY
AGREED EQUITABLE PRINCIPLES AND RULES FOR
THE CONTROL OF RESTRICTIVE BUSINESS PRACTICES
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**REVIEW OF CAPACITY-BUILDING AND TECHNICAL
ASSISTANCE ON COMPETITION LAW AND POLICY**

Note by the UNCTAD secretariat

Executive summary

UNCTAD provides capacity-building and technical assistance on competition law and policy to developing and least developed countries as well as countries in transition in accordance with requests received, the needs of the countries concerned and resources available. This includes both national and regional assistance in drafting competition laws and policy guidelines as well as capacity-building in the implementation of competition policy with a long-term perspective in line with the United Nations Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices and the requests made by the Fourth United Nations Conference to Review All Aspects of the Set. Accordingly, this document contains a progress report on the capacity-building and technical cooperation activities of the UNCTAD secretariat, which are described under three main subheadings, namely national activities, regional and subregional activities, and participation in seminars and conferences. In addition, it contains extracts from replies of member States and international organizations to the note by the Officer-in-Charge of UNCTAD requesting information on technical cooperation activities in the field of competition law and policy. Also included are extracts from the replies received which are related to requests for technical assistance with identification of specific competition law and policy areas or issues which States would like to receive priority attention.

CONTENTS

	<i>Page</i>
I. INTRODUCTION	3
II. PROGRESS REPORT ON UNCTAD CAPACITY-BUILDING AND TECHNICAL COOPERATION ACTIVITIES	3
A. National activities	4
B. Regional and subregional activities	5
C. Participation in seminars and conferences	6
III. CAPACITY-BUILDING AND TECHNICAL COOPERATION ACTIVITIES OF MEMBER STATES AND INTERNATIONAL ORGANIZATIONS	8
A. Assistance provided, planned or received	8
B. Requests for assistance	17

I. INTRODUCTION

1. The United Nations Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices, adopted by the General Assembly in 1980 (General Assembly resolution 35/63 of 5 December 1980, TD/RBP/CONF.10/Rev.2), calls in section F, paragraphs 6 and 7, for technical assistance and advisory and training programmes on restrictive business practices, particularly for developing countries. In line with the Set, the Fourth United Nations Conference to Review All Aspects of the Set, in paragraph 14 of its resolution (TD/RBP/CONF.5/16), took note with appreciation of the voluntary financial and other contributions for capacity-building and technical cooperation, and invited all member States to assist UNCTAD on a voluntary basis in its technical cooperation by providing experts, training facilities and resources; requested the UNCTAD secretariat to continue and, resources permitting, to expand its technical cooperation activities; and invited the Secretary-General of UNCTAD to explore the feasibility of mobilizing financial and human resources on a more predictable and regular basis and to address the cooperation needs of developing countries and economies in transition in the relevant official languages of the United Nations.

2. Subsequently, in the agreed conclusions of its sixth session (TD/B/COM.2/CLP/48), the Intergovernmental Group of Experts on Competition Law and Policy (November 2004) took note with appreciation of the voluntary financial and other contributions received from member States; invited 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 requested the UNCTAD secretariat to pursue and, where possible, expand its capacity-building and technical cooperation activities (including training) in all regions, within the available resources, taking into account the deliberations and consultations that took place at that session. It further requested the UNCTAD secretariat to prepare for consideration by the Fifth Review Conference 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.

3. Accordingly, this note contains a progress report on the capacity-building and technical assistance activities of the UNCTAD secretariat in 2004, as well as extracts from replies of member States and international organizations to the note by the Officer-in-Charge of UNCTAD requesting information on technical cooperation activities in the field of competition law and policy (UNCTAD/DITC/CLP/MISC/2004/3 of 22 December 2004). The Secretary-General of UNCTAD is grateful for the replies to this note.

II. PROGRESS REPORT ON UNCTAD CAPACITY-BUILDING AND TECHNICAL COOPERATION ACTIVITIES

4. UNCTAD provides assistance on competition law and policy to developing countries and countries in transition in accordance with requests received, the needs of the countries concerned and resources available. The main types of the secretariat's technical cooperation activities are as follows:

(a) Provision of information about anti-competitive practices, their existence and possible adverse effects on the economy. This may involve a study of these practices in a specific country;

(b) Introductory seminars directed at a wide audience, including government officials and academics, as well as business and consumer-oriented circles;

(c) Assistance to States or regional organizations that are in the process of drafting competition legislation in the form of provision of information on such legislation in other countries or advice on drafting;

(d) Advisory services for the setting up or running of competition authorities, which usually include training of officials responsible for the actual control of anti-competitive practices and may involve training workshops and/or on-the-job training with competition authorities in countries that have experience in the field of competition;

(e) Seminars for States that have already adopted competition legislation have experience in the control of anti-competitive practices and wish to enforce the implementation of competition legislation or consult each other on specific cases and exchange information;

(f) Assistance to States or regional organizations that wish to revise their competition legislation and seek expert advice from competition authorities in other States, so as to amend their laws in the most effective manner possible; and

(g) Assistance to developing countries, including the LDCs as well as economies in transition, with a view to helping them better evaluate the implications of multilateral discussions on competition issues.

5. The main capacity-building and technical cooperation activities of the UNCTAD secretariat in 2004 are described below.

A. National activities

6. UNCTAD continued its demand-driven efforts to assist in the creation of a competition culture for individual developing and least developed countries as well as economies in transition. For this purpose, it provided technical assistance related to preparation, adoption, revision or implementation of national competition and consumer protection policies and legislation, as well as in areas contributing to a better understanding of the issues involved, and building national institutional capacity to enforce effective competition legislation. This assistance, which was delivered in the form of training and advisory missions as well as national seminars and workshops specified below, was provided to Malawi, Lesotho, Botswana, South Africa, the United Republic of Tanzania, the Lao People's Democratic Republic, Cambodia, Viet Nam, Indonesia, Bhutan, Zambia, Egypt, the Republic of Korea, Peru, Brazil, Bolivia, Costa Rica, Nicaragua, El Salvador, Honduras, Guatemala, Kenya, Zimbabwe and Angola.

(a) A training course on the implementation of competition law for high-level officials and competition experts was held by UNCTAD in cooperation with the Ministry of Finance of Angola from 26 to 30 January 2004 in Luanda.

(b) A national workshop on competition policy for competition experts was held by UNCTAD and the Ministry of Commerce and Industry of Botswana on 5 and 6 February 2004 in Gaborone.

(c) Two workshops for review of the draft competition law with representatives of government departments and the private sector were jointly held by UNCTAD and the Ministry of Trade of Viet Nam on 19 and 20 February 2004 in Hanoi and on 23 and 24 February 2004 in Ho Chi Minh City. A workshop in Ho Chi Minh City also reviewed the situation in various sectors with a view to identifying existing and possible anti-competitive practices and their implications for the draft competition bill.

(d) An intensive course on competition law and policy for development and a national workshop on the role of competition law and policy in development were held by UNCTAD in cooperation with the Ministries of Commerce of Cambodia and the Lao People's Democratic Republic in Phnom Penh from 21 to 23 July and in Vientiane from 26 to 28 July 2004.

(e) A national competition workshop aimed at finalizing with government officials the country's economic mapping and legal inventory as well as formulating a competition policy framework was co-organized by UNCTAD and the Ministry of Trade and Industry of Lesotho on 11 August 2004 in Maseru.

(f) Together with the Commission for the Supervision of Business Competition of Indonesia, UNCTAD held in Jakarta from 25 to 27 November 2004 a training course for judges on issues related to competition law and policy.

(g) An intensive training course on the implementation of competition law was held by UNCTAD in Pretoria from 1 to 7 December 2004 in cooperation with the Government of South Africa and with German financial support.

(h) A training course on competition law and policy was co-organized by UNCTAD and the Ministry of Trade and Private Sector Development of Malawi from 9 to 11 December 2004 in Blantyre.

B. Regional and subregional activities

7. As well as assisting in the drafting of competition legislation for member States of the Common Market for Eastern and Southern Africa (COMESA) and in the implementation of the recently adopted legislation of the West African Economic and Monetary Union (UEMOA), UNCTAD prepared a draft agreement for regional competition policy (arts. 40 and 41) for member States of the South African Customs Union (SACU). It also organized a number of conferences, seminars and workshops which contributed to capacity-building and multilateral cooperation in the competition and consumer protection area.

(a) A regional seminar on strengthening institution and capacity-building in the area of competition and consumer policy for Latin American countries was held from 22 to 24 March in Lima, Peru. It considered the cases of Bolivia and Peru and was organized by UNCTAD together with the Peruvian competition agency (INDECOPI), the Swiss Competition Agency (COMCO) and the Swiss State Secretariat for Economic Affairs (SECO).

(b) A regional workshop on competition law and policy for Arab countries members of the Organization of the Islamic Conference was co-organized by UNCTAD and the Islamic Development Bank on 27 and 28 April 2004 in Khartoum, Sudan.

(c) A competition policy, competitiveness and investment conference was held from 10 to 12 May 2004 in Dar es Salaam, United Republic of Tanzania, for participants from countries of southern and eastern Africa. The conference was co-organized by the World Bank and UNCTAD, and co-financed by the European Commission.

(d) An international conference on competition policy for countries in transition was held in Kiev, Ukraine, on 18 and 19 May 2004. It was organized by UNCTAD in cooperation with the Antimonopoly Committee of Ukraine and was attended by representatives of CIS countries and several East European and Baltic States.

(e) Taking advantage of UNCTAD XI, UNCTAD held from 10 to 12 June 2004 in São Paulo, Brazil, an interregional seminar on the role of competition policies in the promotion of competitiveness and development. This seminar provided an opportunity for an exchange of views between government officials involved in competition issues from Latin America, the Caribbean and other countries, and aimed at formulating the position of member countries with regard to the role of competition policy in the promotion of competitiveness and development.

(f) A review meeting on a possible framework for cooperation among South African Custom Union (SACU) member States on anti-competitive practices was held on 9 and 10 August 2004 in Maseru by UNCTAD and the Ministry of Trade and Industry of Lesotho for representatives of southern African countries.

(g) At the request of seven African countries - Kenya, Zambia, Malawi, Zimbabwe, the United Republic of Tanzania, Namibia and South Africa, UNCTAD in cooperation with the Government of Zambia held in Livingstone from 5 to 12 October 2004 a seminar for judges and public prosecutors on the enforcement of competition law, as well as a training course on investigation and evidence-gathering in competition cases.

C. Participation in seminars and conferences

8. In 2004, staff members of UNCTAD took part in a number of seminars, workshops and conferences related to issues of competition law and policy and consumer protection. In particular, resource persons from UNCTAD made substantive presentations and/or participated in discussions at the following meetings:

- (1) The WTO National Workshop on Competition Policy, Economic Development and the Multilateral Trading System in Accra (Ghana) on 18 and 19 February 2004;
- (2) The National Workshop on the Draft Consumer Protection Act (Thimphu, Bhutan, 25-26 February 2004);
- (3) Various OECD competition meetings held from 10 to 16 February and from 11 to 15 October 2004 in Paris;

- (4) The APEC Training Programme on Competition Policy meeting and the First Asian Conference on Competition Law and Policy, held in Kuala Lumpur from 1 to 4 March 2004;
- (5) The Workshop on Annex Agreement on Anti-competitive Practices to the SACU Agreement 1994, held in Ezulwini (Swaziland) on 11 and 12 March 2004;
- (6) The National Stakeholders Meeting on Competition Law, held in Blantyre (Malawi) on 15 and 16 March 2004;
- (7) The First Experts Meeting on the Survey on the Status of Consumer Protection and Quality of Life in Africa (Dakar, 15-17 March 2004);
- (8) WTO Training Course on Competition, held in Mauritius from 29 March to 2 April 2004;
- (9) The Meeting to Review the Centre of Regulation and Competition (CRC) Strategy Document (London, 13-15 April 2004);
- (10) The Third ICN Conference held in Seoul from 20 to 22 April 2004;
- (11) The EC Training Seminar for Trainers on Competition, held in Vienna from 3 to 7 May 2004;
- (12) The WTO Intensive Training Course on Competition Policy, held in Rabat (Morocco) from 3 to 8 May 2004;
- (13) The APEC Training Programme on Competition Policy meeting, held from 3 to 5 August 2004 in Ho Chi Minh City (Viet Nam);
- (14) The Symposium on Legal Perspectives in a Global Business Environment, held in Lund (Sweden) from 18 to 20 August 2004;
- (15) The CRC Annual Conference and the Competition and Regulation Group (CARG) Meeting, held in Cape Town from 7 to 9 September 2004;
- (16) The JICA Group Training Course on Anti-monopoly Act and Competition Policy, held in Osaka from 20 to 23 September 2004;
- (17) The WTO/UNESCAP/ASCI Regional Seminar on Trade and Competition Policy for Asia and Pacific Economies (Hyderabad, India, 6-8 October 2004);
- (18) The COMESA Ministerial Roundtable on the Link between Competition and Policy and Development, held in Cairo on 22 and 23 November 2004;
- (19) The APEC Training Programme on Competition Policy meeting (Jogyaakarta, Indonesia, 6-8 December 2004);
- (20) The WTO Competition Meeting held in Brasilia from 8 to 10 December 2004.

III. CAPACITY-BUILDING AND TECHNICAL COOPERATION ACTIVITIES OF MEMBER STATES AND INTERNATIONAL ORGANIZATIONS

A. Assistance provided, planned or received

9. This subsection provides a summary of the replies received to the note of the Officer-in-Charge of UNCTAD (UNCTAD/DITC/CLP/MISC/2004/3 of 22 December 2004), which requested information on technical cooperation activities in the field of competition law and policy.

Algeria

10. It is only thanks to the work done by UNCTAD in periodically organizing get-togethers and meetings that Algeria has been able to enrich its experience in the field of competition law and policy.

Austria

11. Austria cooperates with the member States of the European Union and with the acceding countries within the European Competition Network. For example, Austria is planning cooperation with Romania in the field of competition and State aid culture.

Bolivia

12. Bolivia receives technical assistance from the European Union, via the Andean Community, under the Competition Project, which is focused on harmonizing competition rules in the Andean region. It also recently signed up to the COMPAL programme, under which UNCTAD, with funding from the Swiss Government, will provide technical cooperation for institution- and capacity-building in the field of competition policy and consumer protection.

Brunei Darussalam

13. Brunei Darussalam's engagement regarding competition policy and law is at the moment limited to participation in the ASEAN Consultative Forum on Competition.

Chile

14. In 2003, the National Economic Inspectorate (FNE) gave talks to a visiting delegation from Costa Rica on Chile's experience with competition and the application of its legislation and research. In October 2004, the Inspectorate gave talks on the same subjects to a visiting delegation from El Salvador.

Costa Rica

15. The Commission for the Promotion of Competition submitted a detailed list of technical assistance projects that have been processed and are now being implemented. They include:
(a) a project entitled "Institutional support from the Costa Rican Commission for the Promotion of Competition and the Mexican Federal Competition Commission in the competition process";

(b) a project entitled “Strengthening of the competition process by the Chilean National Economic Inspectorate, the Costa Rican Commission for the Promotion of Competition and the Pontifical Catholic University of Chile”; (c) the second phase of a project entitled “Technical assistance for public bodies responsible for implementing competition law”, in conjunction with the Spanish Competition Tribunal; and (d) a project entitled “Promoting competition and consumer protection in Latin America”, in conjunction with UNCTAD and the Swiss Government, as represented by the State Secretariat for Economic Affairs (SECO) and the Competition Commission (COMCO).

Croatia

16. The implementation of the EU CARDS programme Project 2001 started in April 2003, under the title “Support to the development of competition policy in Croatia in line with EU standards and practices”. The project encompassed the following three components:

- (a) Support to the Croatian Competition Agency regarding the drafting of laws and by-laws;
- (b) The strengthening of institutional and administrative capacities of the Agency through training of employees;
- (c) Education and competition advocacy relating to public administration authorities and the Croatian general public.

The project was prolonged this year with training activities envisaged for both Agency staff and external stakeholders (judges). Furthermore, preliminary documentation for the future implementation of the project from the CARDS Programme has been drafted for the budget years 2002 and 2003. The CARDS Project 2002, “Support to the State aid system in the Republic of Croatia”, will be carried out in the form of twinning and will cover support to the establishment of a legal-institutional framework for the implementation of the State aid system. The CARDS Project 2003, “Further strengthening of the Croatian Competition Agency and implementation of competition law and policy”, will be directed towards the implementation of the established legislative framework in the area of competition. The Croatian Agency also participated in seminars and conferences organized by UNCTAD, WTO, OECD, and the EU among others.

Czech Republic

17. The Czech Office for the Protection of Competition co-organized together with OECD a seminar focused on the enforcement of competition rules against cartels, which was held in December 2004 in Prague. The seminar was attended by representatives of competition authorities of South-East Europe countries (Albania, Bosnia and Herzegovina, Bulgaria, Croatia, The former Yugoslav Republic of Macedonia, Romania, and Serbia and Montenegro), with whom experts from the Office, the European Commission and several EU member States shared their experiences.

Dominica

18. Dominica does not have competition policy, legislation or infrastructure in place and has received assistance from the CARICOM secretariat, which has prepared and provided member States with model competition legislation.

Dominican Republic

19. The Dominican Republic has received technical assistance from UNCTAD for the preparation of the Market Regulation Code, its future law on competition policy.

Finland

20. The Finnish Competition Authority (FCA) provided various types of technical assistance to Estonia in 1996-2002 and to the Russian Federation in 1994-2004. Experts from FCA participated as panellists in OECD seminars held in the Russian Federation (2000-2001) and Latvia (2002). Short-term visits to FCA were organized for officials from Lithuania (1997, 2001-2002), Poland (1998), China (2001 and 2004), Ukraine (2001), Bulgaria (2002), Hungary (2004), the Republic of Korea (2004) and Mozambique (2005). An expert from FCA also went on an advisory mission to Mozambique in 2004.

Germany

21. In 2004 experts from the Bundeskartellamt (Federal Cartel Office) provided assistance in the strengthening of the Competition Council of Lithuania as well as within the framework of the EU twinning project with Poland (in Warsaw, Krakow and Poznan) and Lithuania (Riga). They also participated in the following international seminars/workshops: an OECD seminar for countries with economies in transition held in Austria; OECD workshops in Slovenia and the Czech Republic; a Twinning Conference in Poland; two TAIEX seminars in Turkey and one in Hungary; UNCTAD seminars in Zambia and South Africa (together with InWent Capacity Building International, Germany); ICN workshops in Belgium and Australia; and a seminar on competition policy in urban transportation and the railway sector in Indonesia.

Indonesia

22. The Commission for the Supervision of Business Competition (KKPU) has provided detailed information on technical cooperation in the form of seminars, a workshop, a consultancy, training and other assistance activities provided by GTZ (Germany) and the World Bank in 1999-2003, USAID/USFTC, JICA and the European Commission in 2003-2004 and UNCTAD and OECD in 2004.

Lao People's Democratic Republic

23. So far the Lao People's Democratic Republic has received technical assistance only from UNCTAD, in the form of seminars and workshops on competition law and policy.

Latvia

24. In 2004 the Phare Twinning Light Project “Strengthening of the Competition Council” was completed. Its purpose was to strengthen the administrative capacity of the Competition Council and improve the effectiveness of its enforcement activities. This project, which started in November 2003 and ended in July 2004, was implemented in cooperation with the Federal Cartel Office of Germany.

Malta

25. Malta received assistance from the Commission of the European Communities in respect of the following activities:

(a) Twinning Light Project involving the Consumer and Competition Division and the Italian Competition Authority for the setting up of a merger task force in 2003;

(b) Participation in the European Market programme on competition during 2003 and 2004.

Mauritius

26. In March 2004, UNCTAD provided services to the Government of Mauritius to advise on the structure and organization of the competition institutions in Mauritius. The purpose of the study was: (a) to identify the precise tasks that can be expected to fall to the various new competition bodies in Mauritius; (b) offer guidance on the appropriate organizational structure for these bodies; (c) identify the core capabilities of the members and staff of these bodies; and (d) consider the issues which will need to be addressed through regulations made under the Bill once enacted and through guidelines and other descriptive material. Action has been initiated on the recommendations of the study.

Nicaragua

27. The signing in January 2004 of a memorandum of understanding between the Nicaraguan Ministry of Development, Industry and Trade, UNCTAD and the Swiss State Secretariat for Economic Affairs (SECO) marked the beginning of a programme of institution- and capacity-building in the field of competition policy and consumer protection (the COMPAL programme), which comprises a number of technical assistance and institutional capacity-building activities.

28. The Ministry’s National Competitiveness Programme (PROCOMPE), which is funded by the World Bank, has a component known as “B2” which promotes internal competition by supporting efforts to strengthen competition policy by means of, in particular, deregulation, the elimination of barriers to entry and consumer protection.

29. Moreover, for the past three years training and instruction on various topics has been provided by the Latin American School of Competition for two officials at a time.

Norway

30. In 2004 the Norwegian Competition Authority (NCA) experts participated as panellists/speakers in OECD seminars on competition law enforcement issues held in Pretoria, Vienna, Tallinn and Prague. They also participated in two seminars, organized by UNCTAD on competition law enforcement issues in Livingstone, as well as in the seminar on the role of competition policy and law in oil-export-dependent economies, held by UNCTAD in Tehran in 2003.

31. In addition the NCA has hosted meetings in Oslo with competition officials from Zambia, China, Viet Nam and Malawi. There has also been exchange of personnel between the South Africa Competition Authority and the NCA.

Portugal

32. To the extent feasible, the Competition Authority (CA) is leveraging its efforts through cooperation with international organizations with a direct interest in competition policy, namely the World Bank Group Foreign Investment Advisory Services and UNCTAD. In cooperation with UNCTAD the CA staff participated as resource persons in a training course for judges held in Brasilia in December 2003, as well as in a seminar on competition policy held in Luanda (Angola).

33. A key milestone achieved was the first Portuguese-speaking competition meeting held in Rio de Janeiro, in July 2004. This meeting attracted representatives from most Portuguese-speaking countries and was prepared in close cooperation with the Brazilian Conselho Administrativo da Defesa Económica. As a result of this meeting, the countries represented signed a statement proclaiming their joint agreement on the critical importance of competition policy in fostering economic growth, and the key steps for the implementation thereof. A Memorandum of Understanding was also signed between UNCTAD and the CA for the purpose of formalizing their mutual cooperation in assisting Portuguese-speaking countries in adopting and enforcing competition law.

34. As far as bilateral cooperation is concerned, the CA has been requested by Turkey to organize with the Turkish authorities two seminars on competition enforcement, the first one to be held in Lisbon and the second in Ankara.

Republic of Korea

35. The Korea Fair Trade Commission (KFTC) has been providing technical assistance to the developing and transition economies for the last 10 years and has successfully conducted various technical assistance programmes. In April 2004, it established the OECD Regional Center for Competition (RCC) in Seoul, which will serve as the hub of technical assistance. In 2004 the RCC hosted two events: a “Needs Assessment for Central Asian Countries” workshop was held in July for officials from four countries and in December employees from the Indonesian Competition Authority took part in the “Market Definition Simulation for Merger Analysis” workshop.

36. In July 2004 the KFTC co-hosted a training course on “Competition Law and Market Economy Growth” with the Korea International Cooperation Agency. In December, the KFTC hosted the 9th Annual International Workshop on Competition Policy, with special emphasis on cartel regulation. The KFTC also provided funding for four competition authorities to participate in the 3rd ICN Annual Conference and Seoul Competition Forum 2004, held in April. In 2005, the KFTC will remain committed to its “bridging role” between the more experienced and less experienced competition authorities.

Russian Federation

37. The international cooperation and technical assistance to the Federal Antimonopoly Service (FAS) is provided both at multilateral and bilateral levels. FAS is not only a recipient of technical assistance but also brings its own experience for consideration to international institutions and foreign partners.

38. At the bilateral level FAS has received technical assistance from the competition authorities of East European countries, Finland, Italy and some other countries. In most cases bilateral cooperation is undertaken on the basis of inter-State agreements, memorandums or bilateral programmes on cooperation in the field of competition. Under the terms of the latter, parties organize training, joint seminars, expert meetings and other activities for better mutual understanding and of exchange experience.

39. At the multilateral level FAS receives technical assistance from the European Commission (TACIS projects), OECD, UNCTAD, APEC and USAID. The OECD remains one of the main consultants and sponsors of technical assistance for the Russian Federation in the field of competition policy. Its assistance includes legal advice on basic antimonopoly legislation and its modernization, seminars for the staff of antimonopoly authorities and for judges on competition law enforcement, consultations on methodology of competition policy, and high-level meetings on deregulation of natural monopolies. In 2004 USAID assisted in implementation of three small-scale competition-related projects. Two TACIS projects under the joint title “Antimonopoly Policy and State Aid Control” have assisted in the introduction of amendments to the basic antimonopoly law and the elaboration of related guidelines in the Russian Federation since 1997. A project entitled “Approximation of Competition Rules” was launched in 2004, focusing on improving the business and investment climate through the progressive approximation of Russian and EU competition rules.

40. The contribution made by UNCTAD to the process of developing competition law and policy in the Russian Federation in the past decade is difficult to overestimate. UNCTAD is also actively contributing to the promotion of regional cooperation between competition authorities in the Commonwealth of Independent States (CIS), and regularly assists in the organization of sessions of the CIS Antimonopoly Council. In 2004 FAS also participated as one of the beneficiaries in the project “Land Reform Privatization Procedures and Monitoring System” of the Foreign Investment Advisory Service as well as in various meetings organized by the above-mentioned organizations.

South Africa

41. Since its establishment in 1999 the Competition Commission (CC), through the sponsorship of USAID and the OECD has held numerous training seminars and workshops for its staff. These programmes focused on specific areas identified by the Commission, USAID and the OECD. Training and development were also identified as a need within the SADC region since few countries had established competition authorities. To assist its regional partners, the Commission sponsored and hosted delegates from the competition authorities to attend those seminars and workshops.

42. In December 2004, the Commission hosted a UNCTAD competition law seminar for its staff and lawyers from competition law firms. The success of the course has meant that the Commission will aim to host similar UNCTAD-facilitated courses for Commission staff.

43. Consultants and advisers from more experienced competition authorities, such as the United States Department of Justice and the Federal Trade Commission, the Norwegian Competition Authority and the Australian Competition and Consumer Commission have been seconded to the Commission and managers, and investigators of the CC were also seconded to those agencies. The CC also exchanged staff with the Monopolies and Prices Commission of Kenya and the Ministry of Trade of Algeria.

44. The Commission coordinated the establishment of the Southern and Eastern Africa Competition Forum (SEACF) in November 2002 and has provided input and assistance to many countries in the region that are in the process of establishing independent competition agencies and/or drafting new competition legislation. It also hosted fact-finding delegations from the State Administration for Industry and Commerce (China) and the Ministry of Trade (Egypt).

Switzerland

45. Switzerland, through the State Secretariat for Economic Affairs (SECO) and the Swiss Competition Commission (COMCO), is currently supporting two programmes in the field of competition:

(a) Advocacy and Capacity Building on Competition Policy and Law in the Mekong Region which aims at strengthening local efforts to enact and implement competition laws in Viet Nam, Cambodia and the Lao People's Democratic Republic, with a special focus on Viet Nam. As a result of the growing importance of the private sector and the recent developments in the competition legislation in those countries, there is a need to support the establishment of a strong competition culture. The project aims at enhancing the capacities of research institutes, consumer groups and media to successfully advocate for competition. In the case of Viet Nam, more substantial support will be provided, notably through the contribution of the Swiss Competition Authority. The implementing agency for the project is the Consumer Unit & Trust Society (India);

(b) Strengthening Competition Institutions and Consumer Protection in Latin America. The objective of this project is to facilitate the adoption and implementation of competition and consumer protection laws in Nicaragua, El Salvador and Bolivia and to strengthen the application of these laws in Costa Rica and Peru. The project places particular

emphasis on the exchange of experiences between countries and on the promotion of competition in academic institutions. Through the strengthening of competition agencies and public institutions in charge of promoting competition as well as through a better understanding of the benefits of competition, the project will contribute to the establishment of a business environment conducive to the development of the private sector and beneficial to the whole of society. The implementing agency for this project is UNCTAD.

Tunisia

46. Technical assistance is provided by the French Department of Competition, Consumer Affairs and Fraud Prevention (DGCCRF) under a three-year cooperation programme. The following activities were carried out in 2004:

(a) Initial training: two interns attended the initial training course for inspectors at the National School for Training, Documentation and International Cooperation;

(b) Activities of short duration: (i) various placements for Tunisian interns in France; and (ii) a visit to Tunis by a DGCCRF expert to run a seminar on collective dominant position, restrictive practices and concentration.

47. As part of the UNCTAD TrainForTrade project and pursuant to the national seminar on the implementation of competition law held in Tunis in October 2003, the Tunisian authorities had the training manual translated from French to Arabic in 2004.

48. A cooperation project is being carried out under the programme to support the association agreement with the European Union. The aim of the project is to support Tunisia's efforts to improve the competition environment for business by means of a more efficient market. It will also strengthen the capacity of the institutions responsible for applying and implementing competition law.

United Republic of Tanzania

49. In 2002-2004 the Fair Competition Commission received support from the Swedish International Development Agency under the capacity-building programme for the Ministry of Industry and Trade. This project proposed a detailed structure for the Commission and the Tribunal, conducted a final review of the new legislation, prepared internal procedural documents for use by both the Commission and the Tribunal, and undertake programme for the creation of awareness. Also, in 2004, the OECD, under the USAID facility, conducted a status and needs assessment workshop, followed by an Assessment and Action Plan Report which identified and prioritized the specific needs of the competition authority in the area of competition policy and law, proposed a programme of action and specify funding needs.

50. The Commission is currently involved in a World Bank technical assistance programme known as the Privatization and Private Sector Development Programme. The programme covers the recruitment process, preparing implementation manuals, physical logistics for setting up the Commission and facilitation for an IT consultant.

United States of America

51. Since the last United States report to UNCTAD concerning the review of technical assistance, the Department of Justice and the Federal Trade Commission have continued their joint programme of technical assistance to competition agencies in developing and transitional economies. The programme, mainly funded by the United States Agency for International Development, focuses on the transfer of practical skills in managing an effective competition policy; the detection, investigation, analysis and remedy of suspected anti-competitive practices; and effective competition advocacy and consumer protection. In 2004 and 2005, assistance was provided in the following areas: South-East Europe (Romania, Bulgaria, Croatia and Albania); India; Mexico; Egypt; the Andean Community and its member nations (Ecuador, Colombia, Venezuela, Bolivia and Peru); Indonesia; the Russian Federation; South Africa, Thailand; Viet Nam; Azerbaijan; Philippines; and Central America. In addition, the Department of Justice and the Federal Trade Commission participated in several OECD, UNCTAD and WTO sponsored technical assistance events.

UNESCAP

52. UNESCAP in cooperation with the WTO and the Administrative Staff College of India organized in October 2004 in Hyderabad (India) a three-day regional training seminar on competition policy, development and the multilateral trading system for Asian and Pacific economies. The seminar focused on the following themes: (a) the relationship between competition policy and trade and development; (b) the impact of international cartels in developing countries, and possible measures to address such arrangements; (c) the interface of competition policy and industrial policy; (d) the role of competition policy in relation to economic restructuring; and (e) the challenges involved in setting up an effective competition system at the national and/or regional level, and ways of meeting those challenges.

WTO

53. Paragraph 24 of the Doha Ministerial Declaration provides that WTO members “recognize the needs of developing and least-developed countries for enhanced support for technical assistance and capacity building in this area [competition policy], including policy analysis and development so that they may better evaluate the implications of closer multilateral cooperation for their development policies and objectives, and human and institutional development. To this end, we shall work in cooperation with other relevant intergovernmental organizations, including UNCTAD, and through appropriate regional and bilateral channels, to provide strengthened and adequately resourced assistance to respond to these needs”. In 2004, a range of activities was undertaken by the WTO secretariat in response to this mandate, including the organization of regional training courses and workshops, and national workshops, in addition to participation in a number of workshops organized by other intergovernmental organizations, including UNCTAD.

54. More specifically, during the year, six-day regional training courses were organized by the WTO secretariat for English-speaking African countries in Port Louis, Mauritius; and for French-speaking African countries in Rabat, Morocco. These courses provided broad exposure to key concepts of competition law and policy and their relationship with trade and development, and included a number of practical exercises that were completed in small groups. In addition,

a three-day workshop on competition policy, development and the multilateral trading system was held for the Asian and Pacific economies, in Hyderabad, India; and an advanced seminar on competition law and policy was conducted for the countries of Latin America in Brasilia. National workshops were organized for Ghana and Yemen. These events dealt with a range of questions relating to the role of competition policy in the process of economic development, and approaches to dealing with anti-competitive practices of particular concern to developing countries.

55. In addition to the above-noted activities organized by the WTO secretariat itself, representatives of the secretariat participated in a number of regional workshops and seminars that were organized by other intergovernmental organizations during the year. These included two regional workshops organized by UNCTAD in Mbabane, Swaziland, for the benefit of the member countries of the SACU agreement, and in Khartoum for Arab countries of the Organization of the Islamic Conference. The secretariat also participated in two policy conferences organized by the World Bank in Dar es Salaam, United Republic of Tanzania, for English-speaking African economies, and in Colombo, Sri Lanka, for Asian economies. The secretariat also participated in two events organized by the Consumer Unity Society (CUTS), a non-governmental organization interested in the implementation of competition policy in developing countries, in Hanoi, Viet Nam, for the countries of the Mekong Delta subregion; and in Hyderabad, India, for Asian and Pacific economies.

56. UNCTAD contributed speakers to all of the above-noted WTO regional courses and workshops. In reciprocal fashion, the WTO secretariat contributed speakers to the various workshops organized by UNCTAD, which are mentioned above.

57. In 2005, the WTO secretariat will continue to undertake national workshops on competition policy in response to specific requests by members. However, in the light of the decision of the WTO General Council, taken on 1 August 2004, that no work towards negotiations on competition policy will take place in the WTO as part of the Doha Round, the WTO Technical Assistance and Training Plan for 2005 provides that competition policy will not be covered through regional seminars or similar events. Modules on the subject of trade and competition policy will continue to feature in the secretariat's trade policy courses and regional trade policy courses.

B. Requests for assistance

58. Below are extracts from replies received by the UNCTAD secretariat which are related to requests for technical assistance, with identification of specific competition law and policy areas or issues, which the States concerned would wish to receive priority attention.

Algeria

59. Algeria's needs in the field of technical assistance and capacity-building for the institutions responsible for monitoring competition rules, as identified in document TD/B/Com.2/CLP/36, have grown as a result of the new ordinance on competition published in July 2003. This ordinance gives the Competition Council wider powers to deal with restrictive practices and international cooperation.

Brunei Darussalam

60. Brunei Darussalam welcomes any form of assistance that can contribute to enhancing the process of education on competition policy issues for relevant public and private organizations. Also, as Competition Policy and Law and their working mechanisms are new for the country, a careful study needs to be made of the impact of domestic and multilateral competition policy on local industrial development, and human and financial resources.

61. Technical assistance is required in the following areas: (a) creation of public awareness and consensus building amongst the various stakeholders on the concept of domestic and multilateral competition policy and its impact; (b) undertaking of a comprehensive assessment of the development of the industry and market, sector by sector, and formulating an appropriate competition policy, with its legal and institutional mechanisms and implementation strategies. This should include assistance in formulating policy and designing appropriate mechanisms which will help the country to address issues relating to anti-dumping and international export cartels that can be detrimental to the economy; and (c) building the capacity of the relevant parties involved in the implementation of appropriate competition policy once it has been endorsed by the Government.

China

62. During the review process of the Antimonopoly Law (2005) assistance is required with:

(a) Holding an international conference on competition law and policy in China with a view to finalizing the draft law and coordinating all stakeholders;

(b) Designing the competition authority based on the experiences of other countries and adapted to the supporting political, economic and legal infrastructure.

63. After the adoption of the Antimonopoly Law, assistance will be required with holding workshops on specific enforcement issues, training of the staff of the competition authority and designing competition advocacy activities.

Dominica

64. Dominica will soon begin the process of adopting the model legislation with, if necessary, the appropriate modifications to suit the national situation. Technical assistance will be needed, and sought, with the development of the infrastructure and framework for implementing and enforcing competition legislation in Dominica. This will relate to the development of institutional arrangements and providing the necessary training and education for the stakeholders.

Dominican Republic

65. The Dominican Republic is preparing a request for technical assistance to revise the relevant draft legislation and provide guidance on the steps that will need to be taken to implement the future law.

Indonesia

66. In 2005-2007, technical assistance is required in the following areas:
- A. Instruments: (a) develop guidelines and other transparent policies, practices and procedures; (b) develop educational materials for dissemination; (c) develop feasibility studies for establishing KPPU regional office; (d) develop research or study on industry and policies related to competition law; and (e) generate a workshop or seminar with stakeholders on topics related to competition law.
 - B. Infrastructure: (a) improve the courtroom system and equipment; (b) develop the system for public hearings and the equipment; and (c) develop a management information system for libraries and equipment.
 - C. Human resources development: (a) training in related topics such as the basic anti-trust concept economic analysis, research techniques, investigation techniques, decision-making and decision writing skill, law analysis, judicial procedure, court procedure, and public policy analysis; (b) procedure for concept applying to mergers, prosecutions, and consolidation analysis; (c) comparative study of the case-handling procedure for the competition law authorities and KPPU; and (d) scholarships for higher-level education in the field of Economy and Law.

Lao People's Democratic Republic

67. Assistance was sought from UNCTAD, in the form of a project proposal for training of the staff of the Trade Competition Commission Secretariat, capacity-building, further development of legal and regulatory frameworks and finally transforming the TCC into a Fair Trade Commission that will be responsible for both competition and consumer protection policies and regulation.

Mauritius

68. Mauritius will require UNCTAD assistance with carrying out the second phase of the study on the structure of competition institutions, which will consist in preparing competition rules and regulations. Mauritius will also require technical assistance with competition law and policy in the form of attachment of officers to other competition bodies. Needs of this sort will be further defined upon the appointment of the Director of the Office of Fair Trading.

Nicaragua

69. The Ministry of Development, Industry and Trade has received requests for technical assistance to: (a) provide training on the content and implementation of competition law for the national institutions involved in competition matters (in the public and private sectors); and (b) strengthen State and non-State consumer-protection organizations in Nicaragua.

Russian Federation

70. In order to develop interaction, the Russian Federation with foreign partners in the area of competition policy, the FAS is proposing to hold in Moscow in 2007 the Annual Conference of the International Competition Network. At the same time, the FAS is proposing to organize an UNCTAD workshop on competition policy and enforcement before or after this conference and is looking for support to its proposals within UNCTAD's technical assistance programmes.

Sierra Leone

71. Technical assistance is requested in the following areas:

(a) A consultant on competition law and policy to advise on the administrative, legal and economic provisions of a competition law appropriate to the economy of Sierra Leone, and in particular, to advise on the control of restrictive business practices, investigations and prosecution of violators, abuse of dominant positions of market power, the role and establishment of a Competition Commission or Authority, and the relationship between a Competition Commission and other regulatory bodies;

(b) A national workshop for stakeholders that would brainstorm on the elements of competition policy and validate its contents.

Sri Lanka

72. The following types of technical assistance are requested:

- (1) Strengthening the capability and commitment of the staff of the Consumer Affairs Authority, including:
 - (a) Training in building up technical and analytical abilities;
 - (b) A national stakeholder workshop that would brainstorm on the elements of the competition policy and validate its contents;
- (2) Recommending measures for the operationalization of the Consumer Affairs Authority and effective enforcement of promotion of competition and consumer protection law;
- (3) Assisting in ensuring that the Consumer Affairs Council is functional;
- (4) Effective enforcement and awareness campaign targeted at both consumers and traders. Assisting in programmes aimed at changing the "producer-oriented view to a consumer-oriented view";
- (5) Establishment of a public information centre along with consultative services. This requires human resources capital, and recruitment, relevant legislation, information on how to obtain redress as well as on weights, measures, prices, quality, credit conditions, etc.;

- (6) On-the-job overseas training of staff on the conduct of investigation and surveillance, processes, procedures and alternative approaches, as well as on the impact of and dealing with international competition developments.

73. Generally speaking, the technical assistance sought by Tunisia would:

- (a) Train those responsible for implementing the regulations and undertake the necessary research into anti-competitive practices;
- (b) Help produce better qualified and specialized judges to hear competition cases (in the Competition Council and administrative court);
- (c) Promote the competition culture that is vital to the success of policy in this area; and
- (d) Make available tools and strategies for the advocacy of competition policy in respect of government bodies, local authorities and the professions.

74. Officials responsible for competition matters would benefit from training sessions on, in particular: (a) competition and regulation; (b) the monitoring of concentration; (c) the application of competition law to the finance and insurance sectors; (d) the establishment of a flexible and effective network to link officials dealing with competition matters for the purpose of exchanging views and information; (e) consultations and exchanges of views on how to combat anti-competitive practices that have international repercussions; (f) the establishment of a website for the Department of Competition and Economic Surveys (DGCEE) and a database on competition law; (g) training for trainers; and (h) the establishment of a regional training centre for countries in the region and for African countries.

United Republic of Tanzania

75. The form of technical assistance that will be required from UNCTAD will be identified and submitted upon completion of the World Bank Privatization and Private Sector Development Programme.
