United Nations TD/B/C.I/MEM.3/3

United Nations Conference on Trade and Development

Distr.: General
16 April 2009

Original: English

**Trade and Development Board**
**Trade and Development Commission**
**Multi-year Expert Meeting on Services, Development and Trade: the Regulatory and Institutional Dimension**
First session
Geneva, 17–19 March 2009

# Report of the Multi-year Expert Meeting on Services, Development and Trade: the Regulatory and Institutional Dimension on its first session

Held at the Palais des Nations, Geneva, from 17 to 19 March 2009

## Contents

# I. Chair's summary

## A. Opening statements

1. At the opening session, the Secretary-General of UNCTAD, Dr. Supachai Panitchpakdi, opened the Multi-year Expert Meeting on Services, Development and Trade: the Regulatory and Institutional Dimension. Member states had recognized the driving role that infrastructure services – including telecommunications, transport, energy and financial services – played in supporting economic development and trade.

2. The Secretary-General recalled that the meeting was taking place at a critical juncture, as countries around the world faced a global economic crisis triggered by the failure of regulatory and institutional frameworks (RIFs) for the financial services sector in major financial markets. He stressed that, although in recent years the private sector had emerged as an important provider of infrastructure services, governments continued to play an essential role as service providers and regulators. He also pointed out that there was no "one-size-fits-all" model for RIFs. Instead, "best-fit" approaches should take into account local country contexts of economic and social development, as well as regulatory, institutional and human resource capacities.

3. The Secretary-General concluded that the multi-year expert meeting over the following four years would enhance networking among policymakers, regulators, the private sector, experts and civil society groups working on regulation and institution-building in infrastructure services. It also provided a forum to share experiences and help reveal practical approaches that could deliver the best development outcomes for specific services sectors, services trade and the broader national economy.

4. The background note prepared by the secretariat for the meeting (TD/B/C.I/MEM.3/2) was introduced by the Acting Deputy Secretary-General of UNCTAD, Ms. Lakshmi Puri, who recalled that infrastructure services were building blocks for economic and social development.

5. Ms. Puri said that regulatory and institutional failures, including in more developed economies, had spurred questions about whether RIFs were adequate and whether developing countries had the human and financial resources to establish effective and efficient RIFs. International challenges related to building the RIF capacities of developing countries and countries with economies in transition – including through regional cooperation and donor support – and to ensuring rules in trade and investment agreements did not reduce countries' policy space to regulate effectively. Ms. Puri made reference to international trade agreements and their impacts on infrastructure services. It was recalled that the General Agreement on Trade in Services (GATS) clearly recognized governments' right to regulate and exclude "services supplied in the exercise of governmental authority" from GATS disciplines under specific conditions. In that context, multi-stakeholder consultations involving civil society, consumer groups and the private sector were also important. Ms. Puri concluded by indicating that regular interaction and cross-fertilization between trade negotiators, services policymakers, regulators and civil society could promote pro-development regulatory outcomes.

6. In a keynote address, Dr. Yaga Venugopal Reddy – former Governor, Reserve Bank of India and member of the Commission of Experts of the President of the United Nations General Assembly on Reforms of the International Monetary and Financial System – described the role of central

banks in managing the current global financial crisis. As early as 2005, central banks were cognizant of excessive risk build-up in the banking system that subsequently grew to trigger the crisis.

7. Dr. Reddy further explained that, due to overly leveraged positions, investment banks in developed countries were most affected by a wave of asset depreciation and credit default that precipitated the current crisis. Central banks had to intervene, given the magnitude of imbalances caused by a lack of solvency and liquidity among major banks. Developing country banks were less affected by asset depreciation and credit defaults, since their operations were based mainly on traditional commercial and retail banking activities in their regional and national markets.

8. In G-20 meetings aimed at developing a global approach to reversing the current crisis, most participating governments concluded that regulation of financial services needed to be reformed and strengthened. Dr. Reddy noted that it had become increasingly clear that, in order to restore favourable economic conditions, a new balance for improved economic policymaking – including through enhanced cooperation and policy coherence – had to emerge between central banks, finance ministries and broader government agencies, and between these institutions and their counterparts in other countries.

9. In discussing causes of – and responses to – the financial crisis, many experts stressed the need for improved regulation to curtail excessive risk-taking in financial markets. Many also questioned why central banks did not play a more proactive role to address the root causes of the crisis much earlier. Some felt that central banks had become subservient to national policy goals aimed at advancing political rather than economic objectives. Some conjectured that "race-to-the-bottom" regulation – motivated to attract investment to national financial systems – had driven some markets towards deregulation and self-regulation, thus introducing new vulnerabilities into global markets.

10. Experts felt that the benefits of globalization should not be taken for granted – globalization needed to be well-managed starting at the national level, including through effective response actions, when problems emerged. Markets alone could not self-correct. Central banks had recently assumed a major role as a lender of last resort to assist ailing banks and other financial services firms; however, it was felt they should not reveal their willingness to provide support until all other rescue options were excluded. The creation of any global institution that would serve as lender of last resort was considered a positive prospect; however, such an institution must be willing to assume solvency risks and substantial financial losses.

## B. Trends in the regulation of infrastructure services

11. One expert presented an analysis of RIFs resulting from reforms in infrastructure services sectors. He argued that unreformed sectors were inefficient, provided poor quality of service and were unresponsive to consumers' needs for improvements in services offerings. Strong policy, legal and regulatory frameworks backed by institutional support were central for efficient provision of infrastructure services and higher social welfare. Effective reforms required a range of actions covering (a) ownership, with the determination of appropriate roles for the private and public sectors; (b) structure, influencing vertical and horizontal structure of sectoral firms; (c) governance, focusing on institutional and legal aspects of reform; and (d) pricing, addressing issues of cost reflectivity, signals for investment and consumption, and social protection.

12. It was noted that recent market-opening reforms often centred on establishing independent regulatory agencies, although various options existed for tailoring regulatory approaches to specific national situations. In addition to the two main models for regulation – regulation by contract and regulation by agency – innovative approaches, including expert panels and outsourcing, had been successfully used.

13. Experts said that reforms often entailed introducing private participation through the corporatization of existing state-owned enterprises (SOEs), public–private partnerships (PPPs) and full privatization. Competition could take many forms: head-to-head competition, market competition, benchmarking and contestability, among others. Whenever private participation was first being considered, policymakers had to assess which industry elements were natural monopolies and which could be opened to competition, and to what extent.

14. In competitive markets, it was noted that regulators had to decide between two main forms of regulation: (a) “structure” regulation aimed at influencing industry structure through competition regulation, and (b) “conduct” regulation aimed at ensuring product price and quality through economic regulation. Both approaches could introduce incentives for cost-efficiency and regulators should focus on strengthening these.

15. An expert from the International Telecommunication Union (ITU) said reforms in the information and communication technology (ICT) sector had evolved rapidly in the previous decade, with technological evolution serving as a driver and enabler of reform. Privatization and the introduction of regulation to manage competition had been the most common elements of reform: nearly 64 per cent of the world’s ICT operators were privatized, fully or partially, which resulted in lower prices and a dramatic increase in the number of mobile subscribers worldwide. As a result, at the time of the meeting, 61 per cent of the world population had access to mobile services, and an increasing number to the Internet. Key regulatory issues to be addressed in a second wave of regulatory reform included (a) uniting telecommunications and broadcasting regulators into single regulators with extended powers; (b) replacing service-specific licenses with general authorizations and technology-specific licenses with technology-neutral licenses; (c) flexible spectrum allocation practices, including sharing and trading, to create new access networks that deliver both voice and broadband services cost-effectively; (d) moving from exclusive ownership of network and bottleneck facilities towards infrastructure sharing and international gateway liberalization; (e) extending universal access objectives from fixed-line voice services to broadband services; and (f) flexible, transparent and simplified procedures to facilitate market entry and stimulate innovation.

16. An expert from UNCTAD presented data indicating that private participation in open infrastructure services markets represented a major source of infrastructure services financing. Openness was highest in mobile telecommunications and lowest in water. Transnational corporations (TNCs) were present in unbundled competitive market segments and in countries with more open regulatory regimes. TNC involvement was generally based on investment contracts with host governments. One third of all investment disputes related to infrastructure, pointing to the need for countries to eliminate discrepancies between RIFs and international investment agreements (IIAs), and those that could arise from differences in interpretation of their legal content. That could help ensure coherence between IIAs and countries’ national policy objectives, to achieve the expected development effects.

17. Some experts stressed that conduct regulation was likely to be second best to competition regulation, owing to information asymmetry in which firms had better information than regulators. One expert posited that SOEs could not respond to regulation in the same way as the private sector, bringing up the issue of whether corporatization of SOEs could occur successfully. It was suggested that both SOEs and the private sector could efficiently provide infrastructure services, but that differential regulation might be required in each case. For SOEs, regulation could focus on (a) information disclosure, to enhance transparency and provide a better view of the effectiveness of existing price and quality regulation; and (b) needed reforms.

18. It was felt that regulators should also ensure that regulation encouraged, rather than discouraged, investment. The main trade-off involved allowing regulatory flexibility to respond to novel market situations while providing certainty for consumers, investors and other stakeholders. Experts agreed that government’s ability to provide effective RIFs for infrastructure services which corrected market failures and achieved other key domestic policy objectives was central for overall economic performance.

## C. Regulating infrastructure services: key substantive issues

19. Many infrastructure services were long regarded as natural monopolies within national markets able to sustain only one, often state-owned, supplier. Changing technology and economic environments led to unbundling of different value chain segments and introduction of competition in unbundled markets with network elements remaining monopolistic. Independent regulators were introduced to regulate the market environment, ensure fair pricing of services, promote transparency, reduce informational asymmetries and resolve disputes.

20. A major objective of infrastructure services regulators was balancing multiple objectives of stakeholders, including government, investors, operators and consumers. Regulators (a) issued licenses with conditions; (b) monitored and enforced those conditions; (c) set appropriate tariffs; and (d) resolved disputes. The principle of good regulation required that regulatory decisions be based on facts and evidence, and be applied in a transparent and independent way, with due regard to the confidentiality of the information required by operators. For developing countries, it was important to cater to underserved consumers who tended to be neglected in the regulatory process. Applying pro-poor regulation was a key objective in most developing countries, as reflected in policies allowing the poor to pay below-cost prices for essential services, including through cross-subsidization schemes.

21. Experts discussed the example of how ICTs could be used to achieve universal access to services. Many developing countries had “leapfrogged”, capitalizing on wireless technologies to rapidly deploy cost-effective infrastructure nationwide. And although broadband had not been included as part of national universal service obligations, many countries (e.g. Brazil) required broadband service providers to make contributions to universal access funds. Licensing requirements could also be used to promote universal access, with reduced license fees and tax incentives for rural areas and requirements that operators expand service areas within given time-frames.

22. Among regulatory functions, price regulation remained critical. The challenge lay in determining prices that struck a socially acceptable balance between the interests of investors and those of consumers. Regulatory pricing had to allow for cost recovery to ensure sustainable investment. Otherwise, shortage of supply and deteriorating quality of service could occur, particularly

as infrastructure services had high capital costs, and investment in fixed assets entailed sunk costs. Unbundling the varied segments of value chains and introducing competition where possible, while focusing regulatory attention on non-competitive network segments to prevent the abuse of market power, constituted a fundamental regulatory responsibility. For example, in the case of electricity, generation and distribution markets were amenable to competition, while transmission markets required network facilities that were monopolistic by nature.

23. Experts explained that standard approaches to price regulation required a determination of costs – factoring in productivity improvements, accessibility for the poor, reduction of non-revenue supplies and needed capital investments – and developing a multi-year formula to allow for orderly investment. "Ratebase", or rate of return regulation, was based on cost-plus methods by ascertaining costs plus a "fair" return on investment. It was criticized because it did not create incentives for improving efficiency, as costs were taken as given, and it was often difficult to establish the cost of capital, particularly in developing country settings where special country risks could lead to high capital costs estimation. The "RPI-x" method and its variants were developed to correct deficiencies of the "ratebase" approach. Its merits included ease of implementation and built-in incentives for improving efficiency, although it could result in decreased quality of services.

24. It was stressed by experts that a key operational challenge for price regulation was limited data availability. Data requirements were demanding and complicated by problems of information asymmetry between regulators and service providers. Enhanced transparency through independent reporting or auditing was thus important. Political pressure to introduce cost pass-through regulation constituted another challenge as it could lead to higher administrative tariffs or politically negotiated tariffs. One practical solution was to embed key elements of the price formula into concession bids so that "competition for the market" could act to define the most appropriate formula while concentrating regulatory efforts on strengthening transparency and calibrating the formula, including through the use of industry benchmarks.

25. It was noted that PPPs had yielded varied results across sectors, working well in telecommunications, but less so in electricity and water. Various forms of PPPs were possible, including through management contracts or investment funds. Sound accounting requirements were a prerequisite for PPPs. Promoting PPPs required comprehensive RIFs, including appropriate policy framework and political commitment to ensure investor confidence. It was widely believed that promoting PPPs required corporatization, disaggregation of utilities to promote competition, regulatory frameworks that limited government discretion, and privatization. The role of information and benchmarking was increasingly emphasized as a practical solution for promoting PPPs and for comparisons useful in establishing performance targets. Many experts emphasized that information was also essential in resolving disputes among stakeholders and that timely resolution of conflicts was crucial for the effective functioning of PPPs.

26. Experts noted that infrastructure services regulation was often complicated by overlapping jurisdictions, particularly between regulatory agencies and competition authorities. While contestability of markets could help prevent anticompetitive practices, competition oversight was needed in infrastructure services markets. Sectoral regulation and competition policy differed in that sector regulation was ex ante in action while competition policy was ex post, the latter serving to complement sectoral regulation. As various regulated sectors were opened for competition, delimiting and defining the role of competition

policy in the sectors had occurred and various configurations of sectoral regulation and competition policy had emerged, including in the form of “hybrid models”. Conflict often arose because policy objectives differed between regulators, who were more interested in broader socio-economic considerations, and competition authorities, for whom economic efficiency was the key consideration. Many experts stressed that a key concern involved preventing “forum shopping”, in which firms sought action by the “friendliest” agency, and by avoiding “double jeopardy”. National experiences indicated that broad models of cross-jurisdiction required political oversight. Cross-agency cooperation and coherence, with the respective roles of agencies unambiguously defined, were critical for effective regulation.

27. Speaking about the impact of the infrastructure services from climate change, one expert highlighted the need to better address environmental issues through regulation. In the energy sector in many countries, in line with international climate change mitigation efforts and emission reduction commitments, cutting carbon emissions was a major goal. International cooperation was advancing rapidly to assist developing countries to reduce their emissions through the Clean Development Mechanism (CDM). Although the global CDM market remained small, it was growing, and it was anticipated that as much as 30 per cent of future global emissions reductions would derive from CDM projects. The potential for trade of clean energy technologies between developed and developing countries to enhance global emission reduction efforts also remained large. However, increased use of market-based regulations was needed to encourage such trade among energy service providers.

## D. Building effective institutions for infrastructure services regulation

28. Experts discussed the importance of institutions and procedures for the quality of regulations. Institutional models and arrangements for infrastructure services could be very different according to country and industry.

29. When regulating through independent regulatory agencies (IRAs), governments sought to signal their commitment to greatly reduce political influence and the market power of dominant firms in infrastructure services markets. IRAs were sheltered from political pressure and hence less inclined to discretion and arbitrary interventions. Experts stressed that independence must be real and not illusory. The institution in which the regulator functioned must be established in a legal framework, to keep the regulator free from political pressures. However, if political interference was permitted or laws were not faithfully upheld, the expected benefits of an independent regulator would not materialize.

30. One expert described arrangements used in Brazil, which was comprised of federal institutional agencies (one-sector regulation), complemented by state agencies (multi-sector regulation in the sectors of transportation, gas, electricity or sanitation) and municipal arrangements (sanitation). The case of gas distribution in São Paolo had been successfully based on accomplishments in the areas of establishing regulatory credibility, carrying out well-structured pro-competition reforms, coordinating between states, devising energy pricing policies, ensuring budget sufficiency, and following transparent regulations and procedures. Challenges included better coordinating state and federal agencies, reducing political interference in the nomination of directors of regulatory agencies, overcoming budget constraints and improving human resources.

31. The representative of the African Forum for Utility Regulators (AFUR) explained that in Africa there were three interrelated capacity gaps in infrastructure development: physical capacity, financial capacity, and institutional and human capacity. Overall, only 30 per cent of Africans had access to electricity (12 per cent in rural areas), about 6 per cent to water and sanitation, and only 13 per cent to telecommunications. Although some African countries possessed recently-established regulators, effective regulation remained a “work in progress”, because of a number of capacity shortcomings, including limited technical expertise and a weak governance environment. In South Africa, the government continued to develop a strong regulatory capability to protect consumers and reassure investors. Regulatory principles applied included coherence, independence, accountability, predictability, transparency and competence.

32. One expert explained that, during its first 50 years after independence, telecommunications constituted a government monopoly in India. However, in recent years, the sector had been successfully corporatized through a phased approach, increasingly opening the sector to private participation. Important regulatory tasks consisted of the setting of maximum tariffs and the enforcement of minimum service standards. Also important were advancing non-market objectives of universal access and consumer protection. Regulation in India aimed to ensure non-discriminatory treatment of market participants with three rules: cooperation in a competitive environment, equal treatment of new and old market entrants by the dominant competitor, and a “voice” for consumers.

33. The expert further explained that, in India, absolute independence of regulatory bodies was neither possible nor desirable. A balance needed to be reached to ensure that the regulator was both independent and responsive to the broad policies of the government. The regulator was subject to government oversight and a system of checks and balances. Furthermore, it must be an impartial, transparent, objective and non-political enforcer of government policies and be free of political influence. Safeguards to ensure effective regulation included (a) providing the regulator with a distinct and indisputable statutory authority; (b) prescribing well-defined professional criteria and a transparent process for appointments; (c) appointing regulators for fixed periods and prohibiting their removal except for due cause; (d) providing the agency with a reliable source of funding; and (e) prohibiting regulatory executives from overturning agency decisions.

34. Experts discussed a range of issues relating to universal access and the appeal process for decisions taken by regulators. One expert noted that, in Bolivia, universal access to telecommunications, water and energy constituted human rights and was to be provided without discrimination, according to the country’s constitution. Experts acknowledged that some countries had created funds to help advance universal access. Such funds were often used to support additional investment to extend infrastructure and improve maintenance in rural areas. Some experts argued that universal access funds might have negative effects when resources were not effectively spent on expanding access for the poor, or spending was either delayed, blocked or diverted.

35. Experts emphasized that the independence of regulatory agencies did not mean that regulatory agencies were not accountable. Transparency and predictability constituted important objectives for regulators, including in the handling of disputes where laws must be faithfully applied and reasons given for all regulatory decisions. Experts concurred that the dispute settlement process should be public whenever issues of confidentiality were not compromised and a right to appeal be provided in regulatory decisions. Concerns were expressed as

to whether regular courts had the expertise to preside on technical issues that had been decided by a specialized agency. Experts concluded that both RIF effectiveness and credibility could be increased by raising consumer awareness of competition and regulation issues.

## E. Regulating financial services and markets

36. The current financial crisis exemplified the systemic importance of financial services regulation and the fact that financial markets were more efficient when regulation ensured that risk was priced to reflect its true social costs. In the light of the financial crisis, thought was being given to devising better regulations and enforcement mechanisms, and to enhancing coherence and coordination of regulatory and supervisory structures at national and global levels.

37. One expert chronicled developments leading up to the current financial crisis. He argued that the crisis resulted from (a) market excesses arising from weak regulation and supervision in the financial sector; (b) macroeconomic conditions which were increasingly vulnerable to instability owing to asset prices inflated by speculation and to major international payments imbalances; and (c) the multiple global transmission mechanisms through which unfavourable developments spread from their starting points through the world economy. Those developments hit not only industrialized economies, but also emerging and other developing economies, despite the favourable macroeconomic and financial performance of the latter at the onset of the crisis.

38. The policy response to the crisis in major industrialized countries involved a battery of measures, including bailout packages, deposit guarantees, state support and nationalization measures, and economic stimulus packages. But experts were in agreement that such a policy response was beyond the means of most developing countries affected by the crisis, so external support would be required to mitigate its impact.

39. One expert proposed that international organizations such as UNCTAD, the World Trade Organization (WTO) and the International Monetary Fund (IMF) take stock of what measures different countries were undertaking and monitor their effects, including under the auspices of a special international agreement that could define roles for global monitoring of the financial services sector.

40. Experts keyed in on the problem of excessive leveraging by banks and other financial intermediaries since 2001. Leveraging could increase returns but it could also increase losses – in some cases large amounts in both directions. In its traditional and best-known form, leveraging involved increases in the debt of an institution or individual in relation to equity and assets. Derivatives and securitization provided alternative means of levering up returns to equity. Historically, leveraging had taken many different forms, and the current crisis had been marked by different variants, ranging from simple household indebtedness to the leverage embedded in complex financial products. The trouble with the different forms of available leverage was not only that the associated risks had greatly increased during the crisis, but also that more complex forms were introduced in recent years, most being poorly understood and improperly managed within banks themselves.

41. An expert from the Basel Committee on Banking Supervision explained the aims of Basel I and Basel II regimes in relation to the ongoing financial crisis. The crisis occurred under the Basel I regime, and in most countries, Basel

II was not implemented when the crisis emerged. Initially, Basel II included a number of measures to improve banking supervision by reducing many of the perverse incentives that contributed to the crisis. But responses to the crisis would affect Basel II, and other areas of regulation, with additional reform recommendations not envisaged earlier. The aims of Basel II were to provide the right incentives for sound risk management, ensure a prudent level of capital was maintained by banks in relation to systemic risk, and maintain a level playing field for the operation of banks.

42. In March 2009, the Basel Committee met to discuss responses to the financial crisis in four areas: the need to strengthen the level of capital in the banking system, liquidity risk management and buffers, risk management practices and counterparty credit risk. Strengthening the level of capital in the banking system required introducing standards to promote the build-up of capital buffers, improving the quality of bank capital, enhancing risk coverage and introducing non-risk-based supplementary measures. It was emphasized that Basel II was conceived as a "living document" and as such improvements based on experiences, including from the current crisis, could be integrated into the framework. Criticisms of the inadequacies in Basel II were made by experts on, for example, limited capital adequacy provisions and inadequate consideration of systemic risk (i.e. risk from a macroeconomic perspective). Many experts supported a stronger international legal and institutional framework to address these issues.

43. One expert described the impact of the crisis on small and medium-sized enterprises (SMEs). While the crisis started in financial markets, it was reaching the real economy in which SMEs worked daily. The demand shock on SMEs was expected to be stronger than the shock on aggregate demand. SMEs were at the end of the payment chain, typically experiencing extended delays for payments, already forcing a growing number of insolvencies and defaults. Demand for short-term credit by SMEs had decreased dramatically, in greater proportion than for larger enterprises. However, SMEs were experiencing difficulties in accessing financing, due to credit tightening by banks. In some countries, governments were thus helping exporting SMEs through various financial schemes, an increase of amounts of public guarantee for loans given to specific companies or sectors, as well as efforts by governments to help SMEs cope with payment delays.

44. In developing countries, impacts of the financial crisis related mostly to its potential to negate development gains, including meeting Millennium Development Goals and poverty reduction targets, as well as causing falling economic growth rates, unemployment, and the potential for reverse migration flows. Concerns related to the need for financial, technical and human resources to (a) implement effective RIFs in the financial services sector; (b) evolve, strengthen and ensure the viability of their own financial services sector; and (c) address the specific challenges arising from implementing international standards and cooperation measures. Regulators had difficulty keeping up with fast-changing markets, requiring assistance and expertise, including for monitoring of market developments and data. Addressing these concerns was critical for developing countries and countries with economies in transition.

45. One expert explained that the expected private loss due to financial risk did not cover the true cost of financial risk to the broader economy. This led to an under-pricing of financial risk, which resulted in substantial social costs when risks were realized. Financial market liberalization led to a contagion effect wherein shocks and crises in one country's financial system were

transmitted to other countries. Financial markets were more efficient when regulated so that risk was priced to reflect its true costs to society.

46. Experts discussed the role of credit rating agencies in assessing risk, noting that they had been ineffective in assessing asset pricing and liquidity risks prior to the current financial crisis. Without alternatives to credit rating agencies, experts agreed that more effective regulation needed to be applied to those agencies in the future. Others pointed out that credit for trade finance was also affected by the current crisis. Experts discussed the extent to which high levels of foreign currency reserves could help developing countries smooth dislocations caused by the current crisis, although it was observed that this possibility provided only temporary and limited benefit.

47. One expert provided insights into India’s experience with regulation of the financial services sector. It was argued that India was perhaps one of the few countries that had maintained reasonable stability in external and financial sectors, despite a large public debt, persisting fiscal deficit and large trade deficit. The regulatory functions of the Reserve Bank of India (RBI), the country’s central bank, had largely been responsible for successful management of the financial services sector in India. The RBI was in charge of banking regulation and the national payment system. Although it had no clear mandate to do so, it also served as the debt manager for central and state governments based on temporary arrangements established in 1935 and continuing to the present day. Major discussion had surrounded RBI’s role as a debt manager to the government and its concomitant role as a monetary authority. However, the prevailing view was that RBI was well placed to manage debt and maintain stability through coordinated policy actions. RBI had a statutory independence and authority and, in order to help avoid conflicts of interest, it created a board – consisting of the governor and deputy governor and four non-governmental representatives – which independently dealt with regulation and supervisory functions

48. Regarding substantive elements of the reform process, the legal framework for the banking sector had moved from direct to indirect regulatory instruments. Several flexibilities were introduced through legislation relating to payments, securitization and foreign exchange management, among others. In India, it was important to reserve the power to regulate to maintain confidence in the regulator. Moreover, confidence was also strengthened because RBI retained substantial powers to act as a lender of last resort, mainly for ailing banks.

49. One expert discussing the regulation of China’s financial services sector pointed out that, with rapid and fundamental changes in the Chinese economy over the previous 10 years, the financial services sector was growing fast, fuelling development of the national economy. During that period, the supervisory responsibilities of the People’s Bank of China (PBC) for various financial sectors were shifted to a few newly-established regulatory bodies, i.e. the China Securities Regulatory Commission and the China Insurance Regulatory Commission. The main tasks of PBC were to formulate and implement monetary policy, prevent and resolve financial risks and safeguard financial stability. The year 2008 marked the second year since China completed the phase-in fulfilment of its WTO accession commitments. During the opening-up process, the four principles of “national sovereign interest, controllable risks, cooperative competition and win–win benefits” – placing as a priority the nation’s economic and financial safety and interests of financial consumer – were steadfastly implemented. The objective was to promote reforms and development through opening up. Development of the sector introduced a number of business opportunities for entrepreneurs in the sector, and most

recently, a number of new challenges associated with the current global financial crisis. The sector comprised three subsectors – banks, security houses and insurance firms – all with separate, distinct market regulators. Risk prevention was a primary thrust of regulation. Significant progress was made in expanding the banking system to cover the under-banked areas and households. The financial resource allocation capacity of the banking sector continued to improve, with some banking institutions having been actively engaged in the pilot practices of cross-sector operations (e.g. exploring the ways to enhanced cooperation between banking and insurance, and establishing pension and fund management subsidiaries). The banking sector had improved in meeting the demand of corporate and individual customers. Banking institutions had been encouraged to adhere to the national macroeconomic measures to achieve stable financial development.

50. Four elements were highlighted as key to a global approach to regulation in the financial services sector: rules and standard-setting, surveillance, cooperation and coordination, and enforcement. Rules and standard-setting measures could include capital adequacy standards and liquidity ratios, regulation of cross-border banks and firms, corporate governance practices for individual firms, international disclosure standards for cross-border offerings and regulation of compensation. Surveillance could include (a) monitoring and assessing risks and linkages to the broader macro-economy so as identify significant exposures to liquidity, exchange rate, and other macro-variables; (b) information collection; (c) focus on regulated institutions and controlling entities; and (d) overall leverage in the financial system. The goal of cooperation and coordination should focus on international operations of financial service players, to ensure supervision in both home and host country. The host country could be responsible for liquidity measures and the home country for credit risk, solvency, and bailout measures. Other areas of cooperation could include exchanging information on national supervisory arrangements, improving techniques for supervision, and internal risk assessment by financial institutions. Perhaps a more difficult area was enforcement at the global level. It was suggested that regulatory incentives, sanctions and credit ratings could be used as tools to ensure enforcement and implementation. Further, at the global institutional level, the disarray of institutions required a stronger international framework. The G-20 proposals were marginal steps in the right direction, but their adequacy and timeliness may not be sufficient.

51. Speaking on RIFs for the insurance services sector, one expert explained that the current crisis had affected the insurance sector differently from the financial sector. The differences lay in liquidity and the fact that the insurance sector remained largely unaffected from mortgage losses associated with the sub-prime crisis. Hence, confidence in the sector remained strong. Nevertheless, it was unlikely that the sector would avoid asset losses in the context of the current crisis, arising from systemic risk. It was noted that several crisis-related problems had already begun to emerge for the sector, including liquidity problems and asset devaluations. The expert further stated that the insurance sector had a limited involvement in the credit crisis. The companies that had suffered from the credit crisis were mostly those that had operations as financial guarantors, operating less as insurance companies than as owners and investors in a different type of business. Insurers were not subject to the same systemic issues as banks, nor had they contributed to global financial instability, showing instead resilience in the face of adverse market conditions (liquidity squeeze) and acting as a stabilizing factor. The resistance of insurance operators to liquidity problems that had impacted the banking sector and the impact of expected credit losses arising from exposure to credit derivative swaps stemmed

from a combination of the insurance business model vis-à-vis liquidity constraints, prudence exhibited by most operators following past experiences and tight supervision of the sector.

52. The expert also pointed out that the insurance business model exposed players to lesser risks in the liquidity domain than banking business models. This differentiation must be reflected in different regulatory and capital requirements in the future. Regulators and supervisors in the future should nonetheless be more vigilant where insurance companies branched out into risky ventures or riskier players moved into insurance.

53. While it was felt that strengthening institutions and coordination and cooperation at the global level was important for the financial system and the financial services sector, the crucial role played by regulation and skilled regulators at the national level was underscored. The need for skilled regulators and supervisors who were able to comprehend and respond in time to changes in the financial landscape – especially those brought about by new financial products, technology and financial consolidation – was highlighted. This was an area that most developing countries were lacking.

## F. Capacity-building for effective regulation

54. It was noted that developing countries faced challenges when striving to build capacity to effectively regulate and that adopting a gradual approach in developing RIFs was important for ensuring the sustainability of the regulatory system. A representative of AFUR explained that, in Africa, increasing emphasis was being placed on regional cooperation on regulatory issues. AFUR advanced information-sharing, capacity-building and the harmonization of regulatory frameworks among its members. AFUR carried out capacity-building, including through organizing training courses and establishing a growing network of regulatory training centres. Furthermore, AFUR disseminated model norms and regulations, promoted bilateral cooperation between regulators, and encouraged the sharing of information and experiences, and the pooling of regional resources and assessment studies.

55. One expert described the main challenge in utility regulation in the Caribbean region as knowing how to attract investment while ensuring a balance of market power that yielded quality service at a reasonable price and a reasonable return to investors. Good governance was generally considered in terms of several factors, the most important of which were clarity of function, autonomy, transparency, accountability, predictability and credibility. Caribbean countries had made good progress in meeting regulatory challenges and objectives through sectoral and in some cases multi-sector regulatory agencies, though regulators across the region were at various stages of development.

56. Effective capacity-building helped ensure good regulatory governance and the regulatory activities of Caribbean regulators had been facilitated by the establishment of the Organization of Caribbean Utility Regulators in 2002. The organization aimed to (a) assist in the improvement of utility regulation; (b) foster transparent and stable utility regulation through autonomous and independent regulators in member countries; (c) undertake research, training and development; and (d) facilitate understanding of regulatory issues and information and experience sharing. The region showed that harmonization was possible and necessary for the development of small markets. The importance of a framework for developing regulatory capacity at the national and regional level was emphasized.

57. Describing the Caribbean Community (CARICOM) experience, one expert explained the challenges confronting the region, including the existence of three different legal systems, large geographic distances separating countries in the region, and difficulties in attracting investment and service providers to infrastructure services sectors, particularly in smaller islands. There had also been difficulties in establishing multinational regulation for the region.

58. The various challenges and constraints faced by Benin in the regulation of its ICT sector were outlined by one expert. The country had to (a) finalize its legislation on e-communications and arrangements to establish its regulatory authority; (b) elaborate a national plan for the allocation of spectrum; and (c) improve recruitment and training of regulatory staff to ensure a sufficient number of managers with required skills. For the present, Benin did not have a multi-sector regulatory agency but rather different agencies guided by a common strategy. The country required external expertise in order to harmonize legislation and practices in the context of the West African Economic and Monetary Union (WAEMU) and the Economic Community of West African States (ECOWAS).

59. The various attributes of a successful regulator were reiterated by one expert. The regulator should be seen as legitimate in stakeholder’s eyes, be well-recognized among consumers, and respected by politicians and firms. The regulator should also be independent and competent. Competency could be assessed by a regulator’s transparent processes, the predictability of its decisions, and its ability to adapt regulatory practices to unforeseen events and to match private operators’ levels of competence on regulatory issues.

60. Human resources constraints at both decision-making and staff levels constituted major challenges for many developing countries. There were no miracle solutions but it was felt that countries should (a) seek to identify the constraints upstream and factor those into regulatory design; (b) identify whether the legal framework provided a sound basis for independence; (c) identify the extent to which competencies could be secured in-country; and (d) decide on the which regulatory functions or tasks could be contracted out.

61. Many regulators were small, with most employing fewer than 50 staff members. Big did not necessarily mean better for regulatory agencies. Problems common to regulatory agencies were a limited pool of resources and the risks of conflicts of interest. Outsourcing could make up for a lack of human resources. External experts could provide input as advisors to improve competence or as decision-makers in order to enhance the independence and legitimacy of the regulator when necessary. An expert pointed out potential conflicts of interest introduced by outsourcing. Although consultants could be independent politically, they could have economic interests (i.e. favouring a particular company), thus putting into question the legitimacy and independence of external consultants. Experts cautioned that, for outsourcing to be successful, there needed to be (a) clear criteria of what needed to be done; (b) engagement of an appropriate consultant familiar with the issues at hand; and (c) a consulting contract with clear terms of reference and provisions spelling out criteria for the dismissal of consultants if the terms of reference were not met.

62. One expert illustrated how regulatory competence had been enhanced through outsourcing in some developing countries. In a Gabon water and electricity concession, the contract required the use of external contractors for data gathering and performance monitoring. Their reports were not binding, but they increased the competence of Gabon’s regulatory function. In a Gaza water management contract, at a time where the regulator had just been created and

was still inexperienced, the contract defined that an external auditor would set criteria for a performance-based payment system, increasing the competency and independence of the regulator.

63. A recent survey indicated that 75 per cent of regulators interviewed were contracting out and 61 per cent had a positive experience. Less developed regulators tended to contract less, for several reasons, including a lack of sufficient funds and possibly limited access to regional experts. Reasons for contracting out cited by respondents were to (a) cut costs; (b) improve control, quality, credibility and flexibility, and (c) compensate for a lack of in-house capacity. It was felt that regulators could identify areas of core competency, build up a small but well-qualified team, contract out more specialized tasks to external experts, while weighing the costs and benefits of outsourcing. In addition, at the regional level, rosters of experts could be drawn up and shared among regional regulatory agencies.

64. Infrastructure regulators needed significant numbers of highly skilled professional staff, including accountants, economists, lawyers and engineers. The problem was whether low-income and small countries could find sufficient staff and, if they did, justify their employment. The issue was more one of fixed costs for a small number of consumers than the absolute numbers of regulatory staff per se. For example, many developing countries still had very low electrification rates. The implication was that the number of regulatory staff per number of connections was very high, even with a small regulatory agency. For example, in sub-Saharan Africa, the problem existed in the case of water, but not in telecoms, where mobile penetration rates had increased enormously.

65. Some suggestions had been proposed to solve the human resources problem, including multi-sector regulators, multi-national regulators and institutions facilitating multi-national regulatory collaboration. Aside from outsourcing, other solutions mentioned included the creation of expert panels, binding arbitration using expatriate experts, and the setting up of hybrid regulatory models combining concession contracts with regulation. One expert conjectured that a lack of human resources was problematic only in cases where regulators were funded out of the central government budget, but very rarely in cases where regulatory agencies were funded out of levies on the industry or on license fees.

66. Experts also considered the important role twinning could play in helping to build human capacities in developing countries. Twinning involved pairing regulatory institutions at different levels of development, including developed and developing country institutions, and staff with similar mandates and goals. It could promote effective institutional capacity-building and had been used by different bilateral cooperation agencies since the early 1980s. Twinning had proven successful for cross-country transfer of technical skills, knowledge and best practices.

67. There was a need to collect data on infrastructure staff numbers on a regular basis to identify skill shortages and make sufficient provisions for regulatory training. Several experts proposed a role for UNCTAD in collecting data on regulatory agencies and standardizing it in a manner that was useful for analysis. It was suggested that UNCTAD could play a role in such efforts through collaboration with regional regulatory institutions such as AFUR, Organización Latinoamericana de Energía, ITU and the International Energy Regulation Network. The usefulness of data was not limited to helping researchers identify best practices, but also to assess training and other capacity-

building needs in developing countries. Statistical data collected could also be useful for benchmarking institutional effectiveness.

68. One expert posited that UNCTAD could facilitate cooperation and exchanges with and among regulators, provide regulatory expertise on international trade agreements, provide support in attracting investment in developing country infrastructure services sectors, and provide funding for their respective regulatory institutions, including between developing countries themselves.

## G. Regulatory principles: international and regional dimensions

69. The experts said there were close linkages between international rules to liberalize services trade and RIFs for infrastructure services. When liberalizing trade in services, multilateral and regional negotiations directly addressed countries' regulatory measures. Many South–South and North–South agreements included provisions relating to RIFs, including cooperative mechanisms.

70. An expert from WTO stated that, when countries had moved away from government-controlled utility models to new models based on private sector-led competitive market structures, that entailed changing the role of government in regulating services. With private participation and liberalization, regulators were confronted with a wide set of new challenges. The expert further explained that liberalization in the sense of GATS often required new and robust regulations. An effective sequencing and phasing in of national regulatory frameworks alongside liberalization had proven to be a key ingredient for a successful transition to more open infrastructure services markets.

71. The expert described GATS provisions allowing countries to develop and implement domestic regulations related to services. Specifically, GATS article VI.4 had its origin in the recognition by drafters of GATS that certain domestic non-discriminatory measures – those related to qualification requirements and procedures, technical standards and licensing requirements – could turn into disguised restrictions to trade. Accordingly, efforts were initiated to define a set of disciplines to ensure that domestic regulations were consistent with principles that prevented disguised restrictions to trade while not hindering regulators' ability to introduce new regulation. As such, establishing disciplines for domestic regulation was deemed to be complementary to liberalization efforts. Two initiatives had been taken in domestic regulation under GATS – one centring on the development of sector-specific disciplines, namely accountancy, and the other on the development of horizontal disciplines covering all sectors, currently under negotiation under the Doha Round of trade negotiations. Experience to date suggested that developing disciplines had been more successful at the sectoral level, rather than horizontal level, as evidenced by accountancy disciplines, and basic telecom "reference paper" principles, with the result that those disciplines were more effective in achieving policy objectives. In contrast, horizontal disciplines tended to be limited to least common denominators for all sectors, such as on transparency, rather than deeper issues with geometry that varied depending on the sector concerned.

72. One expert noted that, when it came to liberalization and regulation, there were a number of infrastructure services which figured prominently in the GATS negotiation, particularly financial and telecom services. Some of these sectors were already liberalized, many were among the most regulated services in domestic economies, and governments sometimes imposed universal service obligations with a view to promoting access by all to essential services. It was therefore particularly important that developing countries maintain the

flexibility to impose appropriate measures to promote their national policy objectives and the results of the domestic regulation negotiations were critical in that respect. The outcome of the negotiations should preserve countries' rights to regulate while putting in place some discipline on domestic regulations, particularly those that affected trade in sectors and modes of interest to developing countries. Qualification and licensing requirements and procedures could particularly affect the movement of natural persons to supply services (Mode 4), an issue which was considered of high importance for developing countries. Some experts also noted that it was important to have appropriate GATS disciplines on domestic regulation which took into account development perspectives, to prevent market access and national treatment benefits from being undermined.

73. One expert mentioned that Chile had focused its trade strategy on services exports, and therefore negotiations on domestic regulation were of key importance to that country. Disciplines in that area had a role to play in ensuring effective services liberalization and in eliminating unscheduled discriminatory restrictions and red tape in markets where they existed.

74. Another expert noted that striking a balance between governments' right to regulate, on the one hand, and the position of services providers, on the other, was important and that this equation came up repeatedly in negotiations. The main objective of trade agreements was liberalization of trade in services; services suppliers should be able to enjoy market access that was not infringed by regulation which went beyond the legitimate policy objectives that all countries had and should be able to maintain.

75. One expert acknowledged that the development of sectoral disciplines in telecommunications and accountancy were good examples of what could be achieved to advance trade interests of trading countries while satisfying governments' need to regulate effectively. Countries should, however, not lose sight of the objective of developing horizontal disciplines to ensure a good overall quality of services regulation, given the often interrelated nature of different services sectors. Moreover, this would avoid the difficult issue of determining which sectoral disciplines to negotiate first.

76. Speaking on the issue of enhanced market integration and its impact on regulatory harmonization and cross-border trade, one expert described the Bilateral Switzerland–European Commission Transport Agreements covering land (both road and rail) and air transport. Those agreements provided an example of how regional agreements could address regulatory differences even in the absence of a comprehensive services trade agreement. Negotiated within the framework of bilateral package agreements in 1994 and 1999, and entering into force in 2002, those agreements exemplified the mutually complementary nature of domestic regulation and trade liberalization.

77. The expert explained that addressing differences in regulatory norms and harmonizing them to prevent trade restrictions was the key motivation for the agreements, which encompassed a set of related elements, namely technical harmonization, trade liberalization, coordination of transport policy and related fiscal matters. The agreements promoted both commercial and other national policy objectives (in this case environmental objectives linked to reduction of pollution created by transport services). However, in some areas, Switzerland had to relinquish its rule-making powers to the European Union. This was not unexpected, as many trade and other types of cooperation agreements between countries also required that participating countries relinquish some of their regulatory prerogatives in certain cases.

78. Also speaking on the issue of market integration and its impact on regulatory harmonization and cross-border trade, an expert from the Southern Common Market (MERCOSUR) explained that its members had dealt with regulatory matters by either harmonizing or deleting them, while noting that MERCOSUR was an intergovernmental association and not a supranational one; therefore, supranational regulations were generally not accepted by governments. The MERCOSUR Protocol was in the process of being incorporated into national legislation and it was hoped that by 2015 harmonization and liberalization in services would have occurred. The expert emphasized that regulation and liberalization of trade in services were closely linked. Liberalization in services involved some changing of standards and other regulatory requirements. The expert proposed that future work of the group of experts could focus discussions more squarely on the trade interface of regulation to draw conclusions from successes and failures in countries and regions. The experience in Latin America had been quite revealing, showing a need to proceed with addressing issues at the trade interface of regulation cautiously and at a calibrated pace.

79. Experts suggested that the regional development of regulatory regimes could support regional integration and that regional cooperation continued to play an important role in building effective RIFs. A framework for developing capacity of the regulator at both national and regional levels was therefore important.

80. Recognizing that the services economy had undergone a paradigm shift towards increased private participation and competition in infrastructure services markets, experts agreed that regulation had become more complex and that it played a fundamental role in facilitating such a shift. Experts also reaffirmed that the right to regulate was in essence an issue of national sovereignty. It did not arise from an international agreement, nor should it be annulled by any such agreement.

81. The experts mentioned that regulatory assessments were important in that they could help developing countries make informed decisions on regulatory issues. It was proposed that UNCTAD could undertake work in the area of regulatory assessment and collaborate with existing regulatory networks on this issue, bringing together regulators, policymakers, and other stakeholders as a means to facilitate services trade and development.

82. One expert suggested that future work of UNCTAD could examine the possible impacts of disciplines for domestic regulation on countries’ trade and development objectives. Another expert proposed that future UNCTAD work should rather include the collection of data on infrastructure regulatory agencies, staff numbers and processes and procedures used by regulators to come up with regulatory decisions.

## H. The way forward

83. Recognizing the terms of reference for the multi-year expert meeting (TD/B/55/9), the meeting took stock of the three days’ discussions, and discussed a way forward and next steps, including proposals for the future work of UNCTAD.

84. Experts proposed that UNCTAD could focus its research and analytical work on the trade and development interface of regulation and institutions, and more specifically on:

(a) Case studies to be carried out with a focus on regulatory challenges facing developing countries, particularly least developed countries and countries in accession to WTO, and on national experiences, e.g. with ensuring universal access, quality of service and competition, with a view to drawing conclusions from the successes and failures in particular countries and regions;

(b) Further exchange of experiences and best practices between member states on national experiences with contracting out, impact of harmonization of regulation on cross-border trade in infrastructure services, and regulation for specific sectors – in particular energy, water, electricity and telecoms – with particular emphasis on universal access and the defence of consumers;

(c) Further work on RIFs of financial services including insurance;

(d) Research and analysis on lessons from infrastructure services regulation for financial services regulation and post-crunch management, and vice versa;

(e) Reviewing the diversity of measures being undertaken in the context of the current financial crisis, in collaboration with other international organizations;

(f) Regulatory assessments, including through collaboration with existing regulatory networks on this issue, bringing together regulators, policymakers and other stakeholders, including from the private sector;

(g) Collection and dissemination of data on regulatory agencies and staff members, providing a clear presentation of that data, enabling a comparison of equivalent sectors/countries and identifying elements such as sectors and countries with shortages of regulators, retention rate of regulatory staff and their level of training;

(h) Survey of regulatory clauses/provisions related to regulatory frameworks in bilateral, regional and plurilateral trade agreements;

(i) Analysis of how members of RTAs negotiated joint infrastructure services provision, harmonization of their regulation for the sharing of infrastructure across the region and of the experiences of regional regulators (e.g. ECTEL) established via international agreement to identify whether they were a way forward (especially for small countries);

(j) Analysis through case studies of where GATS commitments had impacted infrastructure regulation;

(k) Analysis of the impact of the economic and financial crisis on financial services commitments and negotiations at WTO;

(l) Analysis of the value of trade in infrastructure services through the modes of supply (particularly Modes 3 and 4);

(m) Analysis of the trade and development implications of domestic regulation and of possible disciplines on domestic regulation, particularly for Mode 4; and

(n) Inventory of existing websites offering research and analysis on regulatory issues in the area of infrastructure services, possibly with assessment of these websites and dissemination of this information to policymakers and regulators.

85. Experts suggested an area for consensus-building and international cooperation could be guidelines for regulatory cooperation.

86. Experts also suggested that UNCTAD would have an important role to play in providing technical assistance to policymakers and regulators, including through:

(a) Providing information to infrastructure services regulators on trade issues by participating in dedicated trade sessions at regional and international meetings of regulators;

(b) Creation of trade-related interest groups within existing regulatory networks;

(c) Support to developing countries' participation in meetings on topics of relevance for the development of effective regulatory frameworks; and

(d) Training on the increasing number of regulatory elements relating to infrastructure services that were being embedded in bilateral, regional and plurilateral trade agreements.

# II. Organizational matters

## A. Election of officers

(Agenda item 1)

87. At its opening plenary meeting, on 17 March 2009, the multi-year expert meeting elected Ambassador Trevor Clarke (Barbados) as its Chair and Ambassador Fisseha Yimer (Ethiopia) as its Vice-Chair-cum-Rapporteur.

## B. Adoption of the agenda and organization of work

(Agenda item 2)

88. At its opening plenary, the multi-year expert meeting adopted its provisional agenda (TD/B/C.I/MEM.3/1). The agenda was thus as follows:

1. Election of officers
2. Adoption of the agenda and organization of work
3. Services, development and trade: the regulatory and institutional dimension
4. Adoption of the report of the meeting

## C. Adoption of the report of the meeting

(Agenda item 4)

89. Also at its closing plenary meeting, the multi-year expert meeting authorized the Vice-Chair-cum-Rapporteur, under the authority of the Chair, to finalize the report after the conclusion of the meeting.

# Annex

## Attendance*

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

Afghanistan
Algeria
Angola
Azerbaijan
Bangladesh
Barbados
Benin
Bhutan
Bolivia
Botswana
Brazil
Cambodia
Cameroon
Canada
Cape Verde
Chile
China
Colombia
Czech Republic
Democratic Republic of the Congo
Ecuador
Egypt
Gabon
Germany
Guatemala
Haiti
Hungary
Indonesia
Iraq
Italy
Jamaica
Kazakhstan
Lao People's Democratic Republic
Malawi
Malaysia
Mali
Mauritius
Mexico
Morocco
Mozambique
Namibia
Nigeria
Pakistan
Paraguay
Philippines
Poland
Qatar
Romania
Russian Federation
Saudi Arabia
Senegal
Serbia
South Africa
Spain
Sudan
Sweden
Switzerland
Syrian Arab Republic
Thailand
Trinidad and Tobago
Tunisia
Turkey
Uganda
United Arab Emirates
United States of America
Uzbekistan
Venezuela (Bolivarian Republic of)
Viet Nam
Yemen
Zambia
Zimbabwe

2. The following observer was represented at the session:

Palestine

* For the list of participants, see TD/B/C.I/MEM.3/Inf.1.

3. The following intergovernmental organizations were represented at the expert meeting:

African, Caribbean and Pacific Group of States
African Union
Asociación Latinoamericana de Integración
Caribbean Community
European Community
League of Arab States
South Centre

11. The following United Nations organizations were represented at the expert meeting:

United Nations Development Programme
International Trade Centre UNCTAD/WTO

12. The following specialized agencies or related organizations were represented at the expert meeting:

United Nations Industrial Development Organization
World Trade Organization

13. The following non-governmental organizations were represented at the expert meeting:

*General Category*

Ingénieurs du monde
International Centre for Trade and Sustainable Development
International Council of Nurses
Third World Network

14. The following representatives from academia and the private sector were invited to the expert meeting:

Mr. Kern Alexander, Professor, Research Fellow, University of Cambridge
Mr. Marc Laperrouza, Senior Research Associate, Management des industries de réseau, Ecole polytechnique fédérale de Lausanne
Mr. Nutavoot Pongsiri, Chevron Thailand Exploration and Production Ltd.
Mr. Michael Pollitt, Assistant of the Electricity Policy Research Group and University Reader in Business Economics, Judge Business School, University of Cambridge

15. The following panellists were invited to the expert meeting:

Mr. Yaga Venugopal Reddy, Former Governor, Reserve Bank of India, and Member of the Commission of Experts of the President of the United Nations General Assembly on Reforms of the International Monetary and Financial System
Mr. Ian Alexander, Director, Cambridge Economic Policy Associates
Mr. Smunda Mokoena, Chair, African Forum of Utility Regulators, and Chief Executive Officer, National Energy Regulator of South Africa
Mr. Thula Kaira, Executive Director, Zambia Competition Authority
Mr. Rohan Samarajiva, Executive Director, LIRNEasia
Mr. Sanford Berg, Professor, Public Utility Research Centre, University of Florida
Mr. Zevi Kann, Director, São Paulo State Sanitation and Energy Regulatory Agency
Mr. James Hodge, Head, Competition and Regulatory Economics Practice, Genesis Analytics
Mr. Nripendra Misra, Chair, Telecom Regulatory Authority of India

Mr. Andrew Cornford, Observatoire de la Finance
Mr. Paul Dembinski, Professor, International Strategy and Competition, University of Fribourg and Observatoire de la Finance
Mr. Karl F. Cordewener, Deputy Secretary-General, Basel Committee on Banking Supervision
Mr. Patrick M. Liedtke, Secretary-General and Managing Director, International Association for the Study of Insurance Economics
Ms. Rita Persaud-Kong, Secretary-General, Organization of Caribbean Utility Regulators
Ms. Sophie Trémolet, Trémolet Consulting
Mr. Jon Stern, Research Director, Centre for Competition and Regulatory Policy, City University, London
Mr. Hamid Mamdouh, Director, Trade in Services Division, WTO
Mr. José Manuel Quijano Capurro, Director, Secretariat of MERCOSUR, Montevideo
Mr. Christian Pauletto, Head of Division, Policy and Trade in Services, Federal Department of Economic Affairs, State Secretariat for Economic Affairs