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## Review of capacity-building and technical assistance in the area of competition law and policy

Study by the UNCTAD secretariat

### *Executive summary*

UNCTAD provides capacity-building and technical assistance on competition law and policy to developing countries and economies in transition, in accordance with requests received and resources available. The activities include both national and regional assistance in drafting competition laws and application guidelines, as well as in building up institutional capacity for better implementation of competition laws. They also cover competition advocacy for the creation of a dynamic enterprise sector, the promotion of economic growth and development, and the promotion of consumer welfare. The present document is a progress report on the activities carried out during 2008. It contains examples of the impact of introducing competition law and policy on the economy of developing countries. It also contains information provided by member states to UNCTAD on technical cooperation activities in the field of competition law and policy.

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## Introduction

1. The United Nations Set of Principles on Competition, adopted by the General Assembly in 1980 (General Assembly resolution 35/63 of 5 December 1980 – TD/RBP/CONF.10/Rev.2), calls on UNCTAD and its member states in Section F, paragraphs 6 and 7, to provide technical assistance, advisory and training programmes on restrictive business practices, particularly for developing countries. The Fifth United Nations Conference to Review All Aspects of the Set, in paragraph 4 of its resolution (TD/RBP/CONF.6/15), noted with appreciation the voluntary financial and other contributions received for capacity-building and technical cooperation, and invited all member states to continue their assistance to UNCTAD on a voluntary basis with its technical cooperation by providing experts, training facilities and resources.

2. Subsequently, in the agreed conclusions of the ninth annual session of the Intergovernmental Group of Experts on Competition Law and Policy (15–18 July 2008 (TD/B/COM.2/CLP/72)), member states took note with appreciation of the voluntary financial and other contributions received from member states and 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. The intergovernmental group of experts also requested the UNCTAD secretariat to pursue and, where possible, focus its capacity-building and technical cooperation activities (including training) on maximizing their impact in all regions, within the financial and human resources available. In addition, the intergovernmental group of experts requested the secretariat to report on capacity-building and technical assistance during the tenth session.

3. Accordingly, this study contains information on the capacity-building and technical cooperation activities of the UNCTAD secretariat in 2008, as well as information provided by member states and international organizations to UNCTAD on technical cooperation activities in the field of competition law and policy.

## I. Progress report on UNCTAD capacity-building and technical cooperation activities

4. UNCTAD is the focal point for all activities related to competition policy and consumer protection within the United Nations system as part of its work on trade and development. The mandate, which dates from the adoption of the United Nations Set of Principles on Competition in 1980, has as its primary objective “to ensure that restrictive business practices do not impede or negate the realization of benefits that should arise from liberalization of tariff and non-tariff barriers affecting world trade, particularly those affecting the trade and development of developing countries”. The United Nations Set also recognizes that the basic norms of competition law, which have long been in use in developed countries, should extend to the operations of enterprises, including transnational corporations, in developing countries.

5. Despite a general widespread trend towards the adoption, reformulation and better implementation of competition laws and policies in developing and transition countries, many of these countries still do not have up-to-date competition legislation or adequate institutions for their effective enforcement, and rely to a large extent on UNCTAD capacity-building.

6. UNCTAD technical cooperation activities aim at assisting developing countries – including the least developed countries (LDCs) and economies in transition – in formulating and reviewing competition policies and legislation, and implementing

competition laws by (a) building national institutional capacity; (b) promoting the creation of a competition culture among government officials, the private sector, consumers and academics; (c) supporting regional cooperation on competition policy; and (d) assisting countries and regional groups to better formulate the modalities and forms of regional cooperation on competition issues that are supportive of trade, investment and development.

7. Technical assistance is provided in accordance with requests received, needs of countries concerned and resources available. It takes the following main forms: (a) provision of information on anticompetitive practices, their existence and possible adverse effects on the economy, which may involve a study on these practices in a specific country; (b) introductory seminars and workshops on the role of competition in promoting development directed at a wide audience, including government officials and academics, as well as business and consumer-oriented circles; (c) assistance to countries or regional organizations which 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 competition law and related legislation; (d) advisory services for the setting up or strengthening of competition authorities, which usually includes preparation of institutional framework reports, and training of officials responsible for the actual control of anticompetitive practices, including the judiciary, which may involve training workshops and/or on-the-job training with competition authorities in countries having experience in the field of competition; (e) seminars and workshops for countries which have already adopted competition legislation, have experience in the control of anticompetitive practices, and wish to better enforce competition legislation or consult each other on specific cases and exchange information; (f) assistance to countries or regional organizations that wish to revise their competition legislation and seek expert advice from UNCTAD and competition authorities in other states, so as to amend their laws in the most effective manner possible; (g) conduct of voluntary peer reviews of competition law and policies of interested countries; (h) assistance to developing countries – including LDCs and economies in transition – with a view to helping them better evaluate the implications of regional and bilateral cooperation on competition issues; (i) assistance to countries and regional organizations in identifying the role of competition policy in the promotion of competitiveness and development, as well as the need for a development-oriented competition policy and its implications at the national, regional and international levels, as well as strategies for international cooperation in this area; and (j) assistance in formulating appropriate sector regulations and competition policies.

8. The main capacity-building and technical cooperation activities of the UNCTAD secretariat in 2008 are described in the table below.

## Summary of countries' requests and UNCTAD technical assistance in 2008

Requestor/ beneficiary	Activities related to drafting or reviewing of laws and policies	Peer reviews and follow- up	Institutional building	Advocacy activities	Consumer protection	Training of local officials
Bhutan					x	
Bolivia						x
Botswana	x				x	
Cameroon				x		x
Costa Rica		x				x
El Salvador						x
Indonesia						x
Iraq						x
Madagascar	x		x	x		
Mauritius	x		x			
Mexico				x		
Mozambique	x					
Nicaragua						x
Peru						x
Rwanda	x			x		
Swaziland						x
Tunisia						x
Uzbekistan	x			x		x
Zambia	x					x
COMESA	x					
ECOWAS				x		x
ESA	x				x	x
SADC	x					
WAEMU	x			x		x

### A. Activities extended to individual countries

9. In 2008, UNCTAD continued its demand-driven efforts to assist in the creation of a competition culture in developing countries. To that end, UNCTAD provided technical assistance related to the 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. UNCTAD also assisted governments in identifying the role of competition policy in development, its implications at the national, regional and international levels, as well as strategies for regional and subregional cooperation in this field. In 2008, the main areas of UNCTAD's technical assistance were as follows.

#### 1. Competition advocacy

10. UNCTAD's various advisory and training activities were combined with or provided through different seminars, workshops, other meetings and activities directed at stakeholders, specific officials or a wide audience including Government officials and academics, as well as business- and consumer-oriented circles. These activities contributed

to raising awareness of the role of competition and promoting a competitive culture. Thus, a National Seminar on the Cameroonian Competition Policy and Internationalization was co-organized by UNCTAD and the Government of Cameroon in Doula on 30 May. It was attended by a large number of government officials, representatives of business circles and civil society. Two courses on competition legislation of the European Union (EU) and Latin American countries law were given at the University of Monterrey (Mexico) 4–5 July and 15–16 August. The courses were aimed at postgraduate students with a view to increase knowledge on competition legislation and awareness of the need of establishing and deepening cooperation between Mexican academia and UNCTAD in the competition area. A national seminar, “Competition policy within the framework of economic reforms and poverty reduction”, was organized in Madagascar with the Ministry of Economy, Trade and Industry (5 November). The seminar took place in parallel with the finalization of the institutional framework report on competition law and policy, consultations with different groups of stakeholders and a survey of opinions undertaken in November on the issues of competition law and policy, in particular on the creation of a competition authority. In the framework of the COMPAL programme, a dissemination event was organized 8–9 September in Managua (Nicaragua) on the outcome of four sectoral studies carried out in 2008 on sectors of key importance to the Nicaraguan economy. The event contributed to raising the awareness of government officials, academia, and representative of consumer associations and business circles on different competition issues, in particular on competition law enforcement and the implementation of national competition policies.

## **2. Assistance in the preparation of national competition laws**

11. Within the framework of efforts to help countries draft and/or review their competition legislation, assistance was provided to Mozambique, and the draft law has been reviewed with government officials and experts in cooperation with the Portuguese Competition Authority. The Zambian Competition Commission was assisted in preparing the annual strategic plan for the implementation of its competition legislation and in drafting the terms of reference for the review of competition law and formulation of competition policy. The assistance was provided with a view to ensuring that the government commence the process of a complete revision of the Competition and Fair Trading Act. The Government of Zambia is expected to come up with a national competition policy framework. In October, the UNCTAD secretariat provided commentaries to the draft Competition Bill of Rwanda which were sent to the Ministry of Trade and Industry. This was followed by the organization of a national workshop on Competition Law and Policy (Kigali, 18 November), as well as consultations with officials in charge of the draft Competition Bill, which allowed the finalization of the bill and opened the way for the establishment of the national competition authority, taking into consideration various country-specific aspects. In October–November, a mission was undertaken to Botswana to prepare an institutional framework report for enforcement of the competition legislation, including through undertaking consultations with government agencies, reviewing the draft Competition Bill and collecting information from stakeholders. The mission contributed to the enhancement of skills and understanding among government officials of the Competition Bill, as well as of the requirements for the establishment of a competition authority. In December the report was finalized and its draft was presented to the government. Also in December, assistance in preparing a multi-purpose project proposal in the area of competition was provided to Uzbekistan. The project envisages a revision of national competition legislation as well as different training and advocacy activities.

### **3. Training of competition case handlers**

12. Within the framework of training activities for competition case handlers, a round table discussion on competition and regulation in the telecommunications sector was organized for the staff of the Indonesian Competition Authority (KPPU) and judges of the Indonesian Supreme Court in Jakarta from 24 to 29 January. It was co-organized by UNCTAD, KPPU and GTZ of Germany. A national training workshop on competition law and policy for the staff of the National Competition Commission of Cameroon was organized by UNCTAD and this commission on 28 and 29 May in Yaoundé. On 30 June in Tunis, in coordination with the Development Research Centre of Canada and the Ministry of Commerce, UNCTAD organized the first regional workshop on the “Role of competition policy in the current food crisis”. It was held within the newly established UNCTAD/Tunisia Regional Centre on Competition Policy. The workshop was the first step in maintaining coherence in governments’ approaches to competition policy, taking into account the need for government intervention to alleviate the impact of price hikes on the poor while enforcing the objectives of the competition law. In August and September, assistance was provided to the newly established Swaziland Competition Commission in assessing the first merger application and the provision of skills in merger assessment. In September and October, the Swaziland Competition Commission was also assisted in assessing a merger case in the energy sector. As a result, the Government of Swaziland was made aware of anti-competitive practices in the energy sector and has commissioned a consultancy to formulate a national energy policy. A training course on competition law and policy and introduction of consumer protection issues was organized in Geneva 2–9 September for government officials and academics from the Kurdistan region of Iraq. The course allowed providing inputs to the draft Competition Law of the Kurdistan Regional Government of Iraq, to create a greater awareness on competition law and policy issues among participants and to establish links with governmental and academic circles, as well as the civil society for the promotion of competition advocacy. A COMPAL training workshop on competition law and policy was organized 20–26 November in Managua. It was aimed at upgrading the knowledge of trainers on CLP issues from government agencies and academia to the benefit to different sectors of the economy of Nicaragua. A national competition seminar for investigators from the National Competition Committee of Cameroon was organized together with the Economic and Monetary Community of Central Africa and the Government of Cameroon 1–5 December in Kribi. It contributed to increasing the ability of Cameroonian officials to efficiently enforce competition legislation at both the national and regional levels.

### **4. Institution-building**

13. UNCTAD support to countries that have adopted national legislation, as well as to newly established competition agencies, includes activities in support of institution-building. In this area, UNCTAD provided consultancy to Mauritius on formulation of an “Institutional Framework for the implementation of the Competition Act”. The consultancy shall lead to the appointment of the chief executive officer to commence the operations of the Competition Commission. An executive report was prepared by UNCTAD to assist the Ministry of Industry, Small and Medium Enterprises, Commerce and Cooperatives on steps to be taken to make the Competition Act operational. During the UNCTAD mission to Madagascar in November, the institutional framework report on competition law and policy was finalized in parallel with the appointment of commissioners for the future competition authority and building-up awareness of the importance of its independence.

## **5. Consumer protection**

14. In the area of consumer protection, a national seminar on the advocacy for the implementation of the Unfair Trade Practices and Consumer Protection Law and an awareness workshop for local judiciary and “ombudsman” responsible for consumer redress, were organized 13–18 December in Monger and Gelephu (Bhutan). They contributed to the removing of various obstacles for the implementation of the newly adopted legislation of Bhutan. A training course on consumer protection and consumer welfare for government officials from both central and provincial agencies of Botswana was organized 24–28 November in Francistown. The course allowed enhancing the understanding of the interpretation of the provisions of the Consumer Protection Act, as well as of its implementation, in particular with respect to the procedure in handling consumer complaints.

## **6. Peer reviews and follow-up**

15. In addition, and in order to ensure coherence between overall governmental approaches to privatization and liberalization of trade and investment regimes, UNCTAD initiated ad hoc voluntary peer reviews on competition law and policy, providing a forum to review how reforms in the field of competition could promote development and ensure that markets worked for the poor. The ninth session of the Intergovernmental Group of Experts on Competition Law and Policy (Geneva, 15–18 July 2008) provided a framework within which UNCTAD held a voluntary peer review on competition law and policy of Costa Rica. The voluntary peer review highlighted the challenges and opportunities faced by Costa Rica’s Competition Commission and addressed the issues of independence, investigative tools and law reform. UNCTAD also looked at the way forward, how to tackle the issues that arose from the peer review report and discussion, and presented a concrete proposal for further technical assistance to be undertaken in the framework of the COMPAL programme.

## **B. Regional and subregional activities**

16. UNCTAD technical cooperation and capacity-building activities were increasingly provided within the framework of regional and subregional activities. Assistance was provided to West African Economic and Monetary Union (WAEMU) members on the implementation on common competition rules. In this connection, UNCTAD participated in the regional meeting of the Steering Committee of the WAEMU capacity-building project on competition policy held 7–11 April in Niamey, Niger. Also, UNCTAD organized, together with the Economic Community of West African States (ECOWAS) and WAEMU secretariats, regional seminars for participants from ECOWAS/WAEMU member states, held 30 April–2 May in Bamako, Mali. The first of these meetings, the regional training and information seminar on competition law and policy in ECOWAS, was aimed at introducing the draft regional competition rules and discussing the regional regulatory framework on competition policy. The second seminar provided an exchange of views among competition experts from ECOWAS, WAEMU and UNCTAD on the ways of using the WAEMU experience in promoting common competition rules in Western Africa.

17. Following UNCTAD’s assistance in the drafting of competition legislation to member states of the Common Market for Eastern and Southern Africa (COMESA) and the adoption of the common competition regulations and rules, UNCTAD continued to provide assistance to oversee the implementation and enforcement of competition law and policy across the regional economy. Thus, to assist the newly established COMESA Competition Commission in the implementation of the regional competition regulations and rules, as

well as to assist the newly appointed commissioners, UNCTAD provided a resource person for the seminar held in Lilongwe, Malawi, 9–10 April.

18. A Regional Basic Competition Seminar for Countries of Eastern and Southern Africa (ESA) was organized by UNCTAD together with the Zambia Competition Commission and the Competition and Tariff Commission of Zimbabwe in Siavonga, Zambia, on 26–30 May. The seminar provided enhanced training skills in the administration and enforcement of competition law and policy to officials responsible for investigation of anti-competitive practices and merger control enforcement in many ESA countries. Within the framework of the ESA–EU Economic Partnership Agreement negotiations, UNCTAD also provided technical advice on the preparation of the ESA–EU competition and consumer policy text and other related issues during the meetings held in Lilongwe, Malawi on 19–21 April and in Lusaka on 4–8 May. UNCTAD also provided advisory assistance on the implementation of the Southern Africa Development Community (SADC) Cooperation Agreement on Competition Law and Policy (25–27 August, Gaborone, Botswana).

19. Activities carried out under the programme on competition and consumer protection policies for Latin America (COMPAL I), supported by the Swiss State Secretariat for Economic Affairs (SECO), highly contributed to strengthening competition and consumer protection law and policies in five Latin American beneficiary countries (Bolivia, Costa Rica, El Salvador, Nicaragua and Peru). Several activities, including seminars, workshops, preparation of sectoral studies on the conditions of competition in selected sectors and brochures to increase awareness among stakeholders and others were carried out in beneficiary countries. The following summarize the challenges and lessons learned from COMPAL I:

(a) Major challenges: The need to overcome local circumstances hindering the implementation of the country projects. A constant support from COMPAL teams in Geneva and in the field was crucial to overcome these challenges;

(b) Fact-finding missions have to be short and provide general objectives with regards to the activities when starting a new phase of the Programme and/or Annual Operative Plan (AOP);

(c) Strengthening the yearly planning of the activities and discussions through the AOP;

(d) Fostering the exchange of experiences amongst beneficiaries throughout the whole duration of the implementation of the programme, including during the annual monitoring meetings;

(e) Improving the substantive feedback to all activities at the national, regional and local levels. UNCTAD has to provide a substantive task force at the level of the Competition and Consumer Protection Branch;

(f) When implementing activities, the participation of local stakeholders in addition to the national coordinator has to be encouraged. This can be achieved through the establishment of local reference groups chaired by national coordinators and UNCTAD;

(g) Success factors: One of the most important success factors in COMPAL I consisted of the building up of a sense of ownership of the programme from the part of national project coordinators owing to the organization of project management committees. This contributed to the correct formulation of activities at local level.

20. Following the successful implementation of COMPAL I, resources were obtained for launching COMPAL II programme (including Colombia). New activities designed for COMPAL II comprise both national and regional levels.

21. With regard to the national level, activities relate to the national objectives envisaged for each beneficiary country. Thus, in the case of Colombia, COMPAL will work on issues linked to the lack of institutional evaluation, implementation and outsourcing of competition policy and consumer protection at the national level. In addition, activities will aim at determining elements required for achieving formation of a national productive apparatus and designing strategies to provide incentives for the creation of enterprises. In Costa Rica, COMPAL II will continue strengthening the regulatory framework of COPROCOM by widening the scope of preventive measures of competition regulation as well as promoting consumer protection by strengthening institutional capacities and the regulatory framework. In El Salvador, it is envisaged to strengthen the regulatory framework and institutional capacities of the Superintendence of Competition through advocacy activities on competition. In addition, COMPAL will strengthen the effective protection of consumers rights and the consolidation of the national consumer protection system. In Nicaragua, COMPAL will continue working on the creation of the necessary institutional framework to enforce the competition law at the local level. Together with the Ministry of Trade and Industry, COMPAL is expected to continue promoting a better functioning of the internal markets in order to foster welfare of the population at large and achieving a more equal distribution of goods and services at better price and quality. In Peru, COMPAL shall deepen institution-building activities to be carried out by INDECOPI on competition and consumer protection issues. In addition, it aims at building up an efficient consumer protection system at the national level. An important component of COMPAL will also consist of fostering the creation of small and medium-sized enterprises (SMEs) and improving their competitiveness.

22. Regarding the regional level, COMPAL II will undertake regional sectoral studies and market reviews among beneficiary countries. It is also expected to carry out coordinated actions through international events on competition law enforcement (investigations, case handling and legal actions). Another component will consist of organizing regional seminars in Latin America and elsewhere. A final component will consist of publishing national sectoral studies carried out within the programme.

23. COMPAL's profile and outcomes have been disseminated by UNCTAD in different forums at the international level. As a result, other developing countries have expressed interest in joining the programme. For this reason, at UNCTAD XII in April 2008, UNCTAD launched a call for potential new donors and beneficiaries in other regions in order to set up a similar initiative, taking into account the experience acquired in implementing COMPAL in Latin American countries (see box).

**Summary of the parallel and side event on competition at UNCTAD XII –  
COMPAL: What type of deliverables on competition law and policy?**

More than 150 delegates from developed and developing countries participated in the side event on competition policy, co-organized by UNCTAD and the Swiss Government. The event presented UNCTAD's work on capacity-building in the area of competition law and policy. COMPAL was the focus of this event. The event provided an opportunity for UNCTAD, donors, beneficiary countries and other institutions to discuss the COMPAL programme, review success stories and the lessons learned, and explore areas for replication in other regions and interested countries. The discussions also provided a constructive exchange of views on how to identify new and innovative ways of delivering capacity-building to an increasing number of interested countries and regional groupings, given the limited resources available to UNCTAD. Switzerland and other potential donors (the United Kingdom, Norway and Germany) praised the success of the COMPAL programme in Latin America and supported the proposal to replicate this successful programme in other regions. Development partners and beneficiary countries expressed the

need to consolidate projects and initiate a process of thematic clustering for UNCTAD technical assistance, called for by UNCTAD's Trade and Development Board. To this end, it was felt that clusters should be able to streamline capacity-building on cost-effective technical assistance, including through identifying new and innovative methods of creating synergies between UNCTAD, partners and beneficiaries. In addition, consultations led to the following recommendations:

- (a) UNCTAD should identify needs of African countries in the areas of competition and consumer protection, and provide assistance to Uganda, Rwanda, WAEMU and ECOWAS;
- (b) UNCTAD should improve its communication strategy in order to better disseminate the COMPAL programme as well as other work on competition policy in different countries and regions;
- (c) UNCTAD should integrate success stories from COMPAL with other programmes, including Empretec and work on investment. It should also adopt a holistic approach to integrate competition as a cross-cutting issue;
- (d) UNCTAD should provide detailed information on future activities so that member States could consider their participation in the replication of COMPAL.

### **C. Participation in seminars and conferences**

24. In 2008, UNCTAD staff members took part in a number of seminars, workshops and conferences related to issues of competition law and policy and consumer protection. In particular, the UNCTAD secretariat actively participated in the following events: (a) different Organization for Economic Cooperation and Development (OECD) competition-related meetings held on 18–21 February, 9–12 June and 21–23 October in Paris; (b) the annual Conference on Competition and Privatization in Cairo on 28 January; (c) the Conference of the German Competition Institute in Innsbruck (Austria) on 6–8 February; (d) the Seminar on Supermarket Buyer Power held in Brussels on 14 May; (e) the 2008 Asian Competition Law Forum, organized on 25 May in Shanghai, China; (f) the Forum on Competition held on 26 and 27 June in Sonsonate, El Salvador; (g) the inaugural meeting of the Competition and Consumer Committee of SADC held on 25–27 August in Gaborone, Botswana; (h) the Latin American Competition Forum and the Sixth Iberoamerican Forum on Competition held in Managua (Nicaragua) on 10–11 and 12 September respectively; and (i) the Fourth Annual Competition Law and Policy Conference held in Hong Kong, China, on 8–9 December.

### **D. Examples of the impact of introducing competition law and policy on the economies of developing countries**

25. It is difficult to measure the direct impact of introducing competition law and policy on the economy. However, indirect measures – such as changes in government policies and regulations which can create an enabling environment for business to prosper – to benefit consumers and make markets work for the poor, can be indicative of the improvements in business environment through reducing the cost of doing business and of promoting consumer welfare. The following examples illustrate some of the recent changes in countries where UNCTAD has provided assistance on competition law and policy and where noticeable changes have been registered:

- (a) Kenya launched an ambitious licensing reform programme which has led to the elimination of 110 business licenses and the simplification of 8, reducing the time and cost of obtaining building licenses and registering a company. At the end of the

programme, more than 600 of the 1,300 licenses will be simplified or eliminated. The peer review of the competition law in UNCTAD and the amendment of the Monopolies and Prices Control Act led to the introduction of competition among land valuers (allowing private practitioners) and to a faster turnaround – one week instead of one month for a land valuation. The private credit bureau also deepened its database coverage by adding retailers and utility companies as providers of information;

(b) In Malawi, the commercial division of the Blantyre high court started hearing cases and judges specializing in commercial cases have been appointed. These developments also benefited from UNCTAD training in competition law and policy;

(c) Mozambique passed a new commercial code which replaced the 1888 commercial legislation. The new code implements modern corporate governance rules and strengthens the rights and duties of minority shareholders. It also better identifies the liabilities of the board of directors. This code also modernized the business registration process, cutting provisional registration and making notaries optional. These reforms are a complement to the adoption of a competition policy framework and the preparation of a competition law under an UNCTAD project. The Maputo court now has two specialized judges in charge of commercial matters and new court rules which should make the judicial system more efficient;

(d) Indonesia introduced a simplified process and new temporary permits that allow construction to begin while the full permit is being approved, cutting the time to obtain a building permit from 49 to 21 days. The minimum loan threshold was lowered from 50 million Rupiah to zero in the public credit registry, increasing coverage of loans by 150 per cent. These reforms are part of the competition policy which the KPPU advocates within government departments and Parliament. UNCTAD technical assistance to Indonesia covers training for the KPPU, Supreme Court and regional judges;

(e) Malaysia adopted recently, with the assistance of UNCTAD, a competition policy framework which serves as a basis for a new competition law. It also sped checking and registration of business, thus reducing delays by a week. Malaysia reduced the profit tax and simplified tax filing online to reduce the time burden by 24 hours;

(f) Viet Nam, which benefited from UNCTAD assistance in the preparation of its consumer protection decree and competition law, allows businesses to use general description of assets and obligations in collateral agreements, as well as to use future assets to secure a debt or obligation. Viet Nam adopted new securities and enterprise laws. The securities law sets up a new securities exchange and trading centre. The enterprise law mandates investor involvement in major company actions and increases disclosure for related-party transactions. In addition, it introduces fiduciary duties for directors;

(g) Costa Rica and El Salvador, which are beneficiaries of the UNCTAD COMPAL programme, made major reforms. Costa Rica allowed traders to directly transmit customs declarations electronically and improved the capacity of the customs services, resulting in reduced cross-border trade by six days for imports and seven days for exports. El Salvador established a one-stop shop for importers, thereby facilitating the documentation and approval process;

(h) Trinidad and Tobago, which UNCTAD assisted in the preparation of institutional framework for the competition law, now includes utility companies as providers of information to credit bureaus, thus increasing the credit information index. In addition, the corporate income tax rate decreased from 30 to 25 per cent;

(i) Egypt, which UNCTAD has assisted in the last years in preparing and adopting a competition law, cut the minimum capital required to start a business from LE 50,000 to LE 1,000, and halved start-up time and cost. Egypt also reduced the cost of

registering property from 3 per cent of the property value to a low fixed fee. New one-stop shops were launched for traders at the ports, cutting the time to import by seven days and the time to export by five days. Egypt also reduced the cost of dealing with licences;

(j) Tunisia, which benefited from UNCTAD technical assistance, including a peer review of its competition law in 2005, computerized the files in its property registry, reducing the time needed to register a property from 57 to 49 days. Tunisia also reduced the corporate profit tax from 35 to 30 per cent and enhanced its credit information by lowering the minimum loan requirement at its public registry from D 20,000 to zero;

(k) Bhutan, which receives UNCTAD assistance in its accession process to the World Trade Organization (WTO) and capacity-building in the area of consumer protection and unfair trade practices, made it easier for entrepreneurs to start limited liability trading companies by eliminating two procedures – name approval and location clearance – and increasing efficiency at the Registrar of Companies. The time to start operating a business in Thimphu dropped from 62 to 48 days. In addition, the National Assembly endorsed the Land Bill of Bhutan 2007 as well as the Consumer Protection Bill. The establishment of anti-corruption commission will introduce more control in public procurement.

26. An intensive discussion among member States on the criteria for evaluating the impact of technical assistance in the field of competition law and policy was held at the round table on capacity-building and technical assistance during the ninth session of the Intergovernmental Group of Experts on Competition Law and Policy (Geneva, July 2008).

27. In the course of the discussion, the importance of a sensitive analysis of needs of the receiving state in order to ensure results was mentioned. There should be coherence in the aims, approaches and activities of both the giver and the receiver of technical assistance. The importance of ensuring a commonality of interests between all stakeholders and the need to settle all issues at the beginning of the process was also stressed. There should be transparency, accountability and objectivity in the implementation of capacity-building and technical assistance. The need for an accurate evaluation of capacity-building and technical assistance was also stressed.

28. The delegates expressed their appreciation of the technical assistance and capacity-building programmes provided by UNCTAD. It was mentioned that UNCTAD had played a major role in shaping the competition and consumer protection policies of many developing countries, LDCs and economies in transition, both at the national and regional levels. Technical assistance had generally been useful, particularly in areas such as training of staff of competition agencies, judges, academicians and other relevant stakeholders. In some cases, the training courses for judges had resulted in better enforcement of competition law and in the introduction of competition-related courses in the university curricula of developing countries. Work on economic mapping and sectoral studies was also commended, as it had ensured the identification of the needs assessment of the country in question before the development of the competition law or policy. Sensitization workshops for advocacy purposes were also held at both the national and regional levels for most developing countries. The need for continued study tours and placements in advanced competition agencies was stressed.

29. Delegations called for the continuation of UNCTAD's technical assistance and capacity-building programmes, particularly to assist young competition agencies in developing countries in undertaking economic mapping and drafting of competition law and policy. It was agreed that, for technical assistance and capacity-building to be effective, all involved parties – beneficiaries and donors – would have to be fully committed to the implementation of the programmes. Donor countries expressed their willingness to support the work on technical assistance and capacity-building in the areas of competition law and policy and consumer protection, and called for tailor-made programmes to be developed

that took into account the absorption capacity of beneficiary countries. The limitation on technical assistance funds was highlighted and delegates called for donor countries to contribute to the UNCTAD Trust Fund on Capacity-Building for Competition Policy (discussions at the round table are summarized in document TD/B/COM.2/CLP/72).

## **II. Information on capacity-building and technical cooperation of member states and international organizations**

30. This chapter provides a summary of the replies received from member States to the Secretary-General's note UNCTAD/DITC/CLP/Misc/2008/2 of 17 December 2008, which requested information on technical cooperation activities in the area of competition law and policy.

### **A. Azerbaijan**

31. Azerbaijan benefits from technical assistance provided by the European Commission in the field of competition policy. In particular, the EU-funded a project of support to the National Coordinating Unit for EU Technical Assistance and to the implementation of the EU–Azerbaijan Partnership and Cooperation Agreement (PCA). It is aimed, among others, at assistance in (a) implementation of trade, economic and commercial provisions of the PCA and of the EU–Azerbaijan Action Plan in the framework of the European Neighbourhood Policy; and (b) approximation of the national legislation to EU *acquis communautaire*, capacity-building of public administration and awareness-rising. Competition is one of the target sectors of support in legal approximation.

### **B. Greece**

32. The Hellenic Competition Commission (HCC) cooperates with the national competition authorities of the other EU member states through the European Competition Network, organized by the European Commission (DG–Competition). With regard to the provision of technical assistance to developing or transition economies, the HCC does not cooperate with non-EU countries bilaterally or multilaterally on a regular basis. Occasionally, the HCC has provided technical assistance to transition economies when requested. The HCC could be particularly useful in providing technical assistance to the Balkan countries (including the candidate EU countries), since a large number of Greek enterprises operate in that region and a large number of mergers and acquisitions concerning these countries are also notified to the Greek authorities.

### **C. Japan**

33. The Japan Fair Trade Commission (JFTC) provided the following technical assistance in 2008: (a) country-focused training for China and Indonesia; (b) group training for 10 developing countries; (c) local workshops for China; (d) the dispatching of a long-term advisor to Viet Nam; (e) the Asia–Pacific Economic Cooperation (APEC) Training Course in Indonesia; and (f) the dispatching of officials to seminars organized by other jurisdictions and international organizations such as APEC, OECD and UNCTAD. Assistance under points (a)–(d) was provided with the financial support of Japan International Cooperation Agency (JICA).

## **D. Madagascar**

34. The Competition Service of the Competition, Quality and Consumer Protection Directorate of the Ministry of the Economy, Commerce and Industry presented the project titled, “Support to the Private Sector – Competition and Consumption Section”, with the following activities planned:

- (a) Formalize the preparatory technical cell and the coordination of the Competition Council;
- (b) Finalize and adopt the application text of the Competition Law No. 2005–020 of 17 October 2005;
- (c) Name the members of the council;
- (d) Make the organization chart and the work plan of the Competition Council;
- (e) Allocate permanent staff to the council;
- (f) Allocate materials and equipment to the council;
- (g) Conduct studies on the state of competition in Madagascar;
- (h) Reinforce the capacities of the competing parties.

## **E. Russian Federation**

35. The Federal Antimonopoly Service (FAS Russia), within the framework of the Interstate Council on Antimonopoly Policy of Commonwealth of Independent States (CIS) countries on a regular basis provides competition authorities of the CIS countries with methodological and practical assistance comprising training for the staff of CIS antimonopoly authorities, provision of information on changes in the Russian Federation competition legislation and specifics of their application, as well as on sector enquiries results, consultations on amendments in competition legislation, its enforcement, and on competition advocacy. As a member of the International Competition Network, FAS Russia has actively assisted antimonopoly authorities of CIS countries in getting involved in the International Competition Network (ICN) activities. As a result, a number of competition authorities of the CIS countries (Armenia, Azerbaijan, Belarus, Kazakhstan, Kyrgyzstan, Tajikistan, Ukraine and Uzbekistan) have become members of the ICN.

36. In 2008, FAS Russia successfully implemented six TAIEX projects on different issues, provided within the framework of technical assistance from the European Commission. Applications were submitted for a number of new TAIEX projects envisaged for 2009. At the end of 2008, FAS Russia also submitted an application for the participation in the Common Space Facility Programme within TACIS Programme. In 2009, FAS Russia is also planning to implement a number of international projects with participation of representatives of competition authorities from CIS countries, including the “Seminar on cartels”, to be held under the aegis of the ICN (Saint Petersburg, May 2009) and the “BRIC International Competition Conference”, to be organized in September in Kazan.

## **F. Switzerland**

37. Within the framework of its trade related technical assistance programme, the Swiss State Secretariat for Economic Affairs (SECO) supports the strengthening of trade policy expertise and the implementation of adequate trade policies in developing countries. The promotion of competition and consumer protection policy and law is one of the important

policy areas in which SECO is intervening. In 2008, SECO supported two programmes in this area, namely:

(a) The multilateral programme “Strengthening Institutions and Capacities in the Field of Competition and Consumer Protection in Latin America (COMPAL)”, is being implemented by UNCTAD and is a comprehensive programme with the overall objective of strengthening institutions and capacities in the area of competition and consumer policies in Bolivia, Costa Rica, El Salvador, Nicaragua and Peru during its Phase I (2005–2008). It will also involve Colombia during its Phase II (2009–2012). The programme envisages six types of activities: training, dissemination seminars, campaigns, advisory services, analysis of policy options and institution-building. These activities relate to both competition law and policy, and consumer protection policy. This beneficiary-driven programme addresses two types of needs. The first relates to those countries that have a competition law and a competition authority to sanction anti-competitive practices. The second relates to countries that do not have competition legislation and focuses therefore on awareness-raising in respect of the role that competition law can play in deterring and eliminating anti-competitive practices. In addition to providing support at the national level, the COMPAL programme promotes the exchange of experiences among beneficiary countries so as to maximize the benefits resulting from the planned activities;

(b) The bilateral programme “Strengthening the Vietnamese Competition Authorities” (2008–2011). It builds upon the positive results of a former two-year programme (2004–2006) financed by SECO to strengthen the competition culture in countries of the Mekong region, including Viet Nam, the Lao People’s Democratic Republic and Cambodia. During this first phase, the Swiss Competition Commission (COMCO) provided some technical assistance to the newly-established Vietnamese competition authorities. However, it became clear that much more support was needed to enhance the day-to-day operations of the competition authorities and that a more direct collaboration between COMCO and those authorities would be necessary. The second phase of the programme intervenes in two areas. On the institutional side, the programme focuses on improving the institutional capacity, the internal work processes and the enforcement ability of the Vietnamese Competition Administration Department and the Vietnamese Competition Council. Furthermore, the programme aims to improve the domestic as well as the international visibility of the competition authorities of Viet Nam and to develop the capacity on competition in the civil society of this country.

38. Also, the possibility of expanding technical assistance to Ghana and Indonesia is being examined.

## **G. United States of America**

39. In 2008, the Department of Justice (DOJ) and the Federal Trade Commission (FTC) continued to provide technical assistance on competition law and policy matters to newer competition agencies, including agencies in China, Egypt, India, Central America, South Africa, Turkey, and Viet Nam. The FTC and the DOJ also provided commentary on non-OECD countries’ proposed laws, regulations and guidelines, hosted a number of visits and study missions by officials of younger agencies (e.g. Zambia), sent officials and staff to participate in seminars and conferences hosted by other agencies (e.g. Poland and Taiwan Province of China Fair Trade Commission), and engaged in other assistance efforts to young agencies, such as providing advice on cases and issues by e-mail, phone and video conferences. In addition, DOJ and FTC provided experts to many of the OECD’s regional training centre events, including workshops on cartels, quantitative techniques and unilateral conduct. The United States participates in both the ICN’s consultation programme and its partnership programme, and in its experience sharing calls for new

agencies. The FTC also co-chairs the ICN's Competition Policy Implementation Working Group Subgroup on Technical Assistance.

40. The FTC continued its SAFE WEB programme for international fellows and interns, which allows foreign agency employees to spend up to six months at the FTC learning how the FTC legal and economic staffs conduct their work. Over the course of the year, the FTC hosted seven competition and three consumer protection international fellows and interns from Austria, Brazil, Canada, Egypt, Hungary, Israel and Turkey.

41. On 6 February 2008, DOJ and FTC held a public workshop on technical assistance. The workshop brought together an impressive array of panellists – including officials from the competition authorities of Hungary, Italy and Peru, leading academics in the antitrust field, private practitioners, and international organizations such as OECD and the World Bank – to discuss the Antitrust Division's and the FTC's technical assistance programmes. The workshop, which featured five interactive panel discussions and was attended by approximately 100 people, was a great success. The agencies received positive feedback on their efforts so far, as well as many valuable suggestions for maximizing the effectiveness of their programmes for the future.

42. In May 2008, DOJ held its second annual training programme on antitrust and economics for both DOJ employees and officials of foreign antitrust agencies. Sixteen officials from 10 different foreign antitrust agencies attended the programme. The training session addressed a variety of topics, including unilateral and coordinated effects, exclusive dealing, and remedies. It concluded with practical programmes about the common mistakes that are made in antitrust investigations.

43. For the FTC and the DOJ in fiscal 2008 (October 2008–September 2009), overall competition capacity-building and technical assistance activities included 31 missions to 18 countries, involving 40 agency staff experts. In addition, the FTC maintained resident advisors in Pretoria, South Africa and Lima, Peru, from April until September.