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Report of the Intergovernmental Group of Experts on Competition Law and Policy on its twenty-second session

Held at the Palais des Nations, Geneva, from 3 to 5 July 2024

Contents

	<i>Page</i>
I. Action by the Intergovernmental Group of Experts on Competition Law and Policy	2
II. Chair's summary	5
III. Organizational matters	13

Annexes

I. Provisional agenda of the Ninth United Nations Conference to Review All Aspects of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices.....	15
II. Attendance.....	17



I. Action by the Intergovernmental Group of Experts on Competition Law and Policy

Agreed conclusions

The Intergovernmental Group of Experts on Competition Law and Policy,

Recalling the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices, adopted by the General Assembly in resolution 35/63 of 5 December 1980,

Recalling the resolution adopted by the Eighth United Nations Conference to Review All Aspects of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices (Geneva, October 2020),¹

Recalling the decision of the fifteenth session of the United Nations Conference on Trade and Development (Bridgetown, 2021) in paragraphs 56, 62 and 127 (z) that “in the process of transformation, it is fundamental for fair, sound and robust competition and consumer protection policies and enforcement to maintain a robust, level playing field and enhance transparency for all participants, so that market access is not under anticompetitive practices. Ensuring effective competition, including through support in developing and implementing competition policies and through cooperation among competition authorities, paired with robust consumer protection in the market, will help foster economic efficiency, resulting in safer and better products at lower prices for consumers”, that “multilateral dialogue and cooperation are crucial in areas such as the governance of new and emerging technologies, including those related to data management, competition and consumer protection. Special attention should also be paid to the challenges of electronic commerce and the digital economy through an integrated approach to many strategic areas. Increased international cooperation is required, including in digital platforms’ governance, to promote data flow with trust, safety and confidence in their use, in accordance with national regulations and relevant international commitments” and that UNCTAD should “continue to assist developing countries to formulate and implement competition and consumer protection policies and laws, facilitate cooperation among competition and consumer protection agencies, conduct peer reviews and foster the exchange of knowledge and best practices, including through multilateral forums, such as the Intergovernmental Group of Experts on Competition Law and Policy and the Intergovernmental Group of Experts on Consumer Protection Law and Policy, and by contributing to the implementation of the outcome of the United Nations Conferences to Review All Aspects of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices and of the revised United Nations guidelines for consumer protection”,²

Reaffirming the fundamental role that competition law and policy plays in the achievement of the 2030 Agenda for Sustainable Development, by promoting competitive, open and contestable markets and ensuring wider choice, better quality and lower prices of goods and services for consumers,

Underlining that competition law and policy is a key policy tool with which to address the negative impact of the cascading economic crisis and contribute to a more resilient, inclusive and sustainable economy, including by maintaining open, competitive and accessible markets encouraging trade and investment flows and resource mobilization to support developing countries and by reducing poverty,

Recognizing the need to strengthen the work of UNCTAD in competition law and policy so as to enhance its development role and benefits for consumers,

Recognizing that it is crucial to respond appropriately to the challenges of competition in digital markets and ecosystems, to enable digitalization to contribute to

¹ TD/RBP/CONF.9/9.

² TD/541/Add.2.

sustainable and inclusive growth; and that policy responses, such as revising competition law to suit digital markets or introducing new legislation, including ex-ante regulations, may vary depending on the circumstances of each jurisdiction,

Recognizing that effective competition law enforcement is crucial in the era of globalization and in the light of the necessity to promptly combat cross-border anticompetitive practices,

Recognizing that competition in the market has a direct relationship with poverty reduction in terms of lower prices and/or better quality that can result from increased competitive pressures, expand markets and make goods and services more affordable, especially for the poor population, and that workers can also benefit from competition for their labour through higher incomes; and requesting the UNCTAD secretariat to continue to explore how competition policy can raise the living standards of people, especially those in developing countries and the least developed countries,

Recognizing that many member States have continuously improved or are working on improving merger control standards, including by adjusting merger review thresholds, allowing competition authorities to examine mergers against nascent competitors with significant competitive impacts, paying closer attention to competition related to platforms, considering the greater use of presumptions from which likely anticompetitive impacts may be inferred, more carefully considering acquisition strategies as a means to maintain an acquiring firm's dominant position and more closely reviewing conglomerate mergers with potential anticompetitive effects in the global economy,

Noting with satisfaction the important written and oral contributions from member States and their competition authorities and other participants that enriched the debate during its twenty-second session,

Taking note of the report of the informal working group on cross-border cartels presented at its twenty-second session,

Taking note with appreciation of the documentation prepared by the UNCTAD secretariat for its twenty-second session,

1. *Welcomes* the efforts of member States in implementing the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices; and reaffirms the interest of competition authorities in exchanging experiences, best practices and challenges regarding competition law and policy;
2. *Encourages* the continuation of legislative, policy-related and regulatory actions and initiatives by Governments and competition authorities in response to the polycrisis affecting the global economy, as well as coordination and information-sharing at the international and regional levels;
3. *Expresses its appreciation* to the Government of Egypt for volunteering for a peer review of competition law and policy and for sharing its experiences and challenges with other competition authorities during its twenty-second session and to all Governments and regional groups participating in the review; and recognizes the progress achieved to date in the elaboration and enforcement of the competition law of Egypt;
4. *Requests* UNCTAD to compile and report on work addressing the global competition issues of digital markets and ecosystems and to continue to promote international and regional cooperation;
5. *Encourages* the improvement of cooperation between competition authorities, sectoral regulators and ministries of industry and economy and other authorities, to enhance their capacity to respond to the recent fast-changing economy and new policy demands, particularly in developing countries and the least developed countries in their efforts to harmonize policies geared towards poverty reduction in order to uplift the living standards of their populations;
6. *Recognizes* that merger control standards need to be able to analyse the various impacts of mergers, considering increased digitalization and other emerging trends; and the

importance of continuously developing international cooperation among competition authorities, to respond to the mergers of global companies;

7. *Underlines* the benefits of enhancing and strengthening enforcement capacities and promoting a competition culture in developing countries through capacity-building and advocacy activities targeting all relevant stakeholders; and requests the UNCTAD secretariat to disseminate the summary of its discussions on these topics to all interested member States, including through technical assistance activities and peer reviews;

8. *Underlines* the importance of international cooperation as recognized in section F of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices, including informal collaboration among competition authorities; and calls upon UNCTAD to promote and support cooperation between Governments and competition authorities, as directed by the Bridgetown Covenant (paragraphs 56, 62 and 127 (z)) and the resolution adopted by the Eighth United Nations Conference to Review All Aspects of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices (paragraphs 3 and 22), as well as in the document titled “Guiding Policies and Procedures under Section F of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices”;

9. *Welcomes* and endorses the revised appendix to the document titled “Guiding Policies and Procedures under Section F of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices”, requesting that it be reported to the Ninth United Nations Conference to Review All Aspects of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices;

10. *Requests* the UNCTAD secretariat to continue the dissemination of the document titled “Guiding Policies and Procedures under Section F of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices” and to encourage its use by member States;

11. *Emphasizes* the importance of regional cooperation in the enforcement of competition law and policy and the significance of initiatives launched by regional competition organizations and frameworks; and invites competition authorities to strengthen their regional and bilateral cooperation;

12. *Welcomes* the information exchanges and discussions on best practices to promote cooperation between competition authorities in dealing with cross-border cartel cases and common issues in the fight against bid rigging; and decides to renew the mandate of the informal working group on cross-border cartels, to highlight best practices, facilitate information exchanges, consultations and international cooperation, discuss tools and procedures and undertake other projects as agreed in the future, and to report to the Ninth United Nations Conference to Review All Aspects of the Set;

13. *Decides* that UNCTAD should, considering past experiences, continue to undertake peer reviews of competition law and policy following requests from member States and in accordance with available resources;

14. *Invites* all member States and competition authorities to assist UNCTAD on a voluntary basis by providing experts or other resources for future and follow-up activities in connection with voluntary peer reviews and their recommendations;

15. *Requests* the UNCTAD secretariat to prepare a review of the implementation of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices, including a brief assessment of 20 years of voluntary peer reviews of competition law and policy, for the Ninth United Nations Conference to Review All Aspects of the Set;

16. *Requests* the UNCTAD secretariat to prepare a report as background documentation for the Ninth United Nations Conference to Review All Aspects of the Set on the topic of maximizing synergies between competition and consumer protection policies;

17. *Requests* the UNCTAD secretariat to facilitate consultations, encourage contributions from member States and promote discussions among them on the topics of: competition law and policy and global food value chains; and investigative techniques and digital tools in a modern enforcement world;

18. *Requests* the UNCTAD secretariat to prepare, for the consideration of the Ninth United Nations Conference to Review All Aspects of the Set, an updated review of capacity-building in and technical assistance on competition law and policy, including an impact assessment, based on information received from member States;

19. *Notes with appreciation* the voluntary financial and other contributions received from member States; invites member States to continue to assist UNCTAD on a voluntary basis in its capacity-building and technical assistance activities by providing experts, training facilities and financial or other resources; and requests the UNCTAD secretariat to pursue capacity-building and technical assistance activities, including training, and, where possible, to focus such activities on maximizing their impact in all interested countries.

Closing plenary
5 July 2024

II. Chair's summary

A. Introduction

1. The twenty-second session of the Intergovernmental Group of Experts on Competition Law and Policy was held at the Palais des Nations, Geneva, from 3 to 5 July 2024. Representatives from 73 countries and nine intergovernmental organizations, including the heads of competition authorities, attended the high-level discussions.

B. Opening plenary

2. The Deputy Secretary-General of UNCTAD opened the session. The following speakers made opening statements: the representative of Cambodia, speaking on behalf of the Group of 77 and China; the representative of Bangladesh, on behalf of the Asia-Pacific Group; the representative of the Bolivarian Republic of Venezuela, on behalf of the Group of Latin American and Caribbean Countries; the representative of the Niger, on behalf of the African Group; the representative of Nepal, on behalf of the least developed countries; the representative of the Dominican Republic, on behalf of small island developing States; and the representative of Iraq.

3. In his opening remarks, the Deputy Secretary-General of UNCTAD emphasized the contribution of competition law and policy towards progress on the achievement of the Sustainable Development Goals, in particular with regard to enhancing productivity, reducing prices and fostering better product and service quality, thereby contributing to poverty alleviation. The Deputy Secretary-General noted that competition law and policy were pertinent in the agrifood sector and relevant for the poor, as they spent higher shares of income on food items. In addition, in digital markets, interest in competition law and policy was increasing, with growing concerns about anticompetitive practices and the lack of a global consensus on addressing such issues. Developing countries, in particular, faced challenges due to limited experience and resources, as well as legal obstacles. The Deputy Secretary-General underlined the continuous support of UNCTAD for developing countries, including by promoting the use of competition law and policy, and highlighted upcoming milestones in 2025, including the Ninth United Nations Conference to Review All Aspects of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices.

4. The keynote speaker, President, Competition Authority, Germany, commended the work of UNCTAD and the synergies between UNCTAD and the International Competition Network. The speaker highlighted the inclusive nature of the International Competition Network, in which both advanced and young competition authorities were encouraged to

participate in discussions on various topics of interest and to exchange knowledge and best practices.

5. A few delegates and several regional groups shared achievements, goals and challenges in developing competition legislation and enforcement, and commended the ongoing work of UNCTAD in the area of competition law and policy.

C. Report on the implementation of the guiding policies and procedures under section F of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices

(Agenda item 3)

6. Under the agenda item, the UNCTAD secretariat presented a report on progress made in the implementation of the guiding policies and procedures under section F of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices during the period July 2023–June 2024. The UNCTAD secretariat had circulated a survey to maintain the list of contact persons in competition authorities who could facilitate international cooperation and to collect the latest information on competition legislation worldwide, in accordance with section III.18 and 19 of the guiding policies and procedures; and had revised the appendix in order to include recent guidance documents on international cooperation and other relevant background documents, in accordance with section III.20. The UNCTAD secretariat suggested the following recommendations on further work to implement the guiding policies and procedures: continue to survey contacts and competition legislation and review the appendix; and continue to conduct advocacy activities and provide further guidance on the use of the guiding policies and procedures. At its closing plenary meeting on 5 July 2024, the Intergovernmental Group of Experts on Competition Law and Policy adopted agreed conclusions on this agenda item (see chapter I).

7. One delegate shared the new regulation in Argentina for the implementation of a leniency programme, to provide applicants with legal certainty and predictability and to secure the confidentiality of information.

D. Report of the working group on cross-border cartels

(Agenda item 4)

8. The UNCTAD secretariat presented the report of the informal working group. The informal working group had held three meetings during the period July 2023–June 2024, at which member States had shared experiences of cross-border cartel cases and lessons learned. The secretariat provided suggestions of possible ways forward for the informal working group, including continuing discussions on practical case studies. At its closing plenary meeting on 5 July 2024, the Intergovernmental Group of Experts on Competition Law and Policy adopted agreed conclusions on this agenda item (see chapter I).

9. Some delegates expressed support for the work of the informal working group, highlighting that it had been an important platform for cooperation and discussion among competition authorities on practical solutions to the challenges associated with multi-jurisdictional cartel investigations.

10. One expert presented a project on a cross-border enforcement toolkit for competition authorities to be able to share solutions to challenges relevant to cross-border competition law infringements.

E. Enforcing competition law in digital markets and ecosystems: Policy challenges and options

(Agenda item 5)

11. Under the agenda item, the Intergovernmental Group of Experts on Competition Law and Policy held one round-table discussion. In opening the discussion, the UNCTAD secretariat presented the background document on the topic (TD/B/C.I/CLP/74). The panel was composed of the following: Vice-Chair, Competition Research Policy Network; Deputy Secretary-General, Fair Trade Commission, Japan; Head of Unit, Directorate General for Communications Networks, Content and Technology, European Commission; President, Competition Authority, Portugal; Commissioner, Federal Economic Competition Commission, Mexico; Counsel, International Affairs, Federal Trade Commission, United States of America; Professor, Global Competition Law and Public Policy, Faculty of Laws, University College London; Director, Competition Policy, Meta; Head, Fair Trade Team, Kakao Cooperation; and Commissioner, Administrative Council for Economic Defence, Brazil.

12. The first panellist noted that current competition law was insufficient in addressing the unprecedented power of technology leaders. The panellist stated that competition agencies needed to emerge from silos and be more creative, to ensure both commercial and democratic stability.

13. The second panellist presented examples of competition law enforcement, market studies and ex-ante regulation in the digital economy in Japan. The panellist introduced cases related to the limitation of search engines, default options and new legislation in Japan that provided ex-ante regulations relevant to smartphone software, including open access to application stores and payment systems.

14. The third panellist highlighted the role of antitrust regulation and enforcement in challenging the global issues related to digital markets dominated by a few technology leaders. The panellist noted that the European Union was shifting to regulation, through the Digital Markets Act, which mandated compliance from gatekeepers, to ensure contestable and fair markets.

15. The fourth panellist noted that the digital sector lacked clear territorial links and that competition authorities worldwide faced challenges related to market entrenchment and bottlenecks. The panellist stated that the multi-pronged approach of the Competition Authority of Portugal involved capacity-building, international cooperation, new regulations such as the Digital Markets Act and innovative digital tools.

16. The fifth panellist stated that young competition authorities might face different challenges due to differences in legal and institutional frameworks and human and material resources. The panellist highlighted that the competition authority in Mexico had been active in merger control, market investigations and market studies, as well as submissions and recommendations to government authorities.

17. The sixth panellist emphasized the transformative impact of digital markets on economies, noting how dominant firms used monopolistic tactics to maintain their positions. The panellist stated that antitrust agencies in the United States promoted fair competition through enforcement, policy and guidance, and that the Federal Trade Commission was expanding technical expertise, to address evolving technologies and market trends.

18. The seventh panellist described digital ecosystems as winner-takes-most markets with concentrated power, emphasizing resource dependency, panopticon power, manipulation of user preferences and architectural advantages. The panellist stressed that, with regard to conglomerate mergers, there was no need to bundle theories of harm because the essence was not a bundling strategy to be adopted in future but reinforcement of the ecosystem “glue”. An essential issue in this regard was to examine compatibility in the creation of shared networks and resources.

19. The eighth panellist stressed the importance of balancing productivity and innovation in digital ex-ante regulations, which should be predictable and proportional.

Most jurisdictions avoided such regulations due to potential negative impacts, yet targeted regulation was necessary with regard to true bottlenecks. Finally, the panellist noted that collaboration between Government and industry was critical in order to reconcile competition and competitiveness.

20. The ninth panellist emphasized the importance of understanding market dynamics and the competitive impact of proposed regulations before introducing new frameworks. The panellist suggested analysing domestic platform markets, avoiding harm to innovation and consumer welfare and enhancing international peer learning, to set global standards.

21. The tenth panellist introduced a report on competition policy in BRICS [Brazil, Russian Federation, India, China, South Africa] countries, highlighting the need for coordinated action on mergers and anticompetitive conduct in digital markets. The panellist suggested developing common frameworks, sharing remedies, advocating pro-competition policies, cooperating in cross-border enforcement and pooling resources, to preserve competition and innovation.

22. During the ensuing discussion, several delegates shared experiences in enforcing competition laws in the digital economy and expressed the need to build in-house capacity to comprehend the complexities of digital markets. One delegate detailed a regulation aimed at digital markets recently adopted in the United Kingdom of Great Britain and Northern Ireland. A few delegates highlighted that international cooperation through international platforms, including UNCTAD, were crucial, for competition authorities to be able to effectively respond to digitalization and in creating global governance frameworks.

F. Round table on competition policy and poverty reduction

(Agenda item 6)

23. Under the agenda item, the Intergovernmental Group of Experts on Competition Law and Policy held one round-table discussion. In opening the discussion, the UNCTAD secretariat presented an overview of global approaches to poverty reduction and stated that competition policy could be a key addition in this regard. The panel was composed of the following: Walter J Derenberg Professor of Trade Regulation Emerita, School of Law, New York University; Commissioner, Competition Commission, South Africa; Professor, Law School, Sciences Po University, France; Director General, Competition Authority, Norway; and Chair, Malaysia Competition Commission.

24. The first panellist noted that global poverty could partly be attributed to market power and significant imbalances in bargaining, whereby farmers faced high input costs and squeezed output prices and consumers were overcharged. The panellist emphasized the complexity of solutions but noted that well-functioning markets could help reduce prices and poverty. Historically, antitrust discussions in the global North had not prioritized distribution and fairness, leading to a disconnection between human rights and antitrust advocates. However, increasing discontent with market outcomes had shifted perspectives, highlighting the relevance of competition law in addressing poverty. Finally, the panellist emphasized the importance of developing “pro-poor” competition policies and legislation.

25. The second panellist stated that the Competition Commission of South Africa prioritized markets affecting low-income consumers and vulnerable communities and had pursued various strategies to enhance effectiveness, such as forming partnerships with other government agencies and civil society. For example, the panellist noted that during the pandemic, collaborations had led to actions against a pharmaceutical company that had reduced patent enforcement due to alerts by health activists. The panellist emphasized challenging market conduct that threatened consumer rights, citing the successful push for more accessible HIV treatments as a precedent for cancer treatments, and advocated for ex-ante interventions to ensure that competition laws promoted poverty reduction and protected people’s rights, highlighting efforts to support historically disadvantaged businesses and encourage cooperative structures.

26. The third panellist stated that competition law and policy should be leveraged for poverty reduction and viewed as public interest regulatory instruments rather than solely

efficiency tools. The panellist outlined the following three strategies: focusing on low prices; facilitating market entry for small businesses; and redistributing surplus from the wealthy to the poor. The panellist emphasized that competition law could help redistribute wealth, particularly from the Global North to the Global South, and the need for more active redistributive plans, to empower communities in need and to change competition law, to explicitly address poverty and distribution issues.

27. The fourth panellist identified social and economic policies key to contributing to poverty alleviation and efforts in Norway to implement them. The panellist stated that the following three main obstacles hindered competition from driving development: a lack of buyers or suppliers due to poverty; significant income disparities; and unfair framework conditions. In the past century, Norway had effectively utilized redistributive policies and ensured that government-owned companies were subject to competition legislation. Finally, the panellist underlined that the competition authority had been conducting consumer-oriented enforcement and prioritized markets and issues critical to consumers, such as food prices, digital markets and sustainability, along with ensuring efficient resource use through substantial sanctions.

28. The fifth panellist detailed the mechanisms utilized by the Competition Commission of Malaysia to indirectly contribute to poverty reduction, particularly by ensuring fair prices and enhancing market accessibility. Addressing poverty as a symptom of market power imbalances, enforcement actions targeted, for example, monopolies and cartels. The panellist stated that policy coordination between competition laws and sectors such as public procurement and communications were critical. Commission efforts, such as dismantling exclusive service arrangements in communications, indirectly helped alleviate poverty and initiatives such as addressing price fixing in the poultry sector illustrated the approach of the Commission, encompassing retail pricing ceilings, coordination and fund reallocation for poverty alleviation.

29. During the ensuing discussion, one panellist, in response to a question on the feasibility and constitutionality of a mandatory redistribution system as part of competition law enforcement, clarified that competition law could include measures such as using the fines from monopoly cases to compensate overcharged consumers or creating trust funds to offset price increases. One delegate highlighted the focus in China on reducing poverty, revising competition laws and investigating sectors such as the digital economy and pharmaceuticals. Another delegate stressed the impact of competition law on labour markets and poverty reduction. A few delegates stressed the importance of international cooperation and fair food pricing. Finally, the panellists reinforced the need for legislative empowerment, collaboration without compromising independence and advocacy, to promote fair competition and economic participation.

G. Round table on recent developments in merger control standards

(Agenda item 7)

30. Under the agenda item, the Intergovernmental Group of Experts on Competition Law and Policy held one round-table discussion. In opening the discussion, the UNCTAD secretariat outlined the background of the need for competition authorities to review merger control standards and adapt them to new circumstances. The panel was composed of the following: President, National Competition Commission, Paraguay; Commissioner, Competition Commission, Philippines; Head, International Unit, Competition Authority, Germany; Deputy Assistant Attorney General, Antitrust Division, Department of Justice, United States; Senior Deputy Director, Fair Trade Commission, Republic of Korea; Partner, Bryan Cave Leighton Paisner, Brussels; and Professor, University of Santiago de Compostela, Spain.

31. The first panellist stated that competition in Paraguay was new and that merger control had to be explained to markets. New, complex situations arose, requiring an understanding of markets, as well as engaging with consumers and explaining the impacts on competition. Finally, the panellist noted that with regard to digital markets, not only large companies but smaller ones needed to be controlled and that, while there were new

opportunities, there were also competition-related challenges, and data were necessary, as the new currency in digital markets.

32. The second panellist discussed the adoption of Development Plan 2023–2028 in the Philippines, which recognized that ensuring an open and competitive market economy was critical in sustaining economic development and fostering job creation and included a dedicated chapter on promoting competition and improving regulatory efficiency. The panellist introduced the merger remedy guidelines adopted in May 2024, which provided a framework for assessing remedies, to address possible substantial declines in competition. Finally, the panellist noted other recent initiatives, including support for capacity-building for other competition authorities and participation in the Framework Agreement on Competition and the merger information-sharing portal of the Association of Southeast Asian Nations.

33. The third panellist stated that merger control in Germany had been introduced in 1973 and refined several times since then, most recently with regard to digital markets. The recent regime allowed the competition authority to play an active role in the global learning curve with regard to the characteristics of digital markets and to develop a strategy with regard to the particular challenges in the evaluation of digital mergers. The panellist stressed that international cooperation, both multilateral and bilateral, was essential in order to help competition authorities deal with global transactions, provide predictability and legal certainty and provide consistent results; and that international organizations, including UNCTAD, were important facilitators in achieving these aims.

34. The fourth panellist introduced the 2023 merger guidelines in the United States, which defined merger control and its management, addressed vertical and horizontal mergers and introduced their effects on the labour market, filling gaps in earlier guidelines. The panellist stated that competition was recognized as a dynamic process, not only of analysis.

35. The fifth panellist stated that the merger guidelines in the Republic of Korea had been revised to better incorporate the characteristics of the digital economy into the merger control process and that the revised rules had been in place since May 2024. Digital industries differed significantly from traditional industries and often provided free services, had strong network effects and could easily transfer their dominant position to adjacent markets. Finally, the panellist stated that the revised guidelines also helped to ensure that potential efficiency gains from digital mergers were taken into account.

36. The sixth panellist detailed the guiding principles and recommended practices for merger notification and review procedures of the International Competition Network, aimed at creating global convergence and coherence in merger review processes. The panellist stressed that international cooperation played a critical role in merger control and that informal cooperation was becoming more common. In this regard, UNCTAD and the International Competition Network had developed several guidelines and reports to support such cooperation, emphasizing the benefits of informal exchanges. Finally, the panellist stated that confidence-building and the guarantee of confidentiality were essential for effective international cooperation in merger control.

37. The seventh panellist emphasized that it was difficult to find an adequate balance between free competition and economic concentration and, for this reason, economic history oscillated between periods in which free competition predominated and periods in which the tendency to monopoly was more pronounced. The panellist introduced studies showing a notable increase in market concentration, such as in the digital, pharmaceutical and telecommunications markets, as a result of the natural dynamics of these markets. The panellist noted the need to use remedies to be able to discipline concentration operations. Finally, the panellist stated that more effective and imaginative proactive remedies were needed, both behavioural and structural, with the objective to not only prevent a particular conduct but to create the right conditions for the recovery in the market of the conditions that allowed for the development of free competition.

38. During the ensuing discussion, several delegates shared the latest developments in their merger control systems, to adapt them to current challenges.

H. Voluntary peer review of competition law and policy: Egypt (Agenda item 8)

39. The voluntary peer review opened with a statement by the Head of the Delegation of Egypt, President, Egyptian Competition Authority. The review aimed to bring the legal and institutional competition frameworks of Egypt in line with international best practices. The UNCTAD secretariat then presented the main findings and recommendations of the background report (TD/B/C.I/CLP/75), which addressed legal and institutional issues. Recommendations had been made with regard to amendments, including a clear distinction between agreements that were anticompetitive per se and other types of agreements; exclusive jurisdiction to enforce competition law across all sectors; enhancement of cooperation between the authority and sector regulators; a new methodology for fines, increasing the amount of fines and providing more discretion to the authority; providing the Board the authority to impose administrative monetary sanctions; and strengthening the independence of the authority.

40. Representatives of the Government of Brazil and the European Commission, as well as the Chair, Competition Committee, Organisation for Economic Co-operation and Development, and Professor, Law School, George Washington University, acted as peer reviewers. In response to queries from peer reviewers, the Head of the Delegation of Egypt showed support for the recommendation to grant the Board of the Competition Authority with the authority to impose administrative monetary sanctions, as well as for other recommendations, including with regard to the review of the institutional setup of the Competition Authority, an internal prioritization mechanism for cases and increasing and stabilizing the budget of the Competition Authority. Finally, the Head of the Delegation of Egypt emphasized the efforts of the Competition Authority in regional and international cooperation, noting memorandums of understanding with different competition authorities and involvement in the Arab Competition Network.

41. The Head of the Delegation of Egypt asked questions regarding the recommendations on the substance of competition law in Egypt, per se infringements and the rule of reason, as well as rebuttable presumptions for market dominance. One reviewer stressed the importance of the classification and presumption approach, underpinned by empirical evidence. Another reviewer, in response to questions from the Head of the Delegation of Egypt, noted that competition authorities aimed to increase independence, particularly in decision-making, yet independence could involve being further from other government bodies and therefore less influential.

42. The UNCTAD secretariat presented a proposal for a technical assistance project to implement the peer review recommendations. The project would involve reviewing the competition law of Egypt, to address existing gaps based on the recommendations, as well as developing awareness-raising and advocacy programmes for relevant stakeholders, such as sector regulators, on the benefits of competition law and policy.

I. Review of capacity-building in and technical assistance on competition law and policy (Agenda item 9)

43. Under the agenda item, the Intergovernmental Group of Experts on Competition Law and Policy held two round-table discussions.

1. Capacity-building and technical assistance

44. In opening the discussion, the UNCTAD secretariat presented the background document on the review of capacity-building in and technical assistance on competition and consumer protection laws and policies (TD/B/C.I/CPLP/41-TD/B/C.I/CLP/76). The panel was composed of the following: Chair, Competition Authority, Albania; President, Board of Directors, National Commission for Competition Defence, Dominican Republic; and President, Competition Authority, Cabo Verde.

45. The first panellist noted that the Competition Authority of Albania had benefited from UNCTAD support since 2014. Key initiatives included the voluntary peer review of competition law and policy in 2015 and technical cooperation projects, including training workshops for judges on competition law aspects and a workshop for Competition Authority officials on economic analysis. Finally, the panellist noted that advocacy activities promoted competition law awareness and detailed a new European Bank for Reconstruction and Development and UNCTAD project aimed at strengthening the capacity of the judiciary and fostering a competition culture among businesses and consumers in Albania.

46. The second panellist stated that the National Commission for the Defence of Competition of the Dominican Republic had benefited from UNCTAD technical assistance with regard to the annual competition week. UNCTAD had supported capacity-building initiatives, such as training for judges on enforcing competition law and participating in media. Finally, the panellist presented the results of the eleventh meeting of the Working Group on Trade and Competition of Latin America and the Caribbean, jointly organized by UNCTAD and the secretariat of the Latin American Economic System.

47. The third panellist noted that UNCTAD had been critical in the development of the Competition Authority of Cabo Verde. Through a project for Portuguese-speaking countries in Africa, the Competition Authority had received essential technical assistance and training. The panellist stated that this support had advanced competition defence and consumer protection in the country.

48. During the ensuing discussion, one delegate detailed how Honduras had advanced in addressing anticompetitive practices through regulatory reforms and international cooperation. Another delegate highlighted the key contribution of UNCTAD in the Democratic Republic of the Congo, leading to the development of the 2018 legal framework and an upcoming consumer protection policy, significantly enhancing the regulatory framework and the capacity of the competition authority. One delegate noted the lack of a regulatory framework to address competition matters in Gabon. Another delegate noted 11 years of support from UNCTAD in Paraguay in drafting and implementing competition law and looked forward to implementing peer review recommendations. One expert noted the work of UNCTAD in developing competition systems worldwide and cited collaboration with the dissemination of peer review recommendations and capacity-building in Bangladesh.

2. Competition and regional economic organizations

49. The second round-table discussion centred on the importance of and developments related to regional economic organizations. The panel was composed of the following: Minister in charge of Competition and Antitrust Regulation, Eurasian Economic Commission; Director, Competition, West African Economic and Monetary Union Commission; and Chief Executive Officer, Common Market for Eastern and Southern Africa Competition Commission.

50. The first panellist highlighted the distinct competition challenges at the regional and national levels, which necessitated varied strategies. The panellist detailed the role of the Eurasian Economic Commission in cross-border enforcement and collaboration with national authorities and underlined the importance of the role of recommendations provided by international organizations, including UNCTAD. Emphasizing regional cooperation, the panellist proposed including a topic on competition and regional economic organizations at future sessions of the Intergovernmental Group of Experts.

51. The second panellist detailed the overlapping memberships and mandates of the Economic Community of West African States and the West African Economic and Monetary Union, highlighting their similar objectives but different processes. To prevent legal uncertainties for businesses, a cooperation agreement had been signed between the Community and the Union, covering information exchanges, joint investigations, capacity-building and technical assistance. Finally, the panellist stated that the agreement aimed to harmonize competition rules and implement a comprehensive framework for cooperation in West Africa.

52. The third panellist shared recent experiences of the Common Market for Eastern and Southern Africa Competition Commission, highlighting amendments to regulations that enhanced enforcement powers. The panellist emphasized a project on the African Market Observatory to investigate and understand factors related to food inflation. The Competition Commission collaborated with other regional competition authorities in Africa to discuss common interests and avoid duplications. Finally, the panellist noted the support provided by the Common Market for Eastern and Southern Africa to its member States, to strengthen national competition laws, including support in undertaking voluntary peer reviews of competition law and policy.

53. During the ensuing discussion, a few delegates highlighted the established cooperation frameworks in their regions.

III. Organizational matters

A. Election of officers

(Agenda item 1)

54. At its opening plenary meeting on 3 July 2024, the Intergovernmental Group of Experts on Competition Law and Policy elected Ms. Maria Elena Vasquez Taveras (Dominican Republic) as its Chair and Ms. Helga Ribeiro Matos (Portugal) as its Vice-Chair-cum-Rapporteur.

B. Adoption of the agenda and organization of work

(Agenda item 2)

55. Also at its opening plenary meeting on 3 July 2024, the Intergovernmental Group of Experts on Competition Law and Policy adopted the provisional agenda for the session (TD/B/C.I/CLP/73), as follows:

1. Election of officers.
2. Adoption of the agenda and organization of work.
3. Report on the implementation of the guiding policies and procedures under section F of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices.
4. Report of the working group on cross-border cartels.
5. Enforcing competition law in digital markets and ecosystems: Policy challenges and options.
6. Round table on competition policy and poverty reduction.
7. Round table on recent developments in merger control standards.
8. Voluntary peer review of competition law and policy: Egypt.
9. Review of capacity-building in and technical assistance on competition law and policy.
10. Provisional agenda of the Ninth United Nations Conference to Review All Aspects of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices.
11. Adoption of the report of the twenty-second session of the Intergovernmental Group of Experts on Competition Law and Policy.

C. Provisional agenda of the Ninth United Nations Conference to Review All Aspects of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices

(Agenda item 10)

56. At its closing plenary meeting on 5 July 2024, the Intergovernmental Group of Experts on Competition Law and Policy, acting in its capacity as the preparatory body for the Ninth United Nations Conference to Review All Aspects of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices, approved the provisional agenda of the Conference (annex I).

D. Adoption of the report of the twenty-second session of the Intergovernmental Group of Experts on Competition Law and Policy

(Agenda item 11)

57. Also at its closing plenary meeting on 5 July 2024, the Intergovernmental Group of Experts on Competition Law and Policy authorized the Vice-Chair-cum-Rapporteur, under the authority of the Chair, to finalize the report on its twenty-second session after the conclusion of the session.

Annex I

Provisional agenda of the Ninth United Nations Conference to Review All Aspects of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices

1. Opening of the Conference.
2. Election of the president and other officers.
3. Adoption of the rules of procedure.
4. Adoption of the agenda and organization of the work of the Conference.
5. Credentials of the representatives to the Conference:
 - (a) Appointment of a credentials committee;
 - (b) Report of the credentials committee.
6. Report on the implementation of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices, including a brief assessment of 20 years of voluntary peer reviews of competition law and policy.
7. Report on the implementation of the United Nations guidelines for consumer protection and of the work of the Intergovernmental Group of Experts on Consumer Protection Law and Policy.
8. Latest developments in legal and institutional frameworks: UNCTAD world consumer protection map.
9. Maximizing synergies between competition and consumer protection policies.
10. Competition law and policy and global food value chains.
11. Investigative techniques and digital tools in a modern enforcement world.
12. Protecting and empowering consumers in the circular economy.
13. Safeguarding and empowering consumers in the age of artificial intelligence.
14. Report on the implementation of the guiding policies and procedures under section F of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices.
15. Reports of the informal working groups on:
 - (a) Cross-border cartels;
 - (b) Consumer product safety;
 - (c) Consumer protection in electronic commerce;
 - (d) Consumer protection and gender.
16. Proposals for the implementation of the declaration on cross-border consumer dispute resolution and redress.
17. Review of capacity-building in and technical assistance on consumer protection and competition law and policy.
18. Voluntary peer review of competition law and policy.*
19. Voluntary peer review of consumer protection law and policy.**

* Member State to be determined.

** Member State to be determined.

20. Provisional agenda of the twenty-third session of the Intergovernmental Group of Experts on Competition Law and Policy.
21. Provisional agenda of the ninth session of the Intergovernmental Group of Experts on Consumer Protection Law and Policy.
22. Other business.
23. Adoption of the report of the Ninth United Nations Conference to Review All Aspects of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices.

Annex II

Attendance***

1. Representatives of the following States members of the Conference attended the session:

Albania	Madagascar
Angola	Malaysia
Antigua and Barbuda	Mauritius
Argentina	Mexico
Armenia	Morocco
Austria	Nicaragua
Azerbaijan	Nigeria
Bahrain	North Macedonia
Bangladesh	Norway
Barbados	Paraguay
Belarus	Peru
Brazil	Philippines
Cabo Verde	Poland
Cambodia	Portugal
Cameroon	Qatar
China	Republic of Korea
Congo	Russian Federation
Costa Rica	Saudi Arabia
Democratic Republic of the Congo	Seychelles
Dominican Republic	South Africa
Egypt	Spain
Ethiopia	State of Palestine
Gabon	Switzerland
Georgia	Thailand
Germany	Togo
Greece	Trinidad and Tobago
Honduras	Tunisia
Hungary	Türkiye
Indonesia	United Arab Emirates
Iran (Islamic Republic of)	United Kingdom of Great Britain and Northern Ireland
Iraq	United States of America
Italy	Uruguay
Japan	Uzbekistan
Kazakhstan	Yemen
Kenya	Zimbabwe
Kuwait	
Lebanon	
Libya	

2. The following intergovernmental organizations were represented at the session:

African Union
Common Market for Eastern and Southern Africa
Commonwealth Secretariat
Economic Community of West African States
Eurasian Economic Commission
European Union
Latin American Economic System
Organisation for Economic Co-operation and Development
West African Economic and Monetary Union

*** This attendance list contains registered participants. For the list of participants, see TD/B/C.I/CLP/INF.14.

3. The following United Nations organs, bodies and programmes were represented at the session:

Economic and Social Commission for Asia and the Pacific
Economic and Social Commission for Western Asia
United Nations Development Programme

4. The following specialized agencies and related organizations were represented at the session:

World Intellectual Property Organization

5. The following non-governmental organizations were represented at the session:

General category

Consumer Unity and Trust Society International
Consumers International
Global Traders Conference
