



PERÚ

Ministerio
de Comercio Exterior
y Turismo

AIDE-MEMOIRE

**II ANNUAL MEETING OF THE WORKING GROUP
ON TRADE AND COMPETITION OF SELA**

Lima, Peru, 18 and 19 June 2012

I. BACKGROUND

I.1. Regional Seminars on Trade and Competition

In April 2009 and May 2010 two **Regional Seminars on Trade and Competition for Latin America and the Caribbean (LAC)** were conducted, in Caracas (Venezuela) and Brasilia (Brazil), respectively.

The two regional seminars were attended by authorities of the Member States of SELA and other countries of the region, responsible for the areas of foreign trade and competition, as well as UNCTAD officials led by the Secretary-General of UNCTAD, Supachai Panitchpakdi.

The work agendas of the seminars included issues such as: links between the areas of foreign trade and defence of competition, the potentials of regional cooperation in the areas of trade and competition, the application of competition rules and the contribution of competition policy to economic development, the needs for technical assistance in the promotion of institutional capacities of the authorities in charge of trade and competition, and the experience gained with the application of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices.

The following recommendations were adopted:

- At the first seminar:

- Continue with the analysis of the various aspects related to the issues of trade, competition policies and development.
- With the support of the Permanent Secretariat of SELA and UNCTAD, continue conducting systematic activities involving debates, update and training as regards the issues of trade and competition, in connection with the economic and social development needs of Latin American and Caribbean countries.
- Develop update programmes and spread information aimed at improving human and institutional resources capacities in Latin America and the Caribbean, so as to outline, implement and evaluate competition policies.
- Adopt the proposal for a joint UNCTAD-SELA regional cooperation programme in the areas of trade, competition and development.
- Continue with these analytical and coordination efforts among the Member States of SELA.

- At the second seminar:

- Intensify cooperation between UNCTAD and SELA.
- Work in order to reduce asymmetries and gaps among competition systems in the region.
- Request the Latin American Council of SELA to establish the Working Group for encouraging interaction among trade and competition authorities. UNCTAD and SELA will provide the necessary technical support for organizing and conducting the activities agreed to by the Working Group.
- Document cases that may serve as model and reference for competition authorities, judicial bodies and trade organizations in Latin America and the Caribbean, particularly in terms of the criteria for imposing sanctions, undertaking judicial processes, or proposing leniency agreements.
- Active participation of the region in the Sixth Revision of the UN Set of Principles on Competition, in November 2010 in Geneva.

I.2. Creation of the Working Group on Trade and Competition (WGTC)

Following the recommendations of the Second Regional Seminar, the Latin American Council adopted, in October 2010, Decision N° 519), agreeing “to support and endorse the decision to establish a Working Group on Trade and Competition in Latin America and the Caribbean, and to request the Permanent Secretariat to provide the necessary technical support for the organization, preparation and implementation of the activities identified by the Group.”

I.3. First Annual Meeting of the WGTC

The First Annual Meeting of the Working Group on Trade and Competition (WGTC) of SELA was held on 4 and 5 July 2011.

The objective of the meeting was to officially set up the Working Group on Trade and Competition of SELA as a regional forum of authorities for regional cooperation, consultation and coordination, in order to ensure consistency among trade and competition policies in LAC countries.

The **agenda** for the meeting included the following issues:

- Creation of the WGTC
- Comparative analysis of national and subregional rules on competition
- Fundamentals of institutional effectiveness in the area of competition
- Importance of consistency among competition policies and other government policies, including trade
- Review of experiences in cooperation to enforce competition policies, including regional cooperation
- Exchange of views on the interests and objectives of the region's countries with a view to their participation in the 11th edition of the Inter-governmental Group of Experts (IGE) on competition law and policy of UNCTAD, which was held in Geneva in July 2011.

The Brazilian competition authority was appointed by acclamation as **Chairman** of the Working Group for the period 2011-2014; the authority of trade of Dominican Republic was designated as **Vice-Chairman A**; and the authority of trade and competition of Costa Rica was appointed as **Vice-Chairman B**. The Secretariat of UNCTAD would function as Technical Secretariat and the Permanent Secretariat of SELA would act as the Executive Secretariat.

The Working Group agreed to create four **Working Sub-Groups** to deal with the following matters:

1. Enforcement of trade legislation, capacity building and advocacy, coordinated by Mexico.
2. Legal instruments relating to competition and bilateral, regional and multilateral trade, coordinated by Chile.
3. Consultations on competition and trade policies, coordinated by Jamaica.
4. Research and sectoral studies, coordinated by Panama.

As a result of the presentations and the debates, the Working Group drew the following **conclusions**:

- Participants welcomed the documents prepared by the Secretariats of UNCTAD and SELA, as well as the analyses and the information contained in the presentations, which led to an important exchange of views and practices, thereby spreading information about valuable experiences.
- The WGTC, as the formal result of a goal set forth in 2009, requires the commitment, support and active participation of the 33 countries of Latin America and the Caribbean and their integration institutions, along with the support of international cooperation.
- The WGTC is open to the participation of all the Latin American and Caribbean countries, as well as their regional integration and cooperation organizations, and to the support that may be provided by other national and international organizations interested in the issues of trade and competition.
- The various legislations and practices of Latin America and the Caribbean reveal remarkable conceptual differences as regards the terminology used, the provisions already developed, the procedural and assessment mechanisms and the work methodologies. This poses a challenge for cooperation, assistance and convergence in the region.
- Each country and each region have their own specific political, economic, social, legal and business features, which are constantly evolving. Nevertheless, there are common elements that can serve to search for institutional efficiency of competition policies and coherence with the rest of the economic and social policies.
- The competition policy should promote an efficient operation of markets for the well-being of consumers, which can create a sound economic environment and have an impact on the effectiveness of the regulations governing the economy and the formulation of sectoral policies.
- Cooperation is a platform for institutional strengthening and modernization, which generates mutual benefits for participating agencies and countries.
- Cooperation through regular contacts and consultations among the agencies creates confidence for deepening and expanding such cooperation.
- In the free trade agreements, the commitments as regards competition can create a complementary agenda, which may encourage a closer alignment and complementarity between trade and competition policies.

And **recommendations** were as follows:

- To adopt the Regulations of the WGTC presented by the Permanent Secretariat, and to designate the high-level trade and competition officials who will form part of the WGTC by no later than mid-August 2011.
- The activities of the WGTC should promote synergies among regional and international agencies and authorities in charge of trade, competition and cooperation.
- As part of the organizational dynamics of the WGTC, a recommendation is made for the Chairmanship and the Secretariat to adopt a roadmap of the activities organized within the framework of specific programmes and projects.
- It was deemed advisable to make an evaluation of differences as regards concepts, terminology, scope and working and assessment methods

among the various national and subregional regulations to promote competition, in order to identify subjects and issues on which discussions would effectively serve for the purposes of harmonization of criteria in the region.

- Participants reiterated the importance of cooperation, particularly for the adoption and development of regulations and institutions on trade and competition, as well as their consistency with development policies in the different countries and integration processes, especially those that have been recently established or are in process of adoption or creation.
- Through the WGTC, the countries of the region will be able to exchange information and experiences, among others, as regards regulations, working methods, institutional capacity building, creation of a culture of competition, and management of transnational anti-competitive practices.
- In this connection, a recommendation was made to create a regional outreach programme to promote the culture of competition, based on successful experiences in the region.
- Based on the studies conducted by the Secretariat of UNCTAD and other sources – particularly by the Member States of the Working Group – the Secretariat will identify and spread information about the experiences gained within the framework of the integration and trade agreements of the countries of the region on cooperation in the area of competition.
- The Latin American and Caribbean countries endorse their active participation in the 11th Session of the Inter-Governmental Group of Experts on Competition Law and Policy of UNCTAD.

I.4. Virtual meetings in preparation for the II Annual Meeting of the WGTC

The WGTC has been holding virtual meetings (via *skype*) to make progress with the tasks of Sub-Groups 2 and 4. These Sub-Groups prepared two questionnaires on *Internal and External Coherence between Trade and Competition Policies*, and on *Trade and Competition Problems as regards the Health Sector in the Member States of SELA*, which were formally distributed to the Member States of SELA through the Permanent Secretariat. During the meeting in Lima, both Sub-Groups will submit reports on the results of the questionnaires.

II. DATE, VENUE AND LANGUAGE OF THE II MEETING OF THE WORKING GROUP ON TRADE AND COMPETITION

The II Annual Meeting of the WGTC will take place at **Hotel Atton**, in **Lima, Peru, on 18 and 19 June 2012**. The working language will be Spanish, with simultaneous English-Spanish interpretation.

III. OBJECTIVES

The objective of the meeting is to continue and reinforce the activities of the Working Group on Trade and Competition, and to plan strategies for future work among all members. The purpose is to deal with issues related to trade and competition of common interest for all Member States, so as to identify regional best practices in both areas and promote their dissemination, get a better understanding and promote synergies among trade and competition policies and institutions in the region.

IV. SESSIONS AND CONTRIBUTIONS OF PARTICIPANTS

In addition, to the opening and closing sessions, there will be other four types of sessions:

- A High-Level Segment, in which ministers and high-level officials from Trade and Competition Authorities will reflect on *how competition clauses of regional trade integration agreements contribute to reinforce the effectiveness of national competition authorities*.
- The sessions that will serve to submit the reports on the work carried out during the period 2011-2012 by Working Sub-Group 2 (*legal instruments related with competition and bilateral, regional and multilateral trade*, under the coordination of Chile) and Sub-Group 4 (*research and sectoral studies*, coordinated by Panama).
- The sessions to deal with major issues:
 - o *Public procurement, competition and trade*
 - o *Cross-border anti-competitive practices: Challenges for emerging and developing economies*
- Finally, one section will focus on the Needs for technical assistance and bilateral, subregional and multilateral cooperation among trade and competition institutions in the region.

Participants are requested to send their **written contributions** on the issues included in the agenda by no later than **1 June 2012**. On the basis of those contributions, some participants will be invited to participate as panelists in the various sessions (two or three panelists per session). This does not preclude the possibility for other participants in the audience to participate. The contributions should be addressed to the UNCTAD Secretariat (Patricia.Cordovilla@unctad.org).

V. PARTICIPANTS

- Two official representatives, one specializing in the area of trade and the other one in the field of competition, from each one of the Member States of SELA.
- Representatives of regional integration groups
- Permanent Secretary and other SELA officials
- General Secretariat (to be confirmed) and officials of the Section of Competition Policies and Consumer Protection of UNCTAD
- High-level officials of the host country

The candidates to participate in this event are selected by UNCTAD and commit themselves to attending all sessions of the meeting.

The list of participants will be handed over at the beginning of the meeting.

ANNUAL CONFERENCE OF THE COMPAL PROGRAMME

Lima, 20 to 22 June 2012

Also in Lima, in the days following the meeting of the WGTD, the COMPAL II Programme will hold its III Annual Conference. COMPAL is a technical assistance programme of UNCTAD, financed by the Swiss government, for reinforcing technical and institutional capacities of the authorities responsible for the areas of competition and consumer protection from the countries of Latin America.

The first phase of the programme (COMPAL I) was developed between 2005 and 2008; the second phase (COMPAL II) is underway since 2009 and will last until 2013. COMPAL started with five countries and at present it has 12 members. The programme's approach was enriched during its second phase as it included, in addition to the national components, a regional component whose objective is to take advantage of possible synergies among activities in different countries, extend the benefits of COMPAL to the whole region, and strengthen coherence among competition, consumer protection and trade policies, as well as regional cooperation among institutions and countries.

At the Annual Conferences, the member countries of COMPAL – particularly their **authorities in charge of competition and consumer protection** – evaluate the activities and projects carried out during the previous period (in this case, from July 2011 to July 2012) and plan new strategies and activities for the next period (2012-2013, which is the last period for COMPAL II), on the basis of the experiences gained with COMPAL I and COMPAL II thus far.

Participants at the GTCC meeting are cordially invited to stay a little longer in Lima in order to attend the III Annual Conference of COMPAL.

VI. ECONOMIC SUPPORT

UNCTAD, with the support of the Ministry of Economy and Competitiveness of Spain and the Government of the Peru, and within the framework of its commitment to facilitate the participation of the directors of the competition authorities in the Annual Conference of COMPAL, will cover expenses for two (2) participants per country, one in charge of the trade area and the other of the competition area, who do not reside in Peru. For further details, please contact UNCTAD Secretariat (Solange.Behoteguy@unctad.org).

In purchasing the air tickets, the most direct route and the most affordable rates will be preferred (No change of route is permitted). Participants receiving funding must send a scanned copy of their passport and fill in the United Nations IMIS form, which will be timely sent to them via e-mail. Per diem (to cover hotel accommodation and meals) will in accordance with UNCTAD rates.

Participants are recommended to check with the Peruvian embassy in their countries if they are required to get a visa to enter the country. In such a case, they are suggested to request the visa as soon as possible.¹ Visa application fees are not covered.

¹ Link to the Ministry of Foreign Affairs of Peru:
<http://www.rree.gob.pe/portal/mre.nsf/Interior?OpenAgent&6CC6E835AECBFE8105256BAB0078828811>

VII. HOTEL ACOMMODATION

Participants are strongly recommended to stay at Hotel Atton, which is the venue of the meeting and offers a special rate.

Single room: US\$ 125 (including breakfast and Internet connection)

Address: Av. Jorge Basadre 595, San Isidro

Reservations: Reservas-lima@atton.pe, Telephone: +51 (1) 208 1221

<http://www.atton.com/hotel-0-m-3-89/atton-san-isidro>

IX. ORGANIZATION AND CONTACTS

For further questions as regards the organization of the meeting, please contact:

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X. AGENDA BY 16 MAY 2012

18 June 2012

9:00-10:30	<p style="text-align: center;">Opening ceremony</p> <p>In charge of personalities from: (to be confirmed)</p> <ul style="list-style-type: none">- Peru (President of the Republic, Indecopi, Ministry of Trade and Tourism)- Spain (Embassy and CNC)- SELA (Permanent Secretary)- UNCTAD (Secretary-General)- Chair of the WGTC, BRAZIL
10:30-11:15	Coffee break-Networking
11:15-13:00	<p>HIGH-LEVEL SEGMENT</p> <p><i>How do competition clauses of regional trade integration agreements contribute to reinforce the effectiveness of national competition authorities?</i></p> <p>Moderator: Peru</p> <ul style="list-style-type: none">• Presentations by ministers and high-level officials from the Authorities of Foreign Trade and Competition of the Member States of SELA• Debate
13:00-14:30	Free time for lunch
14:30-16:00	<p>Report by the Working Sub-Group 2 on <i>legal instruments related with competition and bilateral, regional and multilateral trade</i></p> <p>Moderator: Dominican Republic (Vice-Chair of the WGTC)</p> <ul style="list-style-type: none">• Introduction. UNCTAD and SELA• Panelist: Chile (leader of the Sub-Group), which will submit a report on the results of the Questionnaire sent to the Member States of SELA on <i>Internal and External Coherence between Trade and Competition Policies</i>• Debate
16:00-16:30	Coffee break-Networking
16:30-18:00	<p>Report by the Working Sub-Group 4 on <i>Research and Sectoral Studies</i></p> <p>Moderator: Costa Rica (Vice-Chair of the WGTC)</p> <ul style="list-style-type: none">• Introduction. UNCTAD and SELA• Panelist: Panama (leader of the Sub-Group), which will submit a report on the results of the Questionnaire sent to the Member States of SELA on Trade and Competition Problems as regards the Health Sector in the Member States of SELA, as well as a proposal on the terms of reference to conduct a sectoral study on a regional scale• Debate

19 June 2012

9:00-9:30	Coffee break-Networking
9:30-11:00	<p>Public Procurement, Competition and Trade</p> <p>Moderator: (to be determined)</p> <ul style="list-style-type: none"> • Introduction: UNCTAD and SELA • Panelists: (to be confirmed) • Debate
11:00-12:30	<p>Cross-border anti-competitive practices: Challenges for emerging and developing economies</p> <p>Moderator: Brazil (Chair of the WGTC)</p> <ul style="list-style-type: none"> • Introduction: UNCTAD and SELA • Panelists: (to be confirmed) • Debate
12:30-14:00	Free time for lunch
14:00-15:30	<p>Needs for technical assistance and bilateral, subregional and multilateral cooperation</p> <p>Moderator: (to be determined)</p> <ul style="list-style-type: none"> • Introduction: UNCTAD and SELA • Panelists: (to be confirmed) • Debate
15:30-16:30	<p>Discussion on the Conclusions and Recommendations of the Meeting and the future work of the WGTC</p> <p>Moderator: UNCTAD</p> <ul style="list-style-type: none"> • Presentations: Chair and Vice-Chairs of the WGTC • Debate
16:30-17:00	Coffee break-Networking
17:00-18:00	<p>Closing Session</p> <p>In charge of personalities from Peru, Spain, SELA and UNCTAD</p>