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**NACIONAL DE  
LA COMPETENCIA**



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# **IX Annual Meeting of the Working Group on Trade and Competition of Latin America and the Caribbean**

## **Final Report**

**Economic and Technical Cooperation**

*Asunción, Paraguay  
03 and 04 October 2019  
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**C O N T E N T S**

<b>I.</b>	<b>RAPPORTEUR'S REPORT</b>	<b>3</b>
<b>II.</b>	<b>CONCLUSIONS AND RECOMMENDATIONS</b>	<b>9</b>



## I. RAPPORTEUR'S REPORT

1. The IX Annual Meeting of the Working Group on Trade and Competition of Latin America and the Caribbean, which was organized by the Permanent Secretariat of the Latin American and Caribbean Economic System (SELA), the United Nations Conference on Trade and Development (UNCTAD) and the National Competition Commission (CONACOM), with the support of the Ministry of Industry and Trade of Paraguay, took place in Asunción, Paraguay, on 03 and 04 October 2019.
2. The objective of this regional meeting was to analyse the interaction between trade and competition policies in driving technological innovation and productive transformation in Latin America and the Caribbean.
3. Participants included representatives from the following Member States of SELA: Argentina, Bolivia, Brazil, Colombia, Chile, Ecuador, El Salvador, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru and Uruguay. Officials from Spain and Switzerland also participated. In addition, attendees included representatives from the following organisations and regional institutions: Free Competition Programme of the Pontifical Catholic University of Chile, the Secretariat of Central American Economic Integration (SIECA), and the National University of La Plata.
4. Speakers at the opening session included: Pedro Mancuello, Vice Minister of Trade, Ministry of Industry and Commerce of Paraguay; Fabrizio Castiglioni, Chairman of the National Competition Commission (CONACOM) of Paraguay; Juan Luis Crucelegui, Head of Capacity Building and Advisory Services of the Department of Competition and Consumer Policy, UNCTAD; and Silvia Hernández, Analyst of Relations, Direction of Relations for Integration and Cooperation of SELA.
5. Two base documents were submitted at this meeting. The United Nations Conference on Trade and Development (UNCTAD) presented the study: *The Interaction of Competition Policy with Innovation*. The Permanent Secretariat of SELA also submitted the study entitled: *Trade and Competition Policies to promote Innovation and Productive Transformation in Latin America*.
6. The presentations delivered by the panellists, photographs, the list of participants, as well as the base studies prepared by SELA and UNCTAD, can be found at the following link: <http://www.sela.org/es/eventos/e/42269/gtcc>.
7. Session I focused on the presentation of the SELA study, entitled "*Trade and Competition Policies to promote Innovation and Productive Transformation: Opportunities and Challenges for Latin America and the Caribbean*". In this regard, Professor Valentina Delich, as SELA's consultant, presented this study, which contains an overview of the progress made in productive transformation and innovation in Latin America and the Caribbean. The document presents a balance on existing trade and competition policies in the region, which promote innovation and productive transformation in the respective national areas. It also analyses the importance of linking trade and competition agencies in order to seek improvements in their insertion into national and regional production chains, and explores the challenges and opportunities they would have to adapt or incorporate into production processes. In addition, the document reports on the treatment of major regional trade

**4**

agreements with respect to the inclusion of trade and competition policies, e-commerce, intellectual property and public procurement.

8. Session II was aimed at pondering the *challenges and opportunities for cooperation. The role of integration projects in Latin America and the Caribbean*. In this connection:
9. The representative of the Secretariat for Central American Economic Integration (SIECA) focused his presentation on *Cooperation in the area of Competition in the Economic Subsystem*. He stressed that the Central American competition regulation was being developed, through which Central America would adopt common provisions to favour free trade in the region. For the implementation of this instrument, harmonization of legislation at national levels is crucial, thereby promoting the convergence of economic integration policies in the region.
10. The representative of the Under-Secretariat for Foreign Affairs of Chile based her presentation on the *Global Value Chains, Trade Integration and Productive Chains*. After explaining some key concepts and describing the Latin American landscape characterized by the predominant regional export chain of raw materials, she referred to Chile's initiative, through the trade agreements it has signed, to serve as a starting platform for Global Value Chains (GVCs) by interlacing or serving as a bridge with the rest of the world through a process that begins with the study of potential raw materials to become a commercial product for the Chilean industry, going through the negotiation of a business plan for the product and concluding with a tariff favouring the target country of the final product.
11. The representative of the Mexican Secretariat of Economy dealt with the *Challenges and Opportunities for Cooperation. The role of integration projects in LAC*. In this regard, he began by emphasizing the importance of a regulatory framework for the effective exercise of competition for Mexico, he described the country's institutional structure in trade and competition, as well as the network of international treaties it has signed, which interrelate it with at least fifty different countries. Based on Mexico's experience, he underscored that the interrelationship between trade and competition favours economic growth.
12. The representative of the Ministry of Industry and Trade of Paraguay focused her presentation on the *MERCOSUR Agreement with the European Union*, highlighting the macroeconomic benefits of facilitating the investment and including MERCOSUR countries in global value chains, as well as the process to reduce tariffs in sectors that are highly important to the bloc's regional economy, and the strong role played by Chapter 10 of the agreement, which specifies the protection and promotion of competition, which ensures its normative nature and compliance by countries that ratified the treaty.
13. Session III centred on *Productive Transformation, Trade Policy and Competition, as far as sectoral experiences are concerned*. On this subject:
14. The representative of the Free Competition Programme of the Pontifical Catholic University of Chile focused his presentation on the *Importance of competition policy in productive transformation*. In this regard, he noted that such regulatory instruments are highly significant in that they are directly related to a country's high economic performance. He made special emphasis on the fact that the professionalization of competition officials has a direct impact on productivity and improvement, basic elements that ensure its effectiveness. He concluded by stressing that, in terms of competition policies, Latin America has new legislation compared to more specialized environments such as the United States, which

therefore suggests the creation and implementation of practical competition policies for each environment where they are developed, opening up markets to contribute to productivity.

15. The representative of *Colombia Productiva* spoke on the *Sectoral strategy and experience of the Colombia Productiva Programme*, focusing his presentation on the productive development policy (PDP) that is carried out in Colombia, which aims to develop the Colombian production apparatus through lines of action based on the diversification and sophistication of the market and its methods. He said that these plans have been developed sectorally in line with the country's economy and their exponential growth due to productive development policy. He concluded by explaining how the government, along with specialized organizations, offers plans and benefits to enterprises for developing partnerships that promote the country's productivity and its perception in regional and global markets.
16. Session IV focused on the *Institutional Practices and Forms of Trade and Competition Agencies in the Promotion and Achievement of Productive Transformation*, as follows:
17. The representative of the National Direction of the Investment and Export Network (REDIEX) talked about this Network currently being implemented in Paraguay, describing its objectives and pointing out that it is based on enhancing the export effort of national enterprises and generate increased diversification of exportable supply. She explained the method of categorizing companies to make loans and provide them with viable development opportunities. In addition, she emphasized the State's support to border exporting and co-financing companies that provide market research, advocacy and training, and include a component for women's insertion.
18. The representative of Ecuador's Superintendency of Market Power Control (SCPM) outlined the *Actions implemented by the Superintendency for the Promotion and Achievement of Productive Transformation* through a case study assisted by the SCPM, referred to the inclusion of MSMEs in supermarket chains based on a regulatory framework that recognizes them as operating enterprises, and creates a regulation for the business relationship between these companies and market wholesalers, with the State acting as mediator. This has resulted in a greater breadth in the diversification of the food market. He concluded by emphasizing that the objectives of the standard had been met but that challenges remain, such as the removal of barriers and the consideration of new efforts.
19. The representative of the Superintendency of Competition of El Salvador made a dissertation on *Competition in Financial Services to Micro and Small Enterprises (MSEs) in El Salvador*, based on a study developed by the Superintendency, which presents an analysis of the characteristics of demand and financing supply to MSEs, and describes the shaping and characteristics of the supply and demand of financial services in this segment, the rules that affect access to credit for SMEs, a competitive analysis in relevant markets, restrictions on competition and other barriers to financing to SMEs, as well as a series of public policy recommendations that will proactively facilitate access to financing for SMEs.
20. The representative of the Agency for Attracting Investments and Promote Exports (PROPANAMÁ) of Panama described the purpose of the recently created Agency, by explaining that it seeks to encourage exports and boost investments in the country. It is based, she said, on a political strategy that does not interfere with the development factors of the exportable supply, but on its promotion, through a platform that directly involves the work of diplomatic representations for attracting investments.

**6**

21. The representative of the National Commission on Markets and Competition (CNMC) of Spain based its presentation on *public procurement*, focusing on Spain's experience. In her speech, she described how the legal system has been developed in the area of the safeguarding of innovation, which the CNMC has, and some specific experiences where it was put into practice.
22. Session V was devoted to the presentation of the UNCTAD study entitled "*The Interaction of Competition Policy with Innovation Policies*", which was presented by the representative of UNCTAD. He focused his presentation on explaining that innovation is a component for economic development that is directly related to productivity and competitiveness. He analysed the role of competition agencies as a driver of innovation that guarantees the competitiveness of economies by adopting new solutions and products. In this regard, he stated that competition law should take into account the effects of innovation on development in its regulatory framework.
23. Session VI addressed the topic on *Innovation, an activity necessary for the development, productivity improvement and competitiveness of economies: Problems for their implementation and public policies for their promotion*.
24. In this connection, the representatives of the Management Unit of the Presidency of the Republic of Paraguay and the team driving the National Innovation Plan focused their presentation on explaining the project *Programando juntos el Paraguay que nos merecemos* (Programming together the Paraguay we deserve), which is a private sector-led initiative, involving an alliance that reaches the public sector and civil society. Its purpose is to find a way to accelerate economic growth based on human capital, the development of innovation implemented in the productive sector and the creation of new enterprises. Its main purpose is to cover Paraguay's fundamental economic axes and enhance them to accelerate them and make them more efficient in order to minimize their growth time.

25. Session VII dealt with the topic *Competition policy: Vector for Innovation Momentum*. To that end:
26. The representative of the National Competition Defence Commission (CNDC) of Argentina explained that competition should study the areas in which innovation is expected. One of its functions is to generate incentives to it to make it profitable and not cause damage during the competitive process. Based on this, he presented the conduction of a dynamic analysis that focuses on the current movement and how the competition market and its fluctuation and impact on economic efficiency could be in the future, according to the application of competition rules.
27. The representative of the Tribunal for Defence of Free Competition (TDLC) of Chile stated that competition should reach innovation naturally and, in that regard, the authorities should collaborate in the competitive and innovation process, but stressed that competition policies focus on prices rather than the innovation factor, so at their discretion they should rethink and base their efforts on encouraging innovation and monitoring its efficiency. He concluded his speech by disseminating a more detailed list of ideas to consider for the competition authorities present at the meeting. He continued to expound on relevant cases in Chilean competition and concentration legislation, in which the TDLC was involved.
28. The representative of Mexico's Federal Commission on Economic Competition (COFECE) spoke on the *Competition policy in Mexico: Vector for the momentum of innovation*. She pointed out that the main role of competition authorities is to protect competition dynamics in the market, without interfering with innovation processes. She made special emphasis on the promotion and implementation of digital tools in the competition market and stated that it should particularly protect consumers and ensure that it is possible for entrepreneurs to enter the market. She added some considerations regarding future legislation relating to the process of digitizing financial institutions.
29. The representative of the National Institute for the Defence of Competition and the Protection of Intellectual Property (INDECOPI) of Peru focused its presentation on the *Digital Competitiveness in Peru*. He stated that INDECOPI was currently working on the development of legislation governing competition without limiting it, and on drafting a digital agenda to enhance innovation.
30. The representative of the Superintendency of Industry and Commerce (SIC) of Colombia made a presentation on *Competition policy: Vector for the promotion of innovation in Colombia*. She explained that the SIC was developing a study on the relationship between innovation and competition, taking into account the premise that, the greater competition there is, the greater innovation as well. She cited by way of example, a real practical case, the interest of three Colombian banks in creating a company that develops innovation in paperwork technologies and digital common identifiers. The launch of this company will represent a step forward in the management of data as assets but being the first one to recognise and enter this market could lead to a possible abuse of its dominant position, which is why the competition authority suggested that this entity should be independent from its creating organizations, that data migration should not occur automatically and that it should have an open logarithm for the inclusion of new competitors. In this regard, the CIS aims at setting a precedence of cases in which competition agencies gain importance in promoting innovation.

**8**

31. The representative of Brazil's Administrative Council for Economic Defence (CADE) focused on the *Challenges of Competition in Brazil*, especially how economic concentrations can affect innovation. He began by referring to the multiplicity of markets and the dynamics of innovation within the context of economic concentrations. On this basis, it stated that there was no single answer to the question as to how economic concentration affects the incentives for innovation in the market. He noted that concentration could generate a competitor with more capacity, as well as a less intense competition, which could reduce the pressure to innovate. In this regard, it is not possible to establish general assumptions linking the levels of innovation and concentration resulting from a function.
32. Finally, the WGTC worked on a practical case associated with the application of competition law, by considering a hypothetical case study and taking into account the possible impact on the innovation market due to the risks of exclusion and dominant power market, following the development of a technological platform for the land transport market.
33. The session was structured into three working groups that addressed the problems of competition from different perspectives.
34. Group 1 took the position of denouncers, companies in the sector seeking a review of the use and broad spectrum of implementation, whose possession by a sole influential consortium affects the healthy competition of means of payment, subject to an impact on the rest of the transport operators.
35. Group 2 played the complained party, representing a consortium of transport companies in the taxi industry which use a technological application to locate and book transportation, with a variety of payment options for the taxi service. The group was in charge of drafting arguments in defence to the accusations against it.
36. Group 3, representing the competition authority, expressed its views on the practices denounced, arbitrating between the parties, and delivered the allegations and evidences. The group ruled in favour of the complaining party, in the sense that it restricted the use of the application of conditions that tended to favour the industry and other similar technological platforms in use.
37. Finally, the Working Group on Trade and Competition in Latin America and the Caribbean determined that the topic to be considered during the 2020 GTCC Annual Meeting will be "The implications of the digital economy and e-commerce on trade and Latin American and Caribbean competition".

### III. CONCLUSIONS AND RECOMMENDATIONS

#### Conclusions:

- The region is poorly integrated or integrated into segments with little added value. Strengthening the opportunity to scale up within value chains is increasingly dependent on innovation and intangibles. In this context, trade and competition policies for productive transformation are pivotal in promoting the region's insertion into productive transformation.
- In this connection, the work agenda permeates all those national programs aimed to attract investment, diversify the export basket, speed up logistics and make them cheaper, innovate and improve the quality standards of our products, strengthen MSMEs, create conditions to increase e-commerce and regulate intellectual property rights. And it is internationally evidenced in the inclusion of these same issues in the negotiations at the bilateral, regional and multilateral levels.
- In the local agenda, the stumbling blocks to be overcome across all sectors is the complexity of managing the productive transformation agenda in coordination. For many years, the local agenda has faced the challenges of improving technical and strategic capacities as a result of the regulation of external business activities through improved ministries and disciplines.
- In this regard, although the institutional management of trade policy is undoubtedly local, the need to generate the same coordination in an interinstitutional and interdisciplinary manner is also imposed in regional and subregional spaces.
- As far as innovation is concerned, an essential activity to promote the growth of economies is to promote the improvement of productivity and competitiveness, both in developed and developing countries.
- Promoting an environment that helps develop innovative activities contributes to generating competitive enterprises in various sectors of the economy. Governments have a huge responsibility in fostering innovation through the development of appropriate public policies that encourage, facilitate and protect innovative enterprises.
- Innovation must be valued in a positive way in all its aspects, since in addition to providing improvements in the productivity of enterprises, it has an impact on the competitiveness of economies through the adoption of new solutions and the creation of new and better products and services for consumers.
- The balance between competition and intellectual property protection is crucial for innovative companies to continue to innovate and consumers to benefit from their results on reasonable terms.
- Competition acts positively in the development of innovative activities as it creates market pressure and encourages enterprises to make efforts to create new products or improve existing products.

**10**

- Competition authorities play a very important role in the field of innovation. Through the application of the law to the conduct of enterprises and concentrations, they generate doctrine and jurisprudence likely to increase competition and promote innovation. Today, however, the so-called disruptive innovation is a challenge for the authorities not so much because of its innovative nature but because of the uncertainty it creates in assessing its potential effects on markets.
- Competition authorities can also encourage innovation through their actions in the field of competition law, making recommendations to public authorities in order to improve existing regulations and to encourage business creation based on the use of new technologies.
- Competition law must constantly prevail and adapt itself so as to facilitate the contributions of new technologies and the entry of new products and services into the markets, thus fostering innovation.

**Recommendations:**

- Trade and competition policy must work for greater market access (and formalize it in agreements), diversifying destinations and products from our export baskets.
- Countries in Latin America and the Caribbean must participate in the process to reconfigure rules and multilateral trade institutions by also generating their own proposals, as some of the countries in the region have done on trade electronics, but together, in order to generate greater regional weight.
- Trade policy management should synchronize, coordinate and make converge the agendas of regional agreements in order to turn Latin America and the Caribbean into a regional platform for innovation: To focus on how we produce, share and leverage knowledge.
- Trade and competition policies should be managed on the basis of a strong coordination, not only inter-agency but interdisciplinary, because the regulations required are of varying nature.
- It is necessary to develop a competition policy in line with globalization needs, in which the anti-competitive practices of enterprises acquire an increasingly international scope.
- At the regional level, it is necessary to strengthen cooperation (stable mechanisms for exchanging information and possibly peer review of competition cases), among others.