

PREPARATIONS FOR THE 1999 MINISTERIAL CONFERENCE

The Interaction Between Trade and Competition Policy

Communication from Kenya on behalf of the African Group

The following communication, dated 29 July 1999, has been received from the Permanent Mission of Kenya.

Background

1. The Working Group on the Interaction between Trade and Competition Policy (WGTCPP) was established at the first WTO Ministerial Conference, in 1996, in Singapore. The mandate of the Group was educative, exploratory and analytical. The WTO African Group has maintained active participation in the work of the WGTCPP with papers being presented by individual African countries, including a joint communication by the Group to the Intersessional Process of the General Council.

2. The African Group believes that competitive markets are vital aspects of the complex process of development. Competition law and policy are essential aspects of the development dimension to trade policy. The positive relationship between competition policy, efficiency, consumer welfare and economic development is now generally recognized. The exchange of views in the WGTCPP and the various presentations of national experiences have demonstrated that competition law and policy are important and necessary in reinforcing the objectives of trade liberalization. Collusive arrangements and exclusionary practices can significantly diminish the gains of trade.

3. The African Group has long recognized the significant potential development dividends that could accrue from the reform process underway in African countries, including in trade policy, with the application, *inter alia* of competition policy. This was why it gave its support to the December 1998 Decision by the General Council for the continuation of the work of the WGTCPP, including focussed discussion on:

- the relevance of fundamental WTO principles of national treatment, transparency, and most-favoured-nation treatment to competition policy and vice versa;
- approaches to promoting cooperation and communication among Members, including in the field of technical cooperation;
- the contribution of competition policy to achieving the objectives of the WTO, including the promotion of international trade; and

- issues raised by Members relating to the interaction between trade and competition policy, including anti-competitive practices.

4. Nonetheless, work underway in the WGTCP shows that only a limited number of African countries have domestic legislation on competition law and policy or effective enforcement agencies. Furthermore, capacity in this area is minimal for various reasons, including, but not limited to resource constraints.

Proposal

5. Having regard to the foregoing, Ministers should mandate the:

- (a) continuation of the educative, exploratory and analytical work of the WGTCP;
 - (b) assistance to developing countries, in particular African countries, to participate more effectively in the work of the WGTCP;
 - (c) establishment of a special competition technical assistance programme in collaboration with UNCTAD, adequately and sufficiently funded, and especially designed to meet the individual needs of developing countries, in particular African countries, in the area of work related to competition policy;
 - (d) strengthening and assisting those with existing legislation and agencies who request such assistance;
 - (e) elaboration of practical approaches to institution and capacity-building that will economise on costs; and
 - (f) promotion of coherence between competition policy and related laws/policies and WTO disciplines in the context of international coherence initiatives.
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