



Final Report

Economic and Technical Cooperation

*V Annual Meeting of the Working Group on Trade and Competition of Latin America and the Caribbean (WGTC)
Manta, Ecuador
2 and 3 December 2015
SP/V-RAGTCC/IF-15*

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RAPPORTEUR'S REPORT

1. According to the provisions of the Work Programme of the Permanent Secretariat of SELA for the year 2015, Activity II.1.3: "Cooperation between Latin America and the Caribbean on Trade and Competition. Joint Project UNCTAD-SELA. Working Group on Trade and Competition (WGTC)", the V Annual Meeting of the Working Group on Trade and Competition in Latin America and the Caribbean (WGTC) was held in Manta, Ecuador, on 2 and 3 December 2015.

2. Participants included representatives from the following Member States: Belize, Bolivia, Brazil, Colombia, Chile, Costa Rica, Cuba, Ecuador, Guatemala, Honduras, Jamaica, Nicaragua, Panama, Paraguay, Peru and the Dominican Republic; and representatives of the following international organizations: Inter-American Development Bank (IDB), Competition Commission of the Caribbean Community (CARICOM), Andean Community, Secretariat for Central American Economic Integration (SIECA), World Trade Organization (OMC), United Nations Conference on Trade and Development (UNCTAD), and the Latin American and Caribbean Economic System (SELA). The list of participants is shown in Annex VII.

3. The objective of the meeting was to analyse matters of regional interest related to trade and competition. In this occasion, for the first time in the WGTC, one of the main subjects of deliberation and debate was the interaction between trade and competition and, particularly, the regulation of the competition in the framework of the integration agreements between Latin America and the Caribbean (LAC), both in the regional and the subregional level. Both the text of the program and the documents and presentations can be accessed at SELA's Web site (www.sela.org).

4. The following representatives had the floor during the opening session: Xavier Lasso, Deputy Foreign Minister of Ecuador; Pedro Páez Pérez, Superintendent for Control of Market Power of Ecuador; Telasco Pulgar, Director (a.i.) of Relations for Integration and Cooperation of SELA; Juan Luis Crucelegui, Head of Competition Policies and Consumer Protection of UNCTAD; and Pascal Décosterd, Ambassador of the Swiss Confederation in Ecuador. The texts of the speeches are included in Annexes II, III, IV, V and VI, respectively.

I. DEVELOPMENT OF WORKS

Session I. Regulation of competition within the framework of regional and subregional integration agreements in Latin America and the Caribbean

Moderator: Telasco Pulgar, Director (a.i.) of Relations for Integration and Cooperation of the Permanent Secretariat of SELA.

Speakers:

5. Eduardo Piña, Analyst of the Direction of Studies and Proposals of the Permanent Secretariat of SELA, made a presentation entitled "[Regulation of competition in the framework of Latin America and the Caribbean integration agreements](#)", in which he highlighted the following aspects: i) importance of the promotion of competition to promote intra and extra regional trade, as well as the integration process; ii) characterization of the regulatory framework on trade and competition of the main integration mechanisms; iii) elimination of technical barriers to trade; and iv) differences in the technical standards and the regulatory requirements between the countries based on harmonization and convergence.

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He explained that, in terms of the effect the regulations have on the development of trade and the possible implications for promoting competition, it was necessary to: i) avoid anti-competitive behaviours by the private sector that could go against the progress made with the agreements; ii) create a more transparent and predictable climate for competition policy in order to foster trade and investment; and iii) incorporate cooperation commitments that would allow to pursue and effectively sanction anti-competition practices that take place inside the constituted Free Trade Areas.

Finally, he concluded that: i) progress has been made in the matter of regulations, in terms of trade and competition in the different subregional integration mechanisms analysed; ii) however, there is still a negative gap between the need for coordination and the progress made in the legal structure of the countries; iii) many times the presence of national preferences and the obligations member countries of some integration mechanism keep with non-member countries inside open integration schemes prevail; and iv) the harmonization of the legal base has to be continued, since the major differences between the regulatory frameworks represent a strong barrier for trade and a delay in the sub-regional integration process.

6. Mauricio Ruano, Advisor on Competitiveness of the Secretariat for Central America Economic Integration (SIECA), talked about "[Trade and competition](#)", and stated that free trade offers consumers the most options and best opportunities to improve their standard of living; promotes competition by encouraging companies towards innovation and the development of better quality products; promotes the introduction into the market of a larger number of goods and services; and allows to keep low prices and high quality for the benefit of the consumers.

Then, he explained SIECA's strategic areas and the commercial link of Central America, the objectives of the Central American Strategy for Trade Aid, and the legal instruments of Central American integration. Finally, he stated SIECA's challenges: to make use of the national experiences with a trajectory of over eight years to formulate a set of regional competition regulations, accompany the regional productive sector to strengthen its capabilities and competences, innovation, quality and others; improve the indicators of competitiveness and business climate, strengthen institutionality, capitalize on the opportunities associated to trade agreements; and promote competition and prosperity in the region through national and regional policies of competition, among others.

7. Juan Carlos Roa, of the Andean Community (CAN), spoke about the "[Evolution and Perspectives of Andean Competition Law](#)," referring to anti-competition practices and mergers and acquisitions with effects on several countries and areas, such as the negotiation that was carried out to keep Bolivian sugar from entering Colombia, and the Pfizer-Nestlé integration, which, as he explained, affected several markets. He pointed out that the coordination between the Authority of Mexico and the authorities of Chile and Colombia allowed for the making of decisions linked to disinvestment of brands and the selling of assets to the benefit of some countries, which could affect competition in others.

8. Kusha Haraksingh, Chairman of the Competition Commission of the Caribbean Community (CARICOM), talked about the "[Regulation of competition within the framework of regional and sub-regional integration agreements. Mechanisms for Competition Enhancement in CARICOM](#)," starting with four key questions: i) Which is the best way to ensure the benefits of competition in regional trade agreements? ii) How has competition helped integration? iii) What experiences have been the most successful ones? and iv) Which areas require attention? He then highlighted the possible actions that could lead to achieving sustainable benefits in regional competition

agreements, and the positive impacts competition could have on regional integration, underlining, among others, the following: i) Construction of a culture of competition; ii) Development of proper frameworks to promote both national and community competition laws; and iii) Proactive establishment, by the Competition Authorities, of areas of interest that could be strengthened after the amendment of existing laws, or through the creation of new ones.

Then, the Moderator congratulated the speakers on their presentations, made a brief summary of each of them, and invited the audience to express their impressions and concerns about the proposals presented by the speakers.

9. Then there was a debate on the following subjects, among others:
 - a) Relevance of a regional standard in the matter of competition. In opposition to the possibility of developing a regulation with such scope, it was argued that it would not be feasible since, precisely, the success of the integration agreements is based on the respect for the individual views of the member countries.
 - b) The confrontation with regional and national cartels that is taking place within the framework of the promotion of competition, of which it was also said that besides setting demands for the countries, in terms of sufficient budgets and proper technical rules, also demands a full understanding of the phenomenon, with special reference to the necessary acknowledgment of the economic power that defines them and which, also, gives them the capability to influence governments, mass media and protection norms.
 - c) The possibility and the elements to be considered by a possible regional coordination of the actions required to face the monopoly activities, and consider the cases of foreign companies that could be affecting free trade in the region. Also, it was mentioned that this matter could be subject to studies by UNCTAD and SELA.
 - d) UNCTAD action based on the strengthening of competition policies to accelerate the integration processes.

Session II. New paradigms in the regulation of competition within the framework of the regional and subregional integration agreements in Latin America and the Caribbean

Moderator: Telasco Pulgar, Director (a.i.) of Relations for Integration and Cooperation of the Permanent Secretariat of SELA.

Speakers:

10. Daniel Cedeño, of the Superintendency for Control of Market Power of Ecuador (SCPM), developed the subject "[Transnationals, Regional Integration and Competition](#)." He summarized his background and highlighted the fundamental traits that characterize it today: globalization translates into more trade, more foreign investment, search for more efficient markets and technological advances and operation: location around the globe and investment flows, as well as strengthening of corporate bonds. He indicated that, nowadays, its income is compared to those of the biggest countries in the world. Next, he referred to regional integration and free competition, indicating that the latter leads to the optimization in the use of resources and that, knowing of the world presence of transnational companies, it is vital to share information between competition agencies.

He said that the competition policy shall be a key instrument to secure economic integration, as well as to protect consumers and SMEs against behaviours contrary to competition. He pointed out the conditions required for the benefits of competition to reach the general population: better

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prices, more competition and better quality. In order to offer better products at better prices, economic operators invest to be more efficient. Investment generates more and better employment, and more economic growth and well-being for Ecuadorians.

11. Luis Espinosa, Chief Negotiator of the United Nations Working Group for the Treaty on Transnational Corporations and Human Rights, delivered the presentation "[Human rights and companies: Resolution A/HRC/RES/26/9 the Human Rights Council and inter-governmental working group of open composition on translational companies and other business companies with respect to human rights.](#)" Based on the question why is a binding instrument on human rights and transnational companies (TNC) necessary? the speaker explained that the multilateral debate on the international regulation of TNCs has been going on for over 40 years; that there is a vacuum of international mandatory regulations on the matter of human rights and TNCs, especially to have justice in cases of human rights violations and that the non-binding rules have proven their little or no effectivity to control the abuses of such companies. Then, he made a recap of all the best-known episodes of the actions of TNCs in LAC since late 19th century. He explained the contents and procedures of resolution A/HRC/RES/26/9, and outlined the pending challenges and the actions contemplated in the short term.

12. Evelyn Olmedo, from the Superintendency for Competition of El Salvador, talked about the path travelled "[Towards a Regulation and Regional Authority on Competition for Central America,](#)" specifying the commitments contained in the Guatemala Protocol aimed at adopting common provisions in order to promote free competition in Central American countries, as well as the commitments contained in the Framework Agreement for the Establishment of the Customs Union to develop a sub-regional regulation in the matter of competition, which, she pointed out, are previous to the culmination of the negotiations and signing of the only Agreement in which Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama have committed themselves to act jointly in the establishment of a Central American Regulations for Competition, and the corresponding body in charge of enforcing it.

She indicated that the establishment of Central American Regulations for Competition and of a Central American Body for Competition would represent the compliance with the commitments entered into in virtue of the Association Agreement between Central American and the European Union, and also of the aspirations contained in the provisions of the legal texts of the economic sub-system.

She underlined the considerable progress of the Regional Regulation and Institutionality for Competition and to the Regional Rule (NRC), which is being worked on in the framework of the Central American Network of National Authorities in Charge of the Matter of Competition (RECAC), which goal, she said, is the protection and promotion of free competition in the sub-region, in order to ensure the efficient operation of the market and the wellbeing of consumers. Likewise, she referred to the creation of the Central American Authority on Competition, independent, properly equipped, and with its headquarters in a country of the region.

13. Then there was a debate on:

- a) New trends in the matter of competition, making special reference to the Trans Pacific Partnership (TPP), which was defined as an agreement with many benefits in matters of competition policies and consumer protection, among which the possibility that the countries adopt laws against fraudulent activities and anti-competition behaviours was highlighted, as well as the inclusion of basic procedural fairness laws that would prevent discrimination among national and foreign companies.

- b) The proposal of Ecuador to create a working group at the CELAC in the matter of Competition. To that end the drafting of a document was proposed.
- c) The need to follow up on the UNCTAD meeting, held in 2013, on reserved subjects (competition) of special interest for the region.

Session III. Competition and intellectual property in the area of medicines

Moderator: Arnau Izaguirre, Official of the General Secretariat of UNCTAD.

Speakers:

14. Eduardo Esparza, of the Superintendency for Control of Market Power of Ecuador, talked about the [“Instruments for the promotion of competition in the area of medicines,”](#) which, he explained, are aimed at reducing possible anti-competition behaviour, such as unauthorized concentration operations, abuse of market power and restrictive practices and agreements, and as a consequence the “Manual for good business practices for pharmaceutical establishments” was issued.

He talked about some of the anti-competition behaviours, highlighting those of the economic operators that are integrated both vertically and horizontally. Vertically, he explained, companies encompass a whole chain of distribution for medicines; in other words, they are manufacturers, distributors and they also own pharmacies to sell medicines. Likewise, horizontally they compete with their own brands. They have brands X and Y for different strata of society and compete with each other, even though they are part of the same company.

He added that restrictive agreements and practices have also been detected that affect especially small pharmacies and that lead to a relationship of economic dependence, which, generally, he explained, happens with distributing companies that only sell medicines to their own pharmacies and not to their competitors.

He referred to the [“Code of Ethics for vertically integrated pharmaceutical establishments,”](#) which objective, he expressed, is to commit the operators to fair and transparent trade, and to discourage behaviors that violate the law. Likewise, he talked about the process of socialization or spreading of the instruments, which, he explained, is achieved through national and international workshops and seminars, with the participation of the main State bodies related to the sector, as well as the interested economic operators. Finally, he recommended the creation of Observatories and Users Committees at a national level.

15. Matías Edwards Zamora, from the National Economic Prosecutor’s Office (FNE) of Chile, talked about [“Free competition and intellectual property in the pharmaceutical sector: modelling mechanisms to guarantee effective access to medicines.”](#) In his presentation, the speaker talked about the relationship between Intellectual Property and Competition, making special reference to the pharmaceutical sector. He underlined the prevailing role policies of competition play in the unconditional enforcement of the rules that govern intellectual property, especially, he said, because most of them come from industrialized countries, and are not always adapted to the level of development of all the nations of the region.

He identified two main areas which balance has to be safeguarded from possible risky actions: i) Competition and Patents, through the creation of patenting strategies based on speculation, which objective is the generation of industrial privileges for poor quality products of questionable validity; and ii) Competition and Licensing of Intellectual Property, with the possible presence of

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contractual clauses in instruments that affect intellectual property rights, and that could imply the imposing of vertical or horizontal restrictions on competition.

Finally, he referred to the mechanisms which, in the opinion of the FNE, need to be defined to generate a competition policy that is coherent with the intellectual property rights in the pharmaceutical sector, since, besides guaranteeing an effective safeguarding of such prerogatives, also allows for efficient and effective access to better quality medicines at fair prices, product of the subsequent and timely revelation of the inventions underlying the elaboration of these products. Among these mechanisms, he underlined the following: observation of foreign mechanisms, attention to the regulatory aspect of the medicine, generation of advocacy instruments, strengthening of the joint work with sectoral authorities and participation in sectoral legislative initiatives.

16. Héctor Palacios, from the National Institute for the Defence of Competition and the Protection of Intellectual Property (INDECOPI) of Peru, talked about "[Competition in the Area of Medicines](#)." He presented the structure of the pharmaceutical sector in his country and referred to two cases analysed by the Technical Secretariat of the Free Competition Commission of the INDECOPI, which evaluated alleged horizontal collusive practices to not reduce the price of medications for the treatment of cancer, acquired through public purchases. Although no signs of the occurrence of a horizontal collusive practice were found, the existence of certain barriers to the entering into identified relevant markets was observed.

Finally, he made the following recommendations: i) promote the use of generic medicines, duly authorized as such in accordance with the regulations in force, in order to generate more competition and reduce market prices; ii) in the specific case of public biddings, avoid the establishment of restrictions to company participation, applying the least necessary number of criteria that favour some companies; and iii) reduce the possibility of the establishment of concerted strategies through a proper design of the bidding processes.

17. Pierre Arhel, from the Intellectual Property Division of the World Trade Organization (WTO), referred to the "[TRIPS provisions on Competition Policy](#)", which constitute Annex 1C of the Agreement that led to the creation of the WTO, signed in 1994. It establishes a series of basic principles on intellectual property tending at harmonizing these systems between the signing countries and related to world trade. The speaker underlined that Articles 8.2 and 40 allow the members to adopt rules of competition to fight practices that are contrary to it, which, in his opinion, is a key element since competition policy is very important both for pharmaceutical innovation and to guarantee access to medicines at a reasonable price.

Also, he highlighted the existence and usefulness of the so-called "compulsory license", which can be issued with the consent of the holder of the corresponding license, as a mean to fight practices contrary to free competition. In that sense, he added, on the Doha Declaration on the TRIPS Agreement and Public Health, adopted in 2001, the WTO established that: "Each member has the right to issue compulsory licenses and the freedom to establish the basis for their issuing."

18. Tereza Braga, from the Administrative Council for Economic Defence (CADE) of Brazil, talked about the "[Pharmaceutical Sector in Brazil](#)," presenting the case of the company Eli Lilly do Brasil Ltda, and its intention to get exclusive rights to produce Gemzar, a drug used to fight breast cancer. The company was accused by CADE of selling the product at a higher price, taking advantage of its dominant market position, which constituted the first case of intellectual property heard under the new Competition Act, enacted in 2012. She also referred to the merger between GSK Niquitin and Novartis.

The Moderator congratulated the speakers on their presentations and made a brief summary of each of them. Then he opened the floor for the audience to express their opinion and concerns on the different ideas presented.

19. Next, there was a debate about the presentations made. The following issues stood out:
- a) Extension of the vertical integration relationship with smaller traders' market displacement in the pharmaceutical sector. The following question was put forward: What would be the impact of the mandatory publication of prices of medicines and the promotion of collusive practices among traders and distributors?
 - b) Publication of prices by the pharmacies to have a transparent process of trading of medicines with the end consumer in the face of market participation that is very similar to the medicine retail companies.
 - c) The need for the creation of a Competition group in the framework of CELAC was confirmed.
 - d) The need for the WTO to tackle the Competition policy more deeply was suggested.
 - e) Creation of an "Observatory of Prices" as a result of a policy for the promotion of competition through transparency among chains of pharmacies and independent sellers.
 - f) The grouping of independent pharmacies to promote more competition against the pharmaceutical and laboratory chains.

Session IV. Non-tariff measures and their impact on competition

Moderator: Arnau Izaguirre, Official of the General Secretariat of UNCTAD.

Speakers:

20. Errol Solis, from the Ministry of the Economy, Industry and Commerce (MEIC) of Costa Rica, talked about "[Costa Rica: non-tariff measures and their impact on competition. The avocado case,](#)" in which he explained the application of the restriction imposed on the importing of "hass" avocado, original from Australia, Spain, Ghana, Guatemala, Israel, Mexico, South Africa and Venezuela, because of the risk of the "Sunblotch" plague, to determine if it represents a protectionist measure of trade policy to protect Costa Rican production.

He pointed out that the conclusions of the study indicate that: i) there are no signs indicating that the final consumer price of the avocado subjected to the phytosanitary measure had been increased. On the contrary, it seems like the importing of avocado from Peru has been opened, at more affordable prices for the consumer. ii) it is necessary to continue monitoring the market's evolution, in order to determine the impact of this measure, given the seasonal nature of the production of avocado; iii) there are no signs, for the time being, of shortage of such product that puts pressure on the prices; iv) it is the job of the national authorities to support, through the study of the risk analysis of the introduction of the plague (ARP), so as to provide a base for the phytosanitary measure; and v) if this study does not properly support the phytosanitary restriction, such restriction shall immediately be lifted.

Finally, it was established that, although from the competition point of view the decrease in the demand of avocados could cause a decrease in effective competition in the market, it has to be highlighted that, although there is an imposition of a Non-Tariff Measure (NTM), it shall be temporary, and the restriction shall be part of legal measures, in compliance with national and international regulations.

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21. Christian Knebel, official of the UNCTAD's General Secretariat, spoke about the "[Non-Tariff Measures: integration and competition](#)." He explained the UNCTAD-MAST classification of the NTM and what he called "classic barriers" to trade "in border," as well as the MSF/OTC measures "behind the border." Finally, he concluded that: the aggregated effect of non-tariff measures is larger than that of tariffs. The use and importance of technical requirements (MSF/OTC) has increased; and the convergence strategy of technical requirements is effective for competition. There is a need for coherence of policies between ministries and authorities responsible for trade and industry, health, agriculture, environment, and competition.

Finally, he referred to what the UNCTAD offers in terms of NTM, that is: i) regional integration analysis on the harmonization and impact of NTM; ii) research and publication on global trends and effects of NTM; and iii) free access to data on NTM, and development of definition, classification and methodology.

22. Gloria Cañas, Director of the Information and Knowledge Network of the Permanent Secretariat of SELA, talked about "[Non-Tariff Measures and Competition](#)." She pointed out that the NTM originates as a legitimate defence of human, animal and vegetal health, of the environment, and of national production against unfair competition practices and national security; but, considering they could act as barriers to trade and protection against external competition, they put forward the need to achieve a fair balance between control and Trade Facilitation. She then referred to the main import and export regulations, as well as to the elements that have an impact on competition. On trade in LAC, she said that the costs of intra-regional trade are higher than those consequence of LAC-USA trade, and that LAC has little trading with itself.

She identified three areas of action: i) promotion of the facilitation of trade through coordinated advances of the type Single Window for Foreign Trade (VUCE), authorized operator, harmonization, and automation of regulations (technical, sanitary and phytosanitary rules, environmental regulations) and the concision of a dialogue with Trans-Latin companies, promoting their linking with local suppliers; ii) improvement of the logistics infrastructure through the reduction of costs and times of intra-regional trade; and iii) proper negotiations of origin regimes, through the regional accumulation of origin that guarantees preferential access to the goods object of intra-regional trade.

In reference to trade facilitation, she highlighted that the coordination between government bodies is the main challenge in the fostering of trade facilitation in the region, underlining the VUCE as a key tool for such process, and of which she said has been increased to 52% of the countries of the region. He referred to the Network of Digital and Collaborative Ports, which creation in the region is being driven by SELA, with the assistance of CAF-Latin American Development Bank, and summarized the program being developed for the creation of said network, which objective is to identify and promote the best collaborative and institutional practices. She explained that these are characterized by the use of new inter-organizational forms of work for the electronic exchange of data, efficient logistics processes, and the application of new and better standards for service of freight and transportation. Finally, she explained the importance of the origin accumulation of merchandise in order to create and strengthen possible regional and sub-regional chains of value, as well as the main advantages originating from the Certification of Digital Origin, in the framework of the regional integration agreements.

23. Carlos Fidel Martín Rodríguez, Specialist of the Directorate of International Bodies of the Ministry of Trade and Foreign Investment (MINCEX) of Cuba, talked about "[The Non-Tariff Measures \(NTM\) and their impact on Competition](#)." After defining them and examining their

evolution, he offered the following questions on the NTMs: Do they affect competition in developing countries? A country subjected to NTMs, inter alia Unilateral Coercive Measures ("blockade"), discriminatory in nature, extra-territorial, can implement competition? Legislations, agencies or national courts of Competition, what have they done in the decades of application of neoliberal policies in Latin America? In countries in which there is a strong private sector, what have they achieved in terms of competition policies? Are they aimed at international anti-monopoly laws (WTO) or at strategies for "market access", basically of the developing countries? Do they benefit efficient exporters of the developed countries, or the importers of the developing countries? Would Trade and Competition have a new space in the post Nairobi agenda? Is it a role model to reach a High Level of IDH; to achieve the Development Millennium Goals (MDGs) and, in the future, comply with the new 2030 Agenda?

Then, the Moderator congratulated the speakers on their presentations, made a brief summary of each of them, and gave the floor for the audience to express their impressions and concerns on the ideas presented.

24. Next, there was debate about the presentations made. The following issues stood out:

- a) The need to closely monitor the relations of the member States of the WGTC with countries and groups of countries such as the US and the European Union, in light of the negotiations of the Trans Pacific Partnership (TPP), and the Transatlantic Trade and Investment Partnership (TTIP).
- b) Absence of reciprocity in commercial transactions based on which some products, just for the fact that they come from developed countries are unfairly exonerated from complying with obligations associated to certifications and technical regulations that are required from developing countries. This situation generates, among other evils, the sending of products, from developed countries that do not comply with the sanitary, safety and environmental standards of the developing country. Also, it was asked, what are the multilateral organizations doing about the matters of competition and, in a general sense, to try to eliminate the inequalities there are in trade between developed and developing countries?
- c) The need for a more effective coordination between competition agencies and the regulatory authorities, such that the flows of information are faster and timely, to the benefit of the market and consumers.
- d) The importance of advocacy as a component of the policy for the defence of competition.
- e) The need to make a stronger emphasis on the importance of the trading of services.

25. There was a presentation sent by the Federal Commission of Economic Competition (COFECE) from Mexico, on the subject matter of the meeting, which is included in the list of documents.

Session V. Impact of the informal sector on trade and competition

Moderator: Arnau Izaguirre, Official of the General Secretariat of UNCTAD.

Speakers:

26. Daniel Jaramillo from the SCPM, made his presentation on "[Abuse of market power in a situation of economic dependence.](#)" Once the definition of economic dependence was established, he explained how to determine it, why it has to be regulated and which are its implications.

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27. Carlos Alberto Filartiga, member of the National Competition Commission (CONACOM) of Paraguay, explained the "Impact of the informal sector on trade and competition in Paraguay." In this sense he stated that the impact of informality and underground or illicit economy, like corruption, affect not only the economy of a country, but also the very foundations of the Republic, as it represents a serious obstacle for the operation of the institutions. He added that, given the importance of the problem, several efforts have been made aimed at gradually integrating the informal sector into the economy, such as: promotion of public and private transparency, single registration of taxpayers, design of public policies aimed at the simplification of formalization processes, and the MSMEs Law (promotion of public works, housing plans, promotion of family agriculture with special plans that ensure long-term financing and low interest rates, facilitation of unionization of farmers to obtain advantages with respect to suppliers and commercialization of production, among others).

In reference to Paraguay, he indicated that several laws have been passed with the goal of attacking informality as a strategy to decrease poverty, and that, in that context, there are several private initiatives of peasants dedicated to the production and selling of medicinal herbs aimed at the local market, and now to export.

28. David Miller, Executive Director of the Jamaica Fair Trading Commission, presented the talk "Impact of the Informal Sector on Trade and Competition." After defining informal economy, he specified the three main causes that cause it in Jamaica: the high cost of doing business formally, tax evasion and high bureaucratic costs. Also, he summarized the defining traits of informal economy in his country, the competitive advantages originating from such traits, the most common types of operations of the informal sector, the types of activities, the interphase between the informal and the formal sector, and the informal sector as a supplier of the formal.

Then he stated that the efforts of the governments to facilitate access to markets can make the difference and that, in that sense, they have to acknowledge the contribution of informal sectors to economic stability; the need to facilitate informal economy, the social benefits originating from it, and the need to promote and improve the relations between the informal sector and the formal sector of the economy.

Next, the Moderator congratulated the speakers on their presentations, made a summary of them and gave the floor for the audience to express their impressions and concerns in reference to the ideas presented.

29. Then there was a debate about the concepts presented by the speakers, making special reference to the following aspects:

- a) The need to promote formality in the commercial sector in Latin American and Caribbean societies, and overcome cultural parameters against informality, without demonizing the informal market, which, besides being highly vulnerable against the formal market, is an expression of the social reality of many countries of the region. Also, there was a debate about the effect anti-competition policies have on the promotion of informality.
- b) The use of the relation of producers in a chain of production and commercialization and its analysis from the point of view of Comparative Law, with the objective of approving the anti-competition effect of some dysfunctional conducts.
- c) The need to establish the cost-benefit relationship of informality, through factors such as compliance with the law, payment of taxes, social security contributions, bureaucracy to create and close a business, among others.
- d) The possibility of creating a space inside CELAC dedicated to competition policies.

- e) The selling of products about to expire to informal sellers by some supermarkets.

Session VI. Future of the Working Group on Trade and Competition: Work Programme and future partners

Moderator: Christian Ruiz, General Intendent of the Superintendency for Control of Market Power, de Ecuador.

Speakers:

30. Eduardo Piña, Analyst of the Direction of Studies and Proposals of the Permanent Secretariat of SELA, made a presentation about the "Harmonization of regulatory frameworks of trade and competition in the sub-regional integration mechanisms of Latin America and the Caribbean." He indicated that progress has been made in the matter of regulation, in reference to trade and competition, inside the different sub-regional integration mechanisms analysed, but that there is still a negative gap between the need for coordination and the progress made in the legal structure of the countries. He added that many times the presence of national preferences and the obligations of member states of some integration mechanism with non-member countries inside open integration schemes prevail.

Finally he concluded that the continued progress in the search for harmonization of the legal base is essential, since the great differences in the regulatory frameworks of competition represent a strong barrier to trade, and thus represent a delay in the sub-regional integration process. In this sense, he presented, on behalf of the Permanent Secretariat of SELA, a study proposal for the IV Annual Meeting of the Group on the "Harmonization of the regulatory frameworks of trade and competition in the sub-regional integration mechanisms in Latin America and the Caribbean," which will serve as a study base for said meeting, the proposal is included in Annex VII of this report.

31. Juan Luis Crucelegui, Head of Competition Policies and Consumer Protection of UNCTAD, talked about the Future of the WGTC: Work program and partners. He started his presentation highlighting what he called the current challenges of the WGTC: i) depth of discussions limited by multiplicity of topics; ii) insufficient follow up throughout the year; and iii) need to make more compact the group of Trade and Competition authorities. Then, and in order to improve the work methodology of the Group, on behalf of the UNCTAD, he proposed: i) working in partnership with IDB and SELA; ii) selection of no more than two topics to work with during the year and to deal with at the Annual Meeting of the Group; iii) Creation of support reports throughout the year on matters selected to be presented at the Annual Meeting; and iv) working in the form of plenaries and round tables. Finally, he explained the dynamics that would characterize the work of the Annual Meeting according with his proposal.

32. Mario Umaña, Trade and Competition Specialist of the IDB, talked about "Competition and Trade in the operation of the markets," which he started with some proposals that serve as the base for the importance of competition and the WGTC: The historic distinction between domestic and global markets has been blurred. Competition was one of the new subjects at the Doha Round (Ministerial Meeting of Singapore in 2001), but the working Group was dissolved in 2004 by the General Council. However, he explained, there are some competition regulations in the WTO agreements; there are integration groups in LAC such as MERCOSUR, the Andean Community, CARICOM and the CACM, which have produced regulations and promoted initiatives to foster competition. Competition is being included in the negotiations of the regional trade agreements of new generation.

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Finally, he concluded by saying that: i) the WGTC is unique in the world and that, to add value, it has to concentrate on the trade-competition focus; in other words, in the subjects in which the two disciplines intersect. Otherwise, he said, meetings from other forums would be repeated, forums that already have a long trajectory, thus complicating the participation of countries that already have few resources to participate in this type of meetings; ii) it is essential that the Annual Meeting is attended by the trade authorities, as well as by those in charge of competition. Otherwise, the goal of the technical dialogue between the two areas is lost; and iii) the WGTC has to stay active during the year and produce a work document to be discussed at the annual meeting.

Next, the Moderator congratulated the speakers on their presentations, made a summary of them and gave the floor for the audience to express their impressions and concerns regarding the ideas presented.

Then there was a debate about the following aspects:

- a) As proposed by the delegation of Ecuador, the possibility of creating a working group dedicated to Trade and Competition inside CELAC, underlining that such proposal aims at placing the matter of competition as the main axis for other areas such as trade and productivity, which could be incorporated in the framework of regional integration. This proposal was not approved by the Group;
- b) Need to tackle the subject of competition policy in public bidding processes and fight against corruption;
- c) Proposal to improve the work methodology of the WGTC;
- d) Institutional achievements of the Superintendency for Control of Market Power of Ecuador;
- e) The importance of deepening the debates on the relationship between small economies and the policy of competition, as well as the pharmaceutical sector and the health system;
- f) The need to create a joint work logic that reflects common topics of interest, that would allow to establish transversal solutions for all members, with practical applications;
- g) The relevance and usefulness of technical assistance of UNCTAD and SELA to WGTC's Member States, as well as the welcoming of the IDB as a driving element of the work of the Group;
- h) The delegation of Honduras offered its country as the venue for the VI Meeting of the Group.

II. CONCLUSIONS AND RECOMMENDATIONS

33. Based on the contributions of the presentations and debates that took place, Trade and Competition Authorities of SELA Member States and the regional bodies that participated in the 5th Annual Meeting of the WGTC reached the following conclusions and recommendations:

Conclusions:

- a. The promotion of free competition was considered of capital importance to drive intra and extra regional trade in Latin America and the Caribbean, and thus the need arises for the creation of a more transparent and predictable climate in the competition policy, in order to foster and make trade, productive investment and regional integration feasible.
- b. Participants highlighted that efforts are being made in Latin America and the Caribbean to achieve a regional regulation, in the face of the anti-competitive policies of great monopolies, that would promote competition, as well as more efficient, more transparent, more competitive, more inclusive and more sustainable markets.

- c. Although progress has been made in the matter of regulation, in terms of the interaction between trade and competition there is still a negative gap between the need for coordination and the advances in the legal structure of the countries. Many times the presence of national preferences and the obligations maintained by member countries of some integration mechanism with non-member countries inside open integration schemes takes precedence.
- d. It is necessary to continue with the harmonization of the legal base, since the great differences between the regulatory frameworks represent a strong barrier for trade and a delay in the regional integration process.
- e. It was considered that free trade offers consumers the most options and better opportunities to improve their standard of living, promotes competition by encouraging companies to innovate and develop better products, promotes the introduction in the market of larger numbers of goods and services, thus allowing to keep prices low and quality high for the benefit of the consumers. In that sense, it was estimated as necessary to keep a fair balance between control of unfair competition through the use of non-tariff measures of legitimate defence, and those aimed at the facilitation of trade.
- f. Among the possible actions that could lead to the achievement of sustainable benefits in regional competition agreements and the positive impacts competition could have on regional integration, the following stand out: i) construction of a culture of competition; ii) development of proper frameworks to promote competition laws, both national and at the level of the community; and iii) proactive assignment, by the Competition Authorities, of areas of interest that could be strengthened based on the amendment of existing laws or through the passing of new ones.
- g. It was considered that the policy of competition has to be a priority instrument to secure regional economic integration, as well as to protect consumers and Small and Medium-Sized Companies (SMEs) against conducts contrary to competition.
- h. The multilateral debate on the international regulation of Transnational Companies (TNC) has been going for over 40 years. There is a void of mandatory international rules in reference to human rights and TNCs, especially to make justice in cases of violations of human rights, and, additionally, the non-binding rules have proved to be of little or no effectiveness to control the abuses of said companies.
- i. The establishment of a Central American Regulation for Competition and of a Central American Body for Competition represents the compliance with the commitments entered into in virtue of the Association Agreement between Central America and the European Union, and also of the aspirations contained in the provisions of the legal texts of the Central American Economic Sub-System.
- j. In the pharmaceutical sector it is necessary to generate a competition policy that is coherent with Intellectual Property rights, since, besides guaranteeing an effective safeguarding of those rights, would also allow for the efficient and effective access to better-quality medications at fair prices, product of the subsequent and timely revelation of the inventions underlying the manufacturing of such products. In this sense, note was taken of the suggestions originating from the debate that took place during Session III of the Agenda, recorded on paragraphs from a) to f) of number 19 of the Final Report.
- k. It is essential to keep advancing in the search for the harmonization of the legal base that exists in the field of Trade and Competition, since the great differences in the regulatory frameworks represent a strong barrier for trade and delays in the regional integration process.
- l. The fight against cartels, besides requiring for the corresponding authorities to have the necessary technical resources, also requires the acknowledgement of the origin of such cartels, which is precisely what ensures them their power in the market. Not acknowledging this fact renders the fight ineffective and useless.

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Recommendations:

- a. In order to encourage free competition, a recommendation is made to apply integrated and coherent measures, such as: i) avoid anti-competitive behaviours by private companies that are against the progress made with the commercial and interaction liberalization agreements; ii) create a more transparent and predictable climate on competition policies, for the promotion of trade, investment and integration; and iii) incorporate cooperation commitments that would allow to pursue and effectively sanction anti-competition practices inside existing mechanisms of integration.
- b. Facilitate a better coordination between government bodies, in order to promote modalities for the facilitation of trade, such as the Foreign Trade Single Window, among others, as a key tool for that process.
- c. Although in LAC there has been progress in the matter of regulation, in reference to trade and competition, inside the different integration mechanisms analysed there is still a negative gap between the need for coordination and the advances in the legal structure of the countries; thus, it is recommended to continue and deepen in the harmonization of the legal base, since the great differences between the regulation frameworks represent a strong barrier for trade and a delay in the regional integration process. In this sense, the Meeting urged SELA and UNCTAD to conduct studies on the matter, in order to strengthen the competition policies and accelerate the sub-regional integration processes. Also, it was recommended to follow up on the results of the meeting of UNCTAD on reserved subjects, on competition, of high interest for LAC.
- d. Closely monitor the relations between WGTC member States and the European Union, given the current negotiations for the agreements Trans Pacific Partnership (TPP), and the Transatlantic Trade and Investment Partnership (TTIP), which could generate changes in the current international legislation on trade and competition.
- e. Improve and make the coordination more effective between competition agencies and regulating authorities, in such a way that the flows of information are fast and timely to the benefit of the market and the consumers. In that sense, it was recommended to give more relevance to advocacy, as this is an efficient modality of the policy for the defence of competition.
- f. Make a stronger emphasis on the regulation of competition in the trading of services.
- g. Improve WGTC's work methodology, to which end it was recommended: i) that the Group operates in a consulting manner with the Secretariats of SELA and UNCTAD, as well as with other regional bodies in specific matters of competition, and concentrate on a focus of trade and competition; in other words, in the matters in which the two disciplines intersect; ii) select no more than two items to work with during the year and to be tackled at the Group's Annual Meeting; iii) draft a base document to be debated at the Annual Meetings, which is to be distributed sufficiently in advance of the date of the Meeting among the members of the Group. For the IV Annual Meeting, the base study will be drafted by SELA's Permanent Secretariat; iv) create support reports during the year on selected topics; and v) develop the Annual Meeting with plenaries and work groups.

III. CLOSING SESSION

34. Telasco Pulgar, on behalf of the Permanent Secretary of SELA, Ambassador Roberto Guarnieri, thanked the authorities of the Government of Ecuador for their valuable collaboration during this V WGTC Annual Meeting, jointly with UNCTAD and SCPM. Also, he thanked all SELA Member States that attended for their participation. He deemed the meeting fruitful and weighed the exhaustive treatment of the subjects proposed, which, he expressed, reveals the importance the WGTC Group has gained since its foundation. He also underlined the relevance of the conclusions, recommendations and work proposals for the future of the Group agreed during this event, an activity that counts with the institutional support of the Permanent Secretariat of SELA. Finally, he thanked the delegation of Honduras for offering their country to host the VI Meeting of the group.

35. Juan Luis Crucelegui, on behalf of UNCTAD, thanked the Superintendency for Control of Market Power of Ecuador, as host institution; SELA, the local authorities of Manta and the university sector, as well as all participating delegations for their attendance and contributions to the meeting, which, he said, has registered a qualitative advance in its work methodology that will sure be reflected in its products. He highlighted the incorporation of the IDB and its impact on the Group, which, he reminded, is unique in the world and is followed closely by several global institutions. He mentioned that the work of WGTC is based on the search for international consensus, one of UNCTAD's pillars, joining two fundamental public policies to strengthen the development of trade and sustainable and inclusive development.

Finally, he thanked the Government of Honduras for its generous offer to host the 6th Annual Meeting of WGTC, highlighting that it would be the first time the Group would meet in Central America.

36. Pedro Páez Perez thanked UNCTAD and SELA for their support in hosting this event, as well as the National Government and the provincial government, especially the work of the team of the Superintendency for Control of Market Power of Ecuador and the representatives of the university sector. He considered the meeting was fruitful and underlined the quality of presentations and debates, thanking the attending delegations for their participation and contributions, thus closing the V Annual Meeting of the WGTC.

AGENDA

Day 1: Wednesday, 2 December 2015

Time	
08:30 – 09:00	Registration
09:00 – 09:30	<p>OPENING SESSION</p> <ul style="list-style-type: none"> • Xavier Lasso, Deputy Foreign Minister of the Republic of Ecuador • Pedro Páez, Superintendent for Control of Market Power of Ecuador • Telasco Pulgar, Director (a.i.) of Relations for Integration and Cooperation of the Permanent Secretariat of SELA • Juan Luis Crucelegui, Head of Competition Policies and Consumer Protection, UNCTAD • Pascal Décosterd, Ambassador of the Swiss Confederation in the Republic of Ecuador
9:30 – 11:15	<p>SESSION I: REGULATION OF COMPETITION WITHIN THE FRAMEWORK OF REGIONAL AND SUBREGIONAL INTEGRATION AGREEMENTS IN LATIN AMERICA AND THE CARIBBEAN</p> <p>Latin America and the Caribbean have a dense network of economic integration agreements, in which the regulation of competition plays a direct or indirect role. This session will bring together the secretariats of several regional integration agreements. Some of the issues to be discussed are:</p> <p>Which is the best way to ensure the benefits of competition in regional integration agreements? How has competition helped regional integration? What experiences have been the most successful ones? Which areas require attention?</p> <p>Moderator: Telasco Pulgar, Director (a.i.) of Relations for Integration and Cooperation of the Permanent Secretariat of SELA</p> <ul style="list-style-type: none"> • Eduardo Piña, Analyst of the Direction of Studies and Proposals of the Permanent Secretariat of SELA • Mauricio Ruano, Advisor on Competitiveness, Secretariat for Central American Economic Integration (SIECA) • Juan Carlos Roa, Andean Community (CAN) • Kusha Haraksingh, Chairman, CARICOM Competition Commission
11:15 – 11:30	Coffee break
11:30 – 12:00	Interactive debate
12:00 – 13:30	Free time for lunch

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13:30 – 15:00	<p>SESSION II: NEW PARADIGMS IN THE REGULATION ON COMPETITION WITHIN THE FRAMEWORK OF THE REGIONAL AND SUBREGIONAL INTEGRATION AGREEMENTS IN LATIN AMERICA AND THE CARIBBEAN</p> <p>In line with the debates of Session I, this Session will discuss the future of the regulations on competition from the standpoint of regional integration, addressing the following issues:</p> <p>What are the new trends in competition that contribute to regional integration? What factors of competition regulation should be considered in the future of regional integration? What conditions are required so that the benefits of competition can reach the population in general? How can the impact of competition on regional integration policies be measured? What is the role of transnational corporations in regional integration and what is their impact on competition?</p> <p>Moderator: Telasco Pulgar, Director (a.i.) of Relations for Integration and Cooperation of the Permanent Secretariat of SELA</p> <ul style="list-style-type: none"> • Daniel Cedeño, Superintendency for Control of Market Power of Ecuador • Luis Espinosa, Chief Negotiator of the United Nations Working Group on Transnational Corporations and Human Rights • Evelyn Olmedo, Superintendency for Competition of El Salvador
15:00 – 15:30	Interactive debate
15:30 - 15:45	Coffee break
15:45 – 17:30	<p>SESSION III: COMPETITION AND INTELLECTUAL PROPERTY IN THE AREA OF MEDICINES</p> <p>Competition policy aims to achieve that markets benefit consumers through their basic elements: the promotion and implementation of regulations. However, in order to improve access to products, the measures to fight those practices that are contrary to free competition in the sector of medicines may be less appropriate than other type of measures. Competition policy is a mechanism still relatively little developed but promising; for this reason, greater importance should be given to its potential to complement initiatives in this matter. This session will address some of the main problems related to competition currently existing in the sector of medicines, with examples from various jurisdictions as regards the benefits of the application of competition rules for consumers, and some recommendations of measures to improve access to medicines in Latin America and the Caribbean.</p>
	<p>Moderator: United Nations Conference on Trade and Development (UNCTAD)</p> <ul style="list-style-type: none"> • Eduardo Esparza, Superintendency for Control of Market Power of Ecuador • Matías Edwards Zamora, National Economic Prosecutor's Office of Chile • Héctor Palacios, National Institute for the Defence of Competition and the Protection of Intellectual Property (INDECOPI) of Peru • Pierre Arhel, Intellectual Property Division, World Trade Organization (WTO) • Tereza Braga, Administrative Council for Economic Defence (CADE) of Brazil
17:30 – 18:00	Interactive debate

Day 2: Thursday, 3 December 2015

09:00 – 10:30	<p>SESSION IV: NON-TARIFF MEASURES AND THEIR IMPACT ON COMPETITION</p> <p>With the fall of tariffs, non-tariff measures have become the determining factor for regulation of international trade, having an important impact on integration in the global and regional networks of economic production. This session will address the impact of those measures on competition, particularly the sanitary and phytosanitary measures and the technical barriers to trade which regulate both trade and domestic production, on the one hand; and on the other hand, the protectionist measures in trade and industrial policy, as well as the measures on customs, valuation, facilitation and inspection, trade defence measures, and non-automatic licensing and quantitative restrictions, among others.</p> <p>Moderator: United Nations Conference on Trade and Development (UNCTAD)</p> <ul style="list-style-type: none"> • Errol Solís, Ministry of Economy, Industry and Commerce (MEIC) of Costa Rica • Christian Knebel, United Nations Conference on Trade and Development (UNCTAD) • Gloria Cañas, Director of the Information and Knowledge Network of the Permanent Secretariat of SELA • Carlos Fidel Martín Rodríguez, Ministry of Foreign Trade and Foreign Investment (MINCEX) of Cuba • Presentation sent by the Federal Economic Competition Commission (COFECE) of Mexico
10:30 – 11:00	Interactive debate
11:00 – 11:15	Coffee break
11:15 – 12:45	<p>SESSION V: IMPACT OF THE INFORMAL SECTOR ON TRADE AND COMPETITION</p> <p>The informal sector is a reality in the economies of the region, which poses a challenge in maximizing the impact of public policies on trade and competition. How could the informal sector be integrated into the usual control of the authorities? What should be kept in mind when it comes to regulating trade and competition in relation to the informal trade? And particularly, how does family agriculture in Latin America affect or should affect the design of public policies on trade and competition?</p> <p>Moderator: United Nations Conference on Trade and Development (UNCTAD)</p> <ul style="list-style-type: none"> • Daniel Jaramillo/ Vicente Abril, Superintendency for Control of Market Power of Ecuador • Carlos Alberto Filartiga, National Competition Commission (CONACOM) of Paraguay • David Miller, Executive Director of Jamaica Fair Trading Commission
12:45 – 13:00	Interactive debate
13:00 – 14:30	Free time for lunch
14:30 – 16:00	SESSION VI: THE FUTURE OF THE WORKING GROUP ON TRADE AND

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	<p>COMPETITION: WORK PROGRAMME AND FUTURE PARTNERS</p> <p>In the IV Annual Meeting of the Working Group of Trade and Competition, the Member States showed unanimous interest in continuing with the work of the group. In this session, various options will be presented for consideration by the Member States, such as joint studies, ad hoc groups and search for new partners.</p> <p>Moderator: Christian Ruiz, General Intendent at the Superintendency for Control of Market Power of Ecuador</p> <ul style="list-style-type: none"> • Eduardo Piña, Analyst of the Direction of Studies and Proposals of the Permanent Secretariat of SELA • Juan Luis Crucelegui, Head of Competition Policies and Consumer Protection, UNCTAD • Mario Umaña, Chief Specialist in Trade and Competition, Inter-American Development Bank (IDB)
16:00 - 16:15	Coffee break
16:15 – 16:45	CONCLUSIONS AND RECOMMENDATIONS
16:45 – 17:00	<p>CLOSING SESSION</p> <ul style="list-style-type: none"> • Telasco Pulgar, Director (a.i.) of Relations for Integration and Cooperation of the Permanent Secretariat of SELA • Juan Luis Crucelegui, Head of Competition Policies and Consumer Protection, UNCTAD • Pedro Páez, Superintendent for Control of Market Power of Ecuador

A N N E X I I

SPEECH BY XAVIER LASSO, DEPUTY FOREIGN MINISTER OF THE REPUBLIC OF ECUADOR

Honourable Pedro Páez Pérez, Superintendent for Control of Market Power of Ecuador;

Honourable Telasco Pulgar, Director (a.i.) of Relations for Integration and Cooperation of the Permanent Secretariat of SELA;

Honourable Juan Luis Crucelegui, Head of Competition Policies and Consumer Protection of the United Nations Conference on Trade and Development (UNCTAD);

Honourable representatives of trade and competition in Latin America and the Caribbean;

Honourable Pascal Décosterd, Ambassador of Switzerland in the Republic of Ecuador;

Honourable representatives of Latin American and Caribbean integration institutions and regional and international organizations;

Ladies and gentlemen:

Good morning. Certainly, it is an honour for me to be here in the midst of many representatives, men and women of this Great Homeland, as we say here in Ecuador. I bring greetings from Minister Ricardo Patiño. As you know, the COP 21 is being held in France, and Minister Patiño travelled with President Rafael Correa to participate in what we could define, metaphorically, the last call for us to try to save the planet from our own irresponsibility.

I want to tell you, Latin American and Caribbean brothers and sisters, that you are in the middle of Ecuador, on the Pacific coast, in Manabi. People call it Manabis, the land of Eloy Alfaro. Hopefully you can visit Monte Cristi, a small town which is about 15 minutes from Manta. Monte Cristi was the land of Eloy Alfaro, a key politician in the history of my country, Ecuador, connected with Latin America. He had particular relations with Cuba, as well as with José Martí and Panama. He was a merchant, because, to be able to finance the revolution, he had to engage in trade. That is why some famous hats that are here, made of a special straw, are known as the Panama Hats. It is a pleasure for us to share this name with the sister Republic of Panama.

However, the liberal revolution advanced from these lands to the mountains, to Quito, and Eloy Alfaro was the forerunner of this liberal revolution, because in these lands another form of production, through the cocoa plantation, was brewing and the salary relationship, a capitalist relationship, was emerging. In the sierra, up in the mountains, the ancient form still prevailed, without work relationship, without contracts and without wages. This liberal revolution modernized Ecuador. It gave women the right to vote early and separated Church and State. The country benefitted from this early liberal revolution, which was bloody because Eloy Alfaro was killed in 1912 in Quito. After his decapitation and that of other followers, their remains were burned in an act known in the history of Ecuador as the Barbaric Bonfire in a Quito park, as a result of the confrontation that my country was experiencing at the beginning of the 20th century. However, this fact helped solve a series of social problems in Ecuador. Alfaro was the creator of Ecuadorian railroad, a sort of battering ram that creeps from the coast and rises to the mountains, breaking down the barriers of cultural prejudices of my country.

This is the land where you are. As I said, hopefully you can visit Monte Cristi, the birthplace of the current Constitution of Ecuador, approved in a referendum. In 2007, 120 Assembly members, men and women, gathered and gave birth to this new Constitution, which was approved in 2008 with a

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pronounced Latin American character and considers Latin America and the Caribbean the Great Homeland, as we say repeatedly in Ecuador.

Article 276 of this Constitution established as one of its objectives to promote Latin American integration and boost strategic insertion into the global context, which contributes to peace and a democratic, equitable world system. Another objective clearly set forth in the Constitution of Monte Cristi is to build a fair, democratic, productive, mutually supportive and sustainable economic system based on the egalitarian distribution of the benefits of development and the means of production, and on the creation of decent, stable employment. In this context, the Government of Ecuador promotes and guarantees fair trade as a means of access to quality goods and services, minimizing intermediation distortions and promoting sustainability.

Ecuador considers it essential to have regulations, control and intervention in trade and economic transactions, since they are always necessary; and to impose sanctions on exploitation, usury, speculative mediation and all forms of prejudice to economic and social rights.

We should avoid any practice of private monopoly and oligopoly, the abuse of dominant positions and other forms of unfair competition. Just 45 days ago, we marked the 40th anniversary of the creation of the Latin American and Caribbean Economic System (SELA). The road we have travelled is broad and yet we still need to make more efforts and, of course, there is still a long way to go. Precisely for this reason, in our social pact of Monte Cristi we decided to agree about a chapter on the Constitution to the Latin American integration. In that Chapter, we identified integration as a strategic objective of the State, and we committed ourselves to promote economic, fair, supportive and complementary integration; the productive, financial and monetary union; the development of compensation policies to overcome regional asymmetries; and the regional trade with emphasis on very high value-added goods.

The Ministry of Foreign Affairs and Human Mobility is confident that this meeting will provide an opportunity to analyse trade and competition in the light of the regional integration and cooperation processes. Within this context, it is also advisable to analyse how we can enhance our achievements in this field, with a view to expanding our capacities and application at national levels but also taking advantage of the regional synergies of the new development agenda post 2015 or post 2030.

From our standpoint, the Working Group should prioritize a vision of well-being and solidarity-based social economy, not limited to consumers, but taking into account the human beings in their different dimensions. It is also important to note how the insufficient technology transfer from developed economies and the policies of inflexible patents for developing countries are undermining trade and healthy competition, which should not be an exercise in dispute but should provide the capacity to develop complementarity.

That is our vision. That is what we have tried to promote from Ecuador, which forms part of a broader Latin American and Caribbean and global context.

Once again, thank you for being here. We wish you a very good experience in this country, which can offer you a lot. Take advantage of it, and as a souvenir buy some of our straw hats, which are very beautiful, very light and flexible, and are typical Latin American.

Thank you very much.

A N N E X I I I

**SPEECH BY PEDRO PÁEZ PÉREZ, SUPERINTENDENT FOR CONTROL OF MARKET POWER
OF THE REPUBLIC OF ECUADOR**

Honourable Xavier Lasso, Deputy Foreign Minister of the Republic of Ecuador;

Honourable Telasco Pulgar, Director (a.i.) of Relations for Integration and Cooperation of the Permanent Secretariat of SELA;

Honourable Juan Luis Crucelegui, Head of Competition Policies and Consumer Protection of the United Nations Conference on Trade and Development (UNCTAD);

Honourable Representatives of Trade and Competition of the Member States of SELA;

Honourable Pascal Décosterd, Ambassador of Switzerland in the Republic of Ecuador;

Honourable representatives of integration organizations of Latin America and the Caribbean, and regional and international organizations;

Ladies and gentlemen:

Good morning, brothers and sisters. Welcome to this country, which you can consider your home, the Great Homeland that we need to build in all of its dimensions, country by country; particularly as regards the right to participate in the markets, so as to stop abuses, deception, harassment and the so called corporate "bullying".

We are very honoured by the fact that you have allowed us – one of the youngest countries in the continent – to host this meeting. Our countries are making efforts to establish a regulation against big monopolies, a regulation that promotes competition, as well as more efficient markets... more transparent, more competitive, more inclusive, more sustainable markets.

This effort in this country is really important, because here we could have an antitrust law after several attempts. Fifteen years ago, a Congress – with a different political composition from that of the one that finally approved the law in 2011 – had the law ready to be enacted and the Vice-President, who represented certain business groups, expressly asked to take over the Presidency in order to veto the law. So, what we finally have as legislation is basically an application of the principles that are followed in almost all Latin American countries, whose background is the 125 year-old Sherman Act of the United States and has been the subject of constant resistance. Even after the law was approved in October 2011, we have had three constitutional demands introduced by representatives of the Chambers of Commerce.

In this context of resistance, certain sectors cling to the past tooth and nail. But this country is struggling to develop a new scenario, not only as regards rights but also solutions. And I believe that all of you are making a very important contribution to this end. Authorities of countries that have recently made efforts in this area welcomed the invitation made by the Superintendency for Control of Market Power.

I think this is a very relevant issue as regards our debates for today. We had to knock on the doors around the world, and at the beginning they told us to look on their Web sites, and we wondered: what can we do with that? Just when we opened the doors of the Superintendency, we received a lot of cases. We have dealt with 357 cases in three years, and there is no legal provision that allows us to select among the cases we receive. So I would like to start by thanking for the generosity of the authorities and technicians from across the continent for their cooperation, in spite of the

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initial fears. And I believe that we all have become aware about the importance of communication, and a more fluid and intense collaboration among all the countries of the continent.

One of the purposes of this meeting – which we have been discussing for years and especially in the last few months – is the possibility to request CELAC to open up a space for a formal network of competition authorities as a new horizon for Latin American integration. I think such important move, with institutional support, would allow for deepening processes to reinforce capacities for the authorities to defend the rights of our peoples, in order to avoid abuses.

Cartels are emerging in various countries of Latin America, with the same actors and the same practices. This clearly shows how transnational companies use the differences in norms and regulations to play with authorities, and even with the possibilities that the countries have to defend their consumers and the dynamics of their markets. They are taking advantage of such asymmetries as regards information and playing with the capabilities that the authorities have to enforce the laws.

In addition, we have the embarrassing case of one transnational requiring the Ecuadorian State and the courts of arbitration to decide that although the law has been broken and the contract specifies that the parties cannot resort to a foreign jurisdiction, there is a sanction against the country with dimensions that are quite harmful to its macroeconomic capabilities.

What are we talking about, in terms of the domestic legal order, if we allow unfair competition by a transnational company that makes fun of domestic legislations, against national actors and operators who do not have such capacities?

This is a practice in which cynicism has become a constant in the activity of this type of transnationals. They say that there's no need for any kind of legal argumentation in the ruling, that this does not have any consequence in terms of jurisprudence. But what can happen with the capacity of an authority, when for example, one of the causes of such transnational was precisely the fact of failing to notify in accordance with the laws in force at that time, when there was no competition authority and therefore no conditionalities could not establish? The notification was overlooked precisely because of the arrogance with which certain operators could act vis-à-vis other operators.

We are going to discuss issues such as the abuse of intellectual property rights, in which some transnationals incur in order to impose patents, to impose artificial monopolies in such a sensitive area as that of health, playing with the pain of the people, imposing an artificial scarcity, and preventing the dissemination of knowledge to improve people's situation. Patents have a series of negative externalities on other aspects of public policy; and this is an inevitable discussion in the process of Latin American integration.

This is the time for the peoples, time for reducing poverty, inequalities and constraints with which our populations have to develop their production and living conditions, as well as the problems generated by such constraints around the survival strategies of the majority of the population. As competition authorities, we need to promote a plural participation, a multiplication of operators on equal terms.

Beyond the ideological fiction of equality in the markets, in a competition between a shark and a sardine the result is clear. It is necessary to work with scientifically studied attitudes and mechanisms in order to generate an effectively competitive market, with multiple competitors,

which includes small and medium-sized enterprises with productive logics that are not based only on profits or accumulation *per se*, but that raise prospects for the defence of the family and the community economy.

We need to learn to recognize the right to difference and the right to identity of the different actors involved in the markets. And that forms part of the discussions that Latin America has to deepen in order to open up new horizons in terms of solutions.

Let us forget about that old story of the State against the market. Any basic study of any country and throughout history clearly shows that the State and the market have been serving the same masters and that it is time for them to begin to serve society. It is high time to make so many dreams and projects come true, since they have been hampered by the presence of large operators, by the existence of structurally asymmetric conditions. We cannot remain under the illusion that this may be the panacea, but it can give rise to a more propitious economic environment so that people can display their creativity.

There are many elements present here in Ecuador – I might say this with much humility, but also with great pride – such as that situation of permanent hostility that we had at the beginning. But now we have a very important transformation of corporate culture. Even this event would have been impossible without the support of private enterprises here in Manabí, along with the support of the autonomous governments, above all the Mayor of Manta, Puerto Viejo, with whom we signed up the donation of a land yesterday that will allow us to have offices here in Manabi. So far, we have lacked such offices due to budget constraints, although we have relied on the support of the Technical University of Manabí, whose director has provided us with facilities to operate.

Now we are already achieving a process in which the public and private sectors and, most importantly, that third often forgotten actor, civil society, are changing the dynamics of the markets and the dynamics of the defence of rights, both for consumers and producers.

In Ecuador, dormant rights are awakening very rapidly. Consumers are not only exercising their right not to be cheated on prices, or deceived with false advertising or manipulations as regards supply and quality, but they are also assuming the responsibility with respect to what they buy. Because whenever one buys anything – admit it or not – one is vouching for a certain type of society. However, entrepreneurs also have some responsibility; and we can see that in the support that the private enterprises from Manabi are giving to holding such an important event like this. Forty five authorities from across the continent are also supporting us here, they are joining us here, and the private enterprises from Manabi have recognized the importance of the right of competition.

But at the same time, we are seeing a change of attitude across the country. We have already signed more than one dozen commitments and there are a dozen more under negotiation. We have three codes of ethics signed by large enterprises in the country in which they commit themselves to correct any anti-competitive behaviour.

Academics, the operators and the organised civil society are participating in the preparation of manuals, or guidelines, for more than one dozen of different sectors of the country's economy. One of them, for example, the Manual of best commercial practices for supermarkets and related businesses, has already had its first results in the first half of the year 2015. Large supermarkets have already bought more than US\$ 300 million from operators who previously did not even dream of selling to supermarkets. Thus, we are promoting competition, multiplying operators

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and strengthening relations between suppliers and customer. We are talking about more 120,000 households benefited, including direct and indirect jobs, only in the first semester of application of these new provisions in favour of competition.

I think our prospects are very auspicious with respect to the work that we can carry out together as competition authorities, to the work that we can undertake on the issue of integration with trade authorities and our relationship with respect to the challenges that we face in the global stage, which is growingly somber due to the difficulties of a structural crisis of overproduction that seriously affect the exogenous conditions in which our economies must operate.

Therefore, once again, my friends, I thank you very much for your presence here. And I thank you precisely because the possibility of working together can open up different and sometimes unexpected conditions regarding the capacity of response that each one of our countries can have separately, but mostly the capacity of response that the entire continent can develop in the process to build the Great Homeland.

I want to finish by thanking the academicians, the *Universidad Laica Eloy Alfaro*, the private enterprises, local authorities, the central government, represented by the Governor of the Province of Manabí, the Ministry of Industries and Productivity, the Deputy Foreign Minister Xavier Lasso – who is honouring us not only for being a beloved friend but also for his democratic record, both in the field of journalism and diplomacy – all the authorities who are present here and the delegates of UNCTAD and SELA, who have organized this V Meeting of the Working Group on Trade and Competition. I hope that in these days, you can not only enjoy this land with its flavours, colours and rhythms, but you can also hold fruitful debates that allow us to make concrete strides in the process to build this new institutional framework in Latin America.

Thank you very much.

A N N E X I V

SPEECH BY TELASCO PULGAR, DIRECTOR (A.I.) OF RELATIONS FOR INTEGRATION AND COOPERATION OF THE LATIN AMERICAN AND CARIBBEAN ECONOMIC SYSTEM (SELA)

Honourable Xavier Lasso, Deputy Foreign Minister of the Republic of Ecuador;

Honourable Pedro Páez, Superintendent for Control of Market Power of the Republic of Ecuador;

Honourable Juan Luis Crucelegui, Head of Competition Policies and Consumer Protection of the United Nations Conference on Trade and Development (UNCTAD);

Honourable Representatives of Trade and Competition of the Member States of SELA;

Honourable María Fernanda Franco, Representative of the Pro Tempore Presidency of the Community of Latin American and Caribbean States (CELAC);

Honourable Pascal Décosterd, Ambassador of Switzerland in the Republic of Ecuador;

Honourable Representatives of Latin and Caribbean integration organizations and regional and international institutions;

Ladies and gentlemen:

On behalf of the Permanent Secretary of the Latin American and Caribbean Economic System (SELA), Ambassador Roberto Guarnieri, I am pleased to warmly welcome you to this Fifth Annual Meeting of the Working Group on Trade and Competition of Latin America and the Caribbean, which we had the privilege to organize jointly with the General Secretariat of UNCTAD and the Superintendency for Control of Market Power of the Republic of Ecuador.

We are particularly pleased by the wide response to our invitation by the authorities in charge of trade and competition in the region. This Meeting aims to consider topics of regional interest proposed at the IV Meeting of the Group and to address, for the first time and at the suggestion of SELA, the interaction between trade and competition policies within the framework of the regional and subregional economic integration of Latin America and the Caribbean.

We believe that it is increasingly important to intensify policies aimed at strengthening regional integration processes and their convergence towards a more efficient Latin American and Caribbean economic space. It is necessary to move towards a structural change that generates economic diversification, greater value added to exports and increased competitiveness and innovation.

The Permanent Secretariat of SELA is working very hard in that direction. In recent years, it has expanded its own research and analytical capacity, in particular concerning issues that are hanging over the progress of the various economic integration schemes developed by our countries, their potential and prospects in the current circumstances of a globalized world.

In this connection, we greatly appreciate and welcome the presence of the representatives of the Andean Community, the Caribbean Community, the Secretariat for Central American Economic Integration, and the Pro Tempore Presidency of the Community of Latin American and Caribbean States. For its part, the Permanent Secretariat of SELA will present an analytical document on this important matter in Session I of our Agenda and another on regulations and trade facilitation in Session IV.

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Finally, I must express our recognition and gratitude to the General Secretariat of UNCTAD for the extraordinary and laborious shared work done in the preparation of this event, and to the Government of Ecuador for providing the venue, the logistical support and the hospitality we are enjoying.

We are confident that the objectives of this V Meeting of the Working Group will be achieved and the discussions and proposals will benefit the development of our countries and the economic integration process of our region.

Thank you very much.

**SPEECH BY JUAN LUIS CRUCELEGUI, HEAD OF COMPETITION POLICIES AND
CONSUMER PROTECTION OF UNCTAD**

Mr Xavier Lasso, Deputy Foreign Minister de Ecuador;

Mr Pedro Páez Pérez, Superintendent for Control of Market Power of the Republic of Ecuador;

Mr Telasco Pulgar, Director (a.i.) of Relations for Integration and Cooperation of the Latin American and Caribbean Economic System (SELA);

Mr Pascal Décosterd, Ambassador of the Swiss Confederation en Ecuador;

Authorities in charge of trade and competition;

Representatives of international organizations;

Ladies and gentlemen,

It is an honour for UNCTAD to welcome you at this V Meeting of the Working Group on Trade and Competition (WGTC), in this beautiful city of Manta.

I want to thank sincerely the Latin American and Caribbean Economic System (SELA) and the Superintendency for Control of Market Power of Ecuador for the warm hospitality and the excellent organization of this important annual meeting of the WGTC, which is being held for the fifth time after its conduction in Bogotá, Lima, Buenos Aires and Punta Cana. It is important to point out that this Group is a unique instance worldwide; an instance in which analyses and work are done on the basis of two public policies that are essential to ensure a sustainable and inclusive economic development. Trade liberalization should be accompanied by a control of the activities of companies. It is not enough to remove tariff and non-tariff barriers to facilitate trade and free transactions of enterprises; it is also necessary to check their actions in the market in order to prevent them from neutralizing the effects of liberalization on the general interest, which will eventually be for the benefit of private interests. Therefore, we consider the integration of markets positive, provided that adequate mechanisms are set to eliminate barriers not only from the public sector, but also from the private sector.

During the meetings of this Group, analyses have been made of different issues, in different sectors, of enormous importance for the economies of this region, including, among others, health, energy, telecommunications, air transport, trade and distribution of food. In this V Meeting, we will discuss issues of undeniable interest to follow the trend of seeking coordination and synergy among competition and consumer policies. In particular, we will address the issue of regulation of competition within the framework of regional integration agreements; competition and intellectual property in the field of medicines, a key sector for consumers in the region; the impact of non-tariff measures on consumers, trade and competition; the impact of the sector informal on trade and competition; and finally the future of this forum in order to deepen it and have an impact, which is the aim of these meetings.

At UNCTAD, we are convinced of the need to establish ways to facilitate dialogue and coordination of both policies at national and regional levels. That is why this forum takes place and UNCTAD wants to continue supporting it. I want to make special mention of the Programme on Competition and Consumer Protection for Latin America (COMPAL), which was funded by the Swiss Government and has enabled UNCTAD to intervene both at the national and regional levels in order to facilitate the development of competition and consumer protection policies. This Programme has also served to support this forum. The COMPAL Programme has been applied in

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the region for the past 12 years, and the current phase of the Programme, COMPAL III, will be applied in the period 2015-2018. In this context, the trade and competition programme of SELA is a priority.

Finally, I want to thank you all for your presence and encourage you to hold fruitful discussions in this forum in order to continue strengthening institutions and promoting regional integration.

Thank you very much.

**SPEECH BY PASCAL DÉSCOSTERD, AMBASSADOR OF THE SWISS CONFEDERATION
IN THE REPUBLIC OF ECUADOR**

Mr Xavier Lasso, Deputy Foreign Minister of Ecuador;

Mr Pedro Páez, Superintendent for Control of Market Power of Ecuador;

Mr Telasco Pulgar, Director (a.i.) of Relations for Integration and Cooperation of the Permanent Secretariat of SELA;

Mr Juan Luis Crucelegui, Head of Competition Policies and Consumer Protection of UNCTAD;

Ladies and gentlemen,

When I look at the audience, I say to myself that Switzerland is already part of Latin America. Of course, it is part of it from our heart, and I am glad for that. On behalf of the Government of Switzerland, it is a great honour for me to greet you and participate in this V Annual Meeting of the Working Group on Trade and Competition (WGTC), jointly organized by SELA, UNCTAD and the Superintendency for Control of Market Power of Ecuador.

This meeting was organized within the framework of COMPAL, a technical assistance programme sponsored by Switzerland and implemented by UNCTAD for trade and development. The Government of Switzerland, through the State Secretariat for Economic Affairs, promotes sustainable economic growth and integration of developing countries in the global economy.

Competition plays a fundamental role in this context. It is a crucial factor for markets to function properly. Competition promotes innovation and efficiency, thus maximizing the welfare of consumers and leading to greater competitiveness of domestic enterprises, facilitating and promoting the participation and integration into world trade.

The COMPAL Programme was launched in 2005. After 10 years of existence, COMPAL shows a stunning success story. What began as a small group of five countries became the main platform of Latin America for the development and positioning of competition and consumer protection policies. COMPAL assists its member countries in strengthening their national institutions and legal frameworks and provides technical assistance according to their needs, working in close cooperation with its members. One of the factors of success of the Programme is, in particular, the regional integration of participating countries through cooperation, exchange of experiences and peer-to-peer learning. This set of practices has contributed significantly to the improvement of policies and regulation of beneficiary countries in the areas of competition and consumer protection.

We are very satisfied with the cooperation with the Permanent Secretariat and the Member States of SELA, resulting in an increasingly intense exchange among countries of an even larger region. Switzerland has had a pioneering and leading role in this matter, being the first country to support such initiatives. The successful experience of COMPAL has drawn the attention of other donors who, motivated by this effort and success, have begun to work in this area. I would like to stress the participation of the Swiss competition agency COMPRO, which has played a very important role as an active member of COMPAL and has offered internships to staff from the participating national agencies. This has enabled participants to know, first-hand, its organization and operation and benefit from their knowledge and experience. I am pleased to share with you that, precisely at this time, a colleague from the Ecuadorian competition agency is working with COMPRO in Berne until the end of the year.

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On behalf of the Swiss Government, I would like to recognize the strategic role of UNCTAD in the promotion of competition and consumer protection worldwide and its excellent management of the COMPAL Programme, as well as the commitment of the member countries of the Programme. As I mentioned before, competition plays a very important role for both the functioning of the economy and trade.

The annual meeting of the WGTC of SELA is an excellent opportunity to explore the interconnection between trade and competition. Since its launch, the WGTC has helped strengthen the institutional frameworks of its member countries in the area of trade and competition, facilitating the important exchange of experiences and knowledge in both areas.

Discussions in this forum will contribute to better understanding and coherence between trade and competition policies. In addition to the possibility of discussing these important issues at the regional level, the analysis of regional issues on trade and competition and the approach to a more coherent regulatory framework for the region represent an essential contribution to the efforts of COMPAL and its member countries. Thus, it seems appropriate that the WGTC, for the first time this year, intends to address competition regulations in regional and subregional integration agreements in Latin America and the Caribbean.

I would like to thank our host, Ecuador, the Superintendency for Control of Market Power and SELA for the excellent organization and preparation of this meeting. Having said that, it only remains for me to wish you an interesting, fruitful and inspiring meeting.

Thank you very much.

A N N E X V I I

**SELA'S PROPOSAL FOR THE VI ANNUAL MEETING OF THE WORKING GROUP
ON TRADE AND COMPETITION**

SELA'S PROPOSAL FOR THE VI ANNUAL MEETING OF THE WORKING GROUP ON TRADE AND COMPETITION

For the Permanent Secretariat of SELA, it is of utmost importance to continue the systematic and rigorous study of effective strategies that promote integration in Latin America and the Caribbean. In this regard, the areas of trade and competition and their interrelationship are a priority, and the region cannot wait for best results to be achieved; this is a necessity for the region.

It is well known that subregional integration processes have specific features that define them, that address the structural characteristics of its Member States and adapt differently to changes in the global economy. However, respecting the sovereignty of people and according to the concept of variable geometry in integration, it is also possible to move forward through the strengthening of cooperation, coordination and articulation to facilitate convergence.

In its efforts to continue promoting initiatives that strengthen the regional integration process and, the Permanent Secretariat of SELA expresses its commitment to providing collaboration in the conduction of the Sixth Annual Meeting of the Working Group on Trade and Competition by proposing the theme "Harmonization of regulatory frameworks in the area of trade and competition in Latin American and Caribbean subregional integration mechanisms." In this connection, it undertakes to prepare a study that may serve as the basis for discussions on the matter.

The purpose of this document is to go beyond the diagnosis of problems and recognize particular areas of work through specific strategies that facilitate decision-making and results. The Permanent Secretariat of SELA believes that this initiative will be of high impact and join efforts in the consolidation of a Latin American and Caribbean economic space.

A N N E X V I I I

LIST OF PARTICIPANTS

BELIZE

Adrianie Méndez
Trade Economist
Directorate General for Foreign Trade,
Ministry of Trade
Belmopan, Belize
adrianie.mendez@mft.gov.bz

Carmencita Sosa
Project Manager
Belize Competition Project
Ministry of Trade
projectmanager@bcp.gov.bz

BOLIVIA

Germán Taboada
Executive Director
Enterprise Fiscalization and Social Control
Authority
La Paz, Bolivia
gchavez@autoridadempresas.gob.bo

BRAZIL

Tereza Braga
Adviser
Administrative Council for Economic Defence
(CADE)
Brasilia, Brazil
international@cade.gov.br

CHILE

Cristina Bas Kana
Adviser
General Direction of International Economic
Relations (DIRECON)
Ministry of Foreign Affairs
Santiago, Chile
cbas@direcon.gob.cl

Matías Edwards Zamora
Lawyer
National Economic Prosecutor's Office (FNE)
Santiago, Chile
medwards@fne.gob.cl

COLOMBIA

María Carolina Barragán Méndez
Direction of Regulation
Ministry of Trade, Industry and Tourism
Bogotá, Colombia
mbarragan@mincit.gov.co

Paola Carrillo Zuluaga
Coordinator of the Foreign Affairs Group
Superintendency for Industry and Commerce
Bogotá, Colombia
pcarrillo@sic.gov.co

COSTA RICA

Ronald Cortes Arguedas
Economic Adviser
Ministry of Economy, Industry and
Commerce
San José, Costa Rica
rcortes@meic.gov.cr

Errol Solís
Director of Competition
Ministry of Economy, Industry and
Commerce
San José, Costa Rica
esolis@meic.gov.cr

CUBA

Carlos Fidel Martín Rodríguez
Ministry of Foreign Trade
Havana, Cuba
carlosfidel@mincex.cu

ECUADOR

Xavier Lasso
Deputy Minister
Ministry of Foreign Affairs and Human
Mobility
Quito, Ecuador

Luis Espinosa
Chief Negotiator
United Nations Working Group for the Treaty
on Transnationals and Human Rights

52**EL SALVADOR**

Ana Vargas Rosales
Legal Official for Competition
Superintendency for Competition
San Salvador, El Salvador
rvargas@sc.gob.sv

Evelyn Olmedo Amaya
Specialist of Inter-Institutional Relations and
Cooperation
Superintendency for Competition
San Salvador, El Salvador
eolmedo@sc.gob.sv

GUATEMALA

Álvaro Fernández
Director of Promotion of Competition
Ministry of Economy
Guatemala City, Guatemala
afernandez@mineco.gob.gt

HONDURAS

Alberto Lozano Ferrera
Commissioned Chairman
Commission for Defence and Promotion of
Competition (CDPC)
Tegucigalpa, Honduras
albertolozanoferrera@cdpc.hn

Carolina Echeverría
Commissioned
Commission for Defence and Promotion of
Competition (CDPC)
Tegucigalpa, Honduras
ecehaylock@cdpc.hn

JAMAICA

David Miller
Executive Director
Fair Trading Commission (FTC)
Kingston, Jamaica
ftc@cwjamaica.com

NICARAGUA

Luis Humberto Guzmán
Superintendent
PROCOMPETENCIA
Managua, Nicaragua
ampgprocompetencia@gmail.com

PANAMA

Gaspar Vásquez
Economist
Authority for Consumer Protection and
Defence of Competition (ACODECO)
Panama City, Panama
gvasquez@acodeco.gob.pa

PARAGUAY

Carlos Alberto Filártiga
Member
National Commission for Competition
(CONACOM)
Asunción, Paraguay

Miguel Núñez Figueredo
Member
National Commission for Competition
(CONACOM)
Asunción, Paraguay

Deisy Vera Rotela
Legal Adviser
Deputy Ministry of Commerce
Ministry of Industry and Commerce
Asunción, Paraguay
dpvera@mic.gov.py

PERU

Héctor Palacios Fiestas
Economic Analyst
National Institute for the Defense of
Competition and the Protection of
Intellectual Property (INDECOPI)
Lima, Peru
hpalacios@indecopi.gob.pe

DOMINICAN REPUBLIC

Esther Aristy
Member of the Council of Directors
National Commission for Defence of
Competition
Santo Domingo, Dominican Republic
aristye@gmail.com

INTEGRATION ORGANIZATIONS**ANDEAN COMMUNITY**

Juan Carlos Roa Bogotá
 Professional in Competition Policy
 General Secretariat of the Andean
 Community
 Lima, Peru
jcroa@comunidadandina.org

CARIBBEAN COMMUNITY (CARICOM)

Kusha Haraksingh
 Head of Commission for Competition
 Caribbean Community (CARICOM)
 Paramaribo, Suriname
admin@ccc.sr

**COMMUNITY OF LATIN AMERICAN AND
CARIBBEAN STATES (CELAC)**

María Fernanda Franco
 Pro Tempore Presidency 2015
 Quito, Ecuador
celac-ec@cancilleria.gob.ec

Ministry of Foreign Affairs
secretariacelacd@gmail.com

**SECRETARIAT FOR CENTRAL AMERICAN
ECONOMIC INTEGRATION (SIECA)**

Mauricio Ruano
 Adviser in Competitiveness
 Secretariat for Central American Economic
 Integration (SIECA)
 San Salvador, El Salvador

OTHER COUNTRIES**SWITZERLAND**

Pascal Décosterd
 Ambassador
 Embassy of Switzerland in Ecuador
 Quito, Ecuador
pascal.decosterd@eda.admin.ch

REGIONAL ORGANIZATIONS**INTER-AMERICAN DEVELOPMENT BANK
(IDB)**

Mario Umaña
 Chief Specialist in Trade and Competition
 Inter-American Development Bank (IDB)
 Washington D.C, USA
mariou@iadb.org

**ECONOMIC COMMISSION FOR LATIN
AMERICA AND THE CARIBBEAN (ECLAC)**

Tania García-Millán
 Official of Economic Affairs
 Economic Commission for Latin America and
 the Caribbean (ECLAC)
 Santiago, Chile
Tania.GARCIA-MILLAN@cepal.org

INTERNATIONAL ORGANIZATIONS**WORLD TRADE ORGANIZATION (WTO)**

Pierre Arhel
 Consultant
 Intellectual Property Division
 World Trade Organization (WTO)
 Geneva, Switzerland
pierre.arhel@wto.org

ORGANIZERS**UNITED NATIONS CONFERENCE ON
TRADE AND DEVELOPMENT (UNCTAD)**

Juan Luis Crucelegui
 Head of Competition Policies and Consumer
 Protection
 Geneva, Switzerland
JuanLuis.Crucelegui@unctad.org

Arnau Izaguerri
 Official
 COMPAL Programme
 Geneva, Switzerland
Arnau.Izaguerri@unctad.org

Valentina Rivas
 Official
 COMPAL Programme
 Geneva, Switzerland
Valentina.Rivas@unctad.org

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Christian Knebel
Official
Geneva, Switzerland
Christian.knebel@unctad.org

SUPERINTENDENCY FOR CONTROL OF MARKET POWER

Pedro Páez Pérez
Superintendent
Superintendency for Control of Market Power (SCPM)
Quito, Ecuador

Christian Ruiz
General Intendent
Superintendency for Control of Market Power (SCPM)
Quito, Ecuador
christian.ruiz@scpm.gob.ec

Gabriel Vásquez
Director
Direction of International Relations
Superintendency for Control of Market Power (SCPM)
Quito, Ecuador
gabriel.vasquez@scpm.gob.ec

Eduardo Esparza
Superintendency for Control of Market Power (SCPM)
Quito, Ecuador
eduardo.esparza@scpm.gob.ec

David Segovia
Direction of International Relations
Superintendency for Control of Market Power (SCPM)
Quito, Ecuador
david.segovia@scpm.gob.ec

Daniel Guayaquil
Direction of International Relations
Superintendency for Control of Market Power (SCPM)
Quito, Ecuador
daniel.guayaquil@scpm.gob.ec

Michelle Quintana
Direction of International Relations
Superintendency for Control of Market Power (SCPM)
Quito, Ecuador
michelle.quintana@scpm.gob.ec

Daniel Jaramillo
Direction of International Relations
Superintendency for Control of Market Power (SCPM)
Quito, Ecuador
Daniel.jaramillo@scpm.gob.ec

Daniel Cedeño
Direction of International Relations
Superintendency for Control of Market Power (SCPM)
Quito, Ecuador
Daniel.cedeño@scpm.gob.ec

LATIN AMERICAN AND CARIBBEAN ECONOMIC SYSTEM (SELA)

Telasco Pulgar
Director (a.i.) of Relations for Integration and Cooperation
Caracas, Venezuela
tpulgar@sela.org

Gloria Cañas
Director of the Network of Information and Knowledge
Caracas, Venezuela
gcanas@sela.org

Eduardo Piña
Analyst of Studies and Proposals
Direction of Studies and Proposals
Caracas, Venezuela
epina@sela.org