Competition policy makes it into the Doha Agenda

Yves DEVELLENNES, Directorate-General Competition, Head of unit A-4; Georgios KIRIAZIS, Directorate-General Competition, unit A-4

The Commission has, since the Singapore Ministerial in 1996 and during the deliberations in the WTO Working Group on Trade and Competition in Geneva, been at the forefront of efforts to persuade member countries of the merits of a WTO multilateral agreement on competition. The Declaration adopted on 14th November 2001 by the 4th WTO Ministerial Conference in Doha addresses the ‘Interaction between Trade and Competition policy’. (1)

The Declaration recognizes the case for a multilateral framework to enhance the contribution of competition policy to international trade and development, and the need to step up efforts to provide technical assistance and build the capacity of developing and least developed countries in this area. WTO Members agreed in Doha that there is a valid case for the WTO to negotiate and conclude a Multilateral Agreement on Trade and Competition and that negotiations on trade and competition and other Singapore issues will take place after the Fifth WTO Ministerial on the basis of a decision to be taken, by explicit consensus, at that meeting on modalities of negotiations.

The Declaration also recognizes the needs of developing and least-developed countries for more policy analysis so that they may better evaluate the implications of closer multilateral cooperation for their development policies and objectives, and human and institutional development. To this end, it was decided in Doha to work in cooperation with other relevant intergovernmental organizations, including UNCTAD, and through appropriate regional and bilateral channels, to provide strengthened and adequately resourced assistance to respond to these needs.

Finally, the Declaration mentions that in the period until the Fifth Ministerial, further work in the Geneva-based Working Group on the Interaction between Trade and Competition Policy will focus on the clarification of: core principles, including transparency, non-discrimination and procedural fairness, and provisions on hardcore cartels; modalities for voluntary cooperation; and support for progressive reinforcement of competition institutions in developing countries through capacity building. It was also agreed to take fully into account the needs of developing and least-developed country participants and provide appropriate flexibility to address these needs.

This result is quite satisfactory for the following reasons:

• first, all parties signing to the Doha declaration (including some of the countries that were rather skeptical till now: certain developing countries, Hong Kong and India) recognize for the first time that negotiation and conclusion of a Multilateral Agreement on Trade and Competition is desirable. Up to now even the principle of having such an agreement at the WTO was controversial. The recognition of the importance of developing such a framework and its relevance for international trade and development, will contribute towards the introduction and more effective application of domestic competition regimes and will be of considerable benefit to consumers world-wide, including those of the developing countries.

• second, even if we must wait for the 5th Ministerial, in less than 2 years time, in order to enter the formal phase of negotiations on the multilateral agreement, there is now a clear commitment to launch such negotiations at a certain date and the issue will fall within the single undertaking. We will now enter a «preparatory phase» within which we can do a lot of useful work to clarify with our partners from developing and developed countries the elements needed in such an agreement.

• third, our proposals on the basic elements for such an agreement have been widely accepted. The EC has been driving this issue for some time now and can be quite satisfied that the Declaration focuses on the elements that it has highlighted as items that need to be taken up first for clarification in the period until the Fifth Ministerial.

• finally, as the Working Group now shifts its attention to the discussion on these elements, the

(1) Information on the Conference and the full texts of the declarations and other decisions are available at http://www.wto.org/english/thewto_e/minist_e/min01_e/mindecl_e.htm (paragraphs 23 to 25 for competition)
Declaration opens up the scope for more focused technical assistance and capacity building activity that will help emerging and developing economies to better understand and appreciate the significance of these issues. In this process UNCTAD and other international institutions as well as regional and bilateral arrangements will certainly contribute and have an important role to play in order for everybody to be perfectly ready to open negotiations in the next Ministerial.

At Doha we have taken a first step in an ambitious and far reaching process of establishing a multilateral framework for competition rules at the WTO. The next step – that is to open formal negotiations at the 5th Ministerial – will not be easy and it will be quite difficult to agree on a text with our partners in the WTO. To improve our chances we will continue to work in order that in particular India and the developing countries agree to launch these negotiations and that the US maintains a supportive stance. We will also now enter a new phase of discussions in Geneva. Members of the Working Group will be able to go beyond the examination of abstract principles and focus on the drafting of a detailed negotiation agenda that will lead in the future to the adoption of rules of a binding nature. The envisaged multilateral rules will certainly influence both the legislative activity and the enforcement practice of many members of the WTO. We will finally work with DG Trade and DG Development to make sure that technical assistance and capacity building in the area of competition are given adequate priority.