

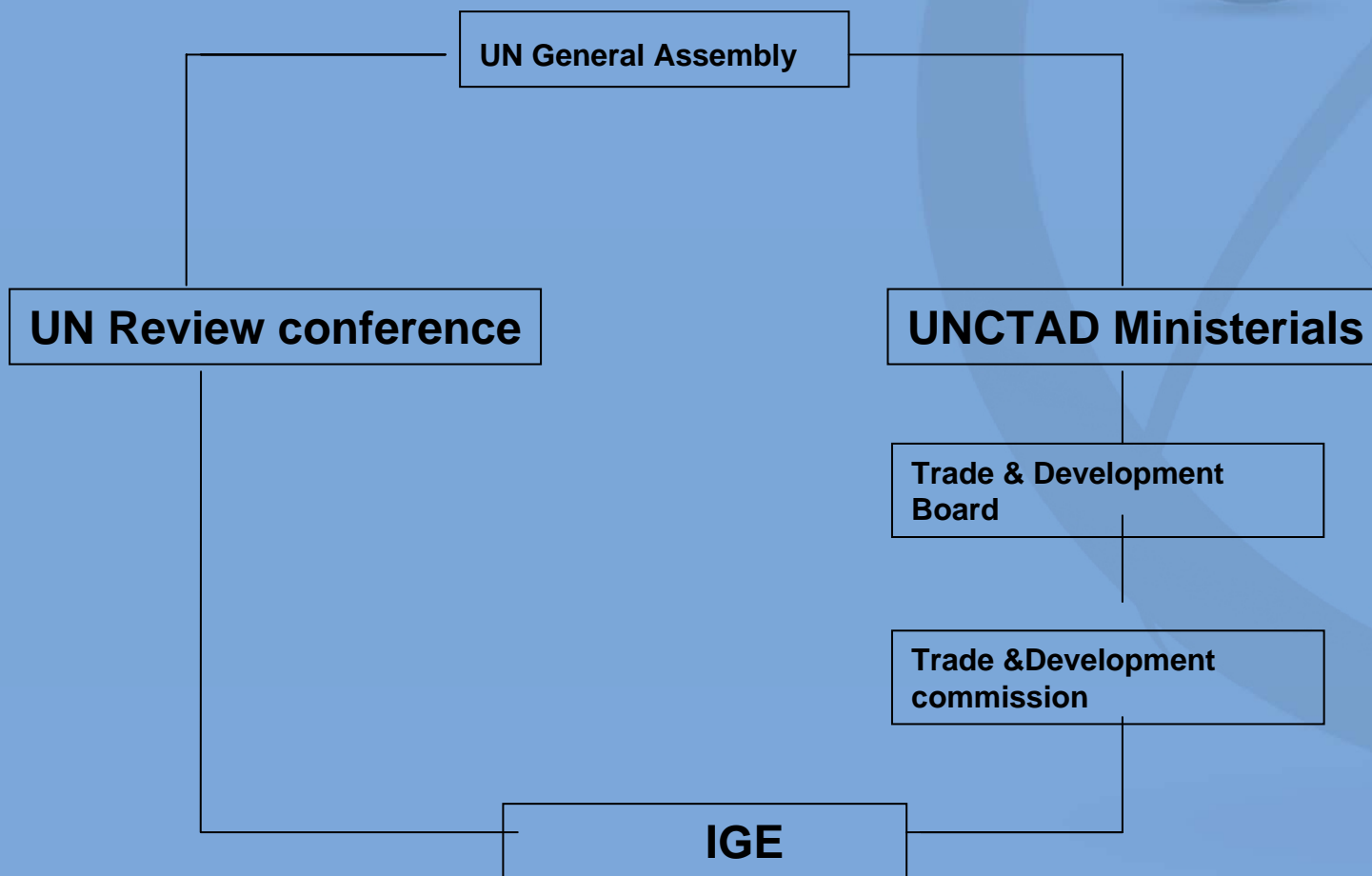
# “Intergovernmental Group of Experts on Competition Policy 2008- 2012: Reports to the Trade and Development Commission , 12-16 November 2012”

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# The Intergovernmental Group of Experts on Competition Policy

The UN Set of Multilaterally agreed Equitable Principles and Rules for the Control of Restrictive Business Practices "The Set" adopted by the GA 35/63, 5TH December 1980 established the Intergovernmental Group of Experts on Competition Policy. Its objectives are:

- (a) To provide a forum and modalities for multilateral consultations, discussion and exchange of views between States on matters related to the Set ,in particular its operation and the experience arising there from;
- (b) To undertake and disseminate periodically studies and research on restrictive business practices related to the provisions of the Set;
- (c) To invite and consider relevant studies, documentation and reports from relevant organizations of the United Nations system;
- (d) To study matters relating to the Set of Principles and Rules and which might be characterized by data covering business transactions and other relevant information obtained upon request addressed to all States;
- (e) To collect and disseminate information on matters relating to the Set of Principles and Rules to the overall attainment of its goals and to the appropriate steps States have taken at the national or regional levels to promote an effective
- (f) To make appropriate reports and recommendations to States on matters within its competence, including the application and implementation of the Set;
- (g) To submit reports at least once a year on its work.



# Main areas of work of the IGE

## Content:

1. Intergovernmental deliberations during the IGEs;
2. UNCTAD peer reviews;
3. Policy research Platform ( RPP );
5. Cooperation with other International organisations, private sector and civil society

## Methods of work

### The Mandate is organised around four cluster of issues:

1. The relationship between Competition policy and development;
2. Effectiveness of competition agencies;
3. International Cooperation;
4. Capacity building including Peer reviews.

# Substantive Assessment

**It is important to note that competition policy was included among UNCTAD's top priorities in the Accra Plan of Action and the Doha Mandate as contributing to make globalization both more efficient and more equitable.**

**In fact, the Set recognizes that competition increases efficiency and aims at creating a more equitable environment. Objective No. 3 of the Set seeks to “protect and promote social welfare... and the interest of consumers” and the Set itself is entitled “Set of Equitable Principles and Rules”, in particular because it endorses the principle of “Preferential or Differential Treatment for developing countries” as embodied in Section C of the Set.**

# Expert Group meeting on the role of competition law and policy

- In the period between the UNCTAD XII and July 2012 **four** sessions of the Intergovernmental Group of Experts on Competition Law and Policy have taken place at UNCTAD. The eleventh session of the IGE, held in July 2009, acted as the preparatory meeting for the Sixth Review Conference and **two Ad Hoc Experts** Meetings on Competition Law and Policy and on Ad-Hoc Expert meeting on Consumer protection were organized; In addition the Sixth UN Conference to Review the Set was held in Geneva in November 2010.

# Substantive Assessment

## **Substantive discussions at the Intergovernmental Group of Experts on Competition Law and Policy over the last four years:**

- (a) Criteria for evaluating the effectiveness of competition authorities;
- (b) Competition in energy markets;
- (c) Abuse of dominance;
- (d) Independence and accountability of competition authorities;
- (e) Competition policy and the exercise of intellectual property rights;
- (f) The attribution of competence to community and national competition authorities in the application of competition rule;

# Substantive Assessment

## Substantive discussions at the Intergovernmental Group of Experts on Competition Law and Policy

- g) Judicial review of competition cases;
- (h) Appropriate sanctions and remedies;
- (i) The use of leniency programmes as a tool for the enforcement of competition law against hardcore cartels in developing countries;
- (j) Modalities for facilitating voluntary consultations among member States and regional groupings, in line with section F of the UN Set;
- (k) Evaluation of the experience gained so far in the implementation of the UN Set, including UNCTAD voluntary peer reviews;
- (l) The role of networking in the exchange of non-confidential information in facilitating cooperation among competition agencies;



# Substantive Assessment

## Substantive discussions at the Intergovernmental Group of Experts on Competition Law and Policy

- (m) The effectiveness of the capacity-building and technical assistance extended to newly established competition authorities.
- (n) Evaluating the effectiveness of competition law in the promotion of economic development;
- (o) The appropriate design and enforcement of competition law and policy in countries at different stages of market development;
- (q) The challenges of encouraging competition in specific sectors; and
- (r) The role of competition advocacy, merger control, and the effective enforcement of law in times of economic trouble.
- (j) The relationship between competition and industrial policies in promoting economic development

# Substantive Assessment

## Substantive discussions at the Intergovernmental Group of Experts on Competition Law and Policy

- (s) Public monopolies, concessions, and competition law and policy
- (t) The use of economic analysis in competition cases
- (v) Review of capacity-building activities and technical assistance;
- (w) Foundations of an effective competition agency;
- (z) The importance of coherence between competition and government policies;
- (x) Consultations on the Model Law;

# Substantive Assessment

## Peer reviews Completed:

- Indonesia
- Armenia
- Serbia
- Mongolia
- Tanzania
- Zimbabwe
- Zambia
- Costa Rica

## Peer reviews in Progress:

- Nicaragua
- Pakistan
- Ukraine
- Sychelles

# Substantive Assessment

- A. Objectives of the Competition Policy as contained in the Set**
- **Promote the adoption and enforcement of competition policy as a tool for economic efficiency, development and consumer welfare;**
  - **Create environment that is conducive to investment and employment ;**
  - **Promote regional and international cooperation in the resolution of cross border anti-competitive practices;**
  - **Provide technical assistance to developing countries and economies in transition.**

# Substantive Assessment

## B. The development dimension

- **Ensure policy coherence;**
- **Where feasible apply competition neutrality;**
- **The application of competition law should take into account the interest of consumers and public interest in a fair and transparent manner;**

# Substantive Assessment

## **C. Foundations of competition agencies**

- **Independence and accountability of competition agencies;**
- **Adequate human and financial resources;**
- **Respect for due process;**
- **Regular evaluation of the impact of decisions;**
- **Peer reviews**

## Cooperation with other International Organisations

### 1. Cooperation with the OECD

- Regular consultations about topics on common interest;
- Timing and sequencing of roundtables discussions;
- Inviting each others to participation in Peer reviews of developing countries and economies in transition;
- Cooperation in the revision of the United Nations Guidelines for Consumer Protection;
- Working together on Capacity building activities

### 2. Cooperation with WIPO, WTO and the OECD

- Participation in the "Competition policy and IP Quartet ".

# Findings and recommendations

***The conclusions of the consultations among experts during the IGE are recorded in the successive reports of the IGEs, and are disseminated by UNCTAD through its capacity building and policy advice to interested countries and reflected in the reports of voluntary peer reviews of competition policy held in UNCTAD***



# UNCTAD Research Partnership Platform

<http://unctad.org/en/Pages/DITC/CompetitionLaw/ResearchPartnership/Research-Partnership-Platform-on-Competition-and-Consumer-Protection--.aspx>



# UNCTAD Research Partnership Platform

<http://unctad.org/en/Pages/DITC/CompetitionLaw/ResearchPartnership/Research-Partnership-Platform-on-Competition-and-Consumer-Protection--.aspx>

- UNCTAD created the Research Partnership Platform (RPP) in 2010.
- The RPP is an initiative that aims at contributing to the development of best practices in the formulation and effective enforcement of competition and consumer protection laws and policies so as to promote development.
- The RPP brings together research institutions, universities, competition authorities, business and civil society, and provides a platform where they can undertake joint research and other activities with UNCTAD;
- Ongoing projects:
  - Competition Law and the State
  - Competitive Neutrality
- Partners : 32 Universities and research Institutes