



INTERGOVERNMENTAL GROUP OF EXPERTS ON **COMPETITION LAW AND POLICY**





ENHANCING INTERNATIONAL COOPERATION IN THE INVESTIGATION OF CROSS-BORDER COMPETITION CASES

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CHALLENGES IN INVESTIGATING CROSS-BORDER ANTI-COMPETITIVE PRACTICES

- Information protection in domestic law
- Lack of an international definition of confidential information
- Absence of waivers of confidentiality
- Limitations in admissibility of information
- Limitations in implementing leniency programmes at the cross-border level
- Lack of mutual understanding, trust and interaction between competition authorities



ENHANCING INTERNATIONAL COOPERATION: RULES AND PROCEDURES

- Promote better understanding of laws, assessment criteria, design of remedies, sanctions
- Build human and technical enforcement capacities of young competition authorities
- Develop guidelines and best practices for cooperation agreements
- Exchange staff and detach resident advisors
- Develop similar leniency policies to promote the granting of waivers to leniency applicants
- Establish and implement clear safeguards for due process and the protection of confidential information



POLICY OPTIONS FOR SMALL AND YOUNG COMPETITION AGENCIES

- Recognition of decisions by courts of other jurisdictions
- One-stop shop model
- Appointment of one or more lead jurisdictions in cross-border cases
- Joint investigative teams and cross-appointments



CASES OF INTERNATIONAL COOPERATION ON CARTEL ENFORCEMENT

- Cooperation amongst mature competition authorities at the pre-investigatory phase: Marine Hoses Cartel, 2007, (US Department of Justice, the EU Commission and the Office for Fair Trading of the United Kingdom), Air Cargo Cartel (EU, US, South Africa, Australia) in 2014-2017.
- Informal cooperation amongst mature and young competition authorities: Ocean Shipping/Roll-on, Roll-off Cargo cartel (US, EU, Japanese, Australian and Chinese enforcers, Brazil Chile, Peru) in 2015-2017
- South-south informal cooperation: The nappy cartel, Colombia, Chile and Peru in 2014
- Russian Federation (FAS): Cooperation with CIS countries in air transportation, telecommunications from 2007 onwards.
- Cooperation with Eurasian Economic Commission (EEC) on distribution of Caterpillar products in 2015-2016



UNCTAD'S ROLE IN PROMOTING INTERNATIONAL COOPERATION

- Consultations under Section F, Article 4 of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices
- Framework for the discussion of member States' proposals to operationalize this instrument as a cooperative mechanism, not as a conflict resolution instrument
- Facilitate consensus between member States on having a default set of procedural rules





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