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


• 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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