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**Minutes Fourth Meeting**  
**Working Group on modalities of UNCTAD voluntary peer review exercises, 3 May 2021**

The [Eighth United Nations Conference on Competition and Consumer Protection](#), held from 19 to 23 October 2020, decided to establish a “*working group on modalities of UNCTAD voluntary peer review exercises, open to member States on a voluntary basis, without any financial implications for the regular budget of the United Nations, to discuss and improve existing procedures and methodology, to report respectively to the nineteenth and fifth sessions of the Intergovernmental Groups of Experts on Competition and Consumer Protection laws and policies.*” The Working Group held its fourth meeting on 3 May 2021 (at 14:00 CET).

1. The meeting was opened and moderated by the UNCTAD secretariat.
2. The secretariat reminded participants of the outcome of the third meeting of 17 March. The Working Group adopted its work plan until the next IGEs and discussed a detailed picture of all stages of the current peer review process. The said workplan was circulated and open for comments/proposed improvements. Since then, the secretariat received comments from:
  - a. Joint proposal from Australia (ACCC), Chile (TLC), Italy (AGCM), Mexico (Profeco, Cofece), Philippines (DTI), USA (DOJ, FTC) and Nelson Mandela University
  - b. Azerbaijan
  - c. Mexico (IFT)
  - d. Sweden
  - e. WAEMU
  - f. Global Traders Conference
3. The secretariat informed that these comments/proposed improvements could be considered in addition to those received to the initial questionnaire circulated in preparation for the first meeting of the Working Group. The secretariat invited participants who provided comments to present them.
4. Participants provided comments and inquiries:
  - a. The United States presented the key features of the joint proposal Joint proposal from Australia (ACCC), Chile (TLC), Italy (AGCM), Mexico (Profeco, Cofece), Philippines (DTI), USA (DOJ, FTC) and Nelson Mandela University:
    - i. Determine framework of reference documents to conduct the review
    - ii. More involved role for peer reviewers themselves in all parts of the processThe United States presented the detailed proposal (as was shared in meeting screen).
  - b. Azerbaijan asked about the funding opportunities for the peer review. The secretariat informed that the current ball figure is 30-50 K USD (depending on the region) to be mobilized either by the volunteering country or by development partners (such as other member States or international development institutions).
  - c. Mexico (IFT) asked whether there are parameters to understand the funding requirements. Mexico proposed that the questionnaire be provided by the



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- external expert/secretariat for the volunteering country to conduct a self-assessment before the fact-finding mission (following the OECD experience). The interpreters could be associated in all the process so to rely less on the script of the session. Mexico suggested to add a column in the flowchart on the interaction with relevant stakeholders (Ministries, NGOs, academia). Virtual activities could reduce costs in capacity building.
- d. Sweden stressed that additional funding is crucial for a successful implementation of the recommendations. Volunteers should conduct a self-assessment before engaging in a peer review. Fact-finding missions should provide not only a legal analysis but a comprehensive picture of the reality on the ground. A post-assessment phase should be added to the peer review to measure its effectiveness.
  - e. WAEMU suggested to define a precise review criterion for developing countries. Reviews should be done in a periodical manner (with an indicative review period) to enhance transparency, as is the case at the WTO. Impact assessment should be included in the process. Funding from private sector or philanthropic institutions should be explored to implement recommendations.
  - f. The Global Traders Conference encouraged regional assessments and suggested that a template be provided to assess the competition or consumer protection regimes of regional institutions (in conjunction with selected Member States) in a systematic manner. He also suggested that the Guiding Policies and Procedures under Section F of the UN Set on Competition could be used as a benchmark for reviews of the rules and experiences relating to international cooperation of reviewed countries.
5. The secretariat highlighted that some comments/improvements had budgetary and time implications (estimated at + 60,000 - 100,000 USD and at +1 year), which should be considered. There is also a need to hear the views of peer reviewed or potentially peer reviewed countries.
  6. The floor was open for further comments and inquiries:
    - a. Chile highlighted the need to be vigilant of time and budgetary implications of proposed improvements.
    - b. The United States stressed that the joint proposal with other countries intends not to have budgetary implications and asked for time and budgetary implications to be estimated by the secretariat.
    - c. The Nelson Mandela University supported the view that time and budgetary implications be estimated by the secretariat to be further discussed by the Working Group.
  7. Participants agreed that the comments received to date be circulated as annex to the minutes of the meeting for further discussion at the next meeting of 21 June 2021 (including attribution of comments):
    - a. Annex 1 contains comments/proposals for improvements received to the initial questionnaire circulated in preparation for the first meeting of the Working Group (in black) and to the detailed picture of all stages of the current peer review process circulated on 17 March 2021 (in red).



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- b. Annex 2 contains the Joint proposal from Australia (ACCC), Chile (TLC), Italy (AGCM), Mexico (Profeco, Cofece), Philippines (DTI), USA (DOJ, FTC) and Nelson Mandela University.
8. Participants gave permission to upload the minutes of meetings in the Working Group subsite: <https://unctad.org/Topic/Competition-and-Consumer-Protection/working-group-on-voluntary-peer-reviews> in order to allow delegates at the IGE to have easy access to the discussions of the Working Group.
9. Participants agreed that the next meeting be devoted to a general exchange of views regarding comments/improvements received so far. If time allows, the next meeting will also discuss improvements in the “consultation” phase (see Annex 1, consultation comprises: (1) Request by volunteering member State/regional organization; (2) Selection of expert(s) to draft the peer review background report; (3) Fact-finding mission; (4) Drafting the peer review background report. Subsequent meetings could discuss the “peer review” and “follow-up” phases.
10. The secretariat informed that given the short period of time and meetings before the IGEs and the need to seek the views of peer reviewed or potentially peer reviewed countries, it is unlikely that the Working Group will be in a position to propose a consensus document for discussion and adoption at the IGE session. Should any member State wish to submit an individual proposal for consideration by the IGE, it should do so via its permanent mission in Geneva.
11. The next meeting of the Working Group will be held on 21 June from 14:00 CET to 15:00 CET.

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<b>Working Group on modalities of UNCTAD voluntary peer review exercises</b>		
<b>4<sup>th</sup> Meeting – List of Participants</b>		
<b>Name</b>	<b>Organization</b>	<b>Country</b>
Paola Rubín	National Direction on Consumer Protection	Argentina
Mahammad Mammadzada	State Service for Antimonopoly and Consumer Market Control	Azerbaijan
Francisco Carlos F. Pacheco	PROCON - Florianópolis	Brazil
Carolina Araújo de Andrade, Nayara Kazeoka Zago	Administrative Council for Economic Defense (CADE)	Brazil
Ruth Epsztejn	INMETRO	Brazil
Daniela Gil	Consumers National Service (SERNAC)	Chile
Gesine Schmidt-Grosser, Rainer Ettel	Federal Ministry for Justice and Consumers	Germany
Gabriella Szilágyi	Competition Authority (GVH)	Hungary
Michele Pacillo	Competition Authority (AGCM)	Italy
Alejandro Pedraza, Paulina Valladares, Sada Correa Heidi	Federal Economic Competition Commission (COFECE)	Mexico
Ivonne García González	Federal Telecommunications Institute (IFT)	Mexico
Ana María Martínez Jerez	National Commission on Markets and Competition (CNMC)	Spain
Alba Urresola Clavero	Basque Competition Authority	Spain
Naghira Franchesca Delgado Barrera, Manuel Andre Calampa Villaorduña, Melissa Torres Salguero	National Institute for the Defense of Free Competition and the Protection of Intellectual Property (INDECOPI)	Peru
Ryad Awaja	Permanent Observer Mission of the State of Palestine to the UN in Geneva	State of Palestine
Yvonne Stein	Ministry of Finance	Sweden
Joshua Msoma	Fair Competition Commission	Tanzania
Krystle S. Maharaj	Trinidad and Tobago Fair Trading Commission	Trinidad and Tobago
Russell Damtoft, Michael Panzera	Federal Trade Commission	United States
Caldwell Harrop	Department of Justice	United States
Giovanni Napolitano	World Intellectual Property Organization (WIPO)	
Olivier Angaman	West African Economic and Monetary Union (WAEMU)	



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Rajan Dhanjee	Global Traders Conference (GTC)	
Laura Best	Nelson Mandela University	
Suriya Prabha Padmanaabhan	TRACIT	
Fernando de Magalhães Furlan		



## Annex I

### Comments to the current process of UNCTAD Voluntary Peer Review on Competition and on Consumer Protection Laws and Policies (latest comments received after 17 March 2021 in red)

#### 1. Consultation

##### (1) Request by volunteering member State/regional organization

- UNCTAD secretariat receives the request from an interested member State/regional organization via its permanent mission in Geneva.
- In case of various simultaneous requests (it has not happened yet), candidatures will be assessed by the UNCTAD secretariat using objective criteria<sup>1</sup>.
- Funding must be secured: either through self-funding by volunteering member State, or through a Trust Fund Agreement with a development partner/regional international institution/member States. It is possible that an interested consumer protection agency serving as peer reviewer volunteers to fund the exercise. (Is there a reference quote or a parameter available? Considering previous voluntary contributions for peer reviews, how much should a member State be prepared to disburse? (Mexico IFT)
- Funds are transferred to UNCTAD to cover for: expert fees, fact-finding mission of one week for expert and one accompanying UNCTAD staff, edition, formatting and translation (depending on needs) of background report. Additional funding may be budgeted to organize a post-review mission to disseminate the recommendations in the peer reviewed member State ((9) and (10) below).

##### **Proposals:**

- Organize at the beginning of the process an awareness raising/communication event to which all stakeholders will be invited in order to involve them from the beginning and raise their awareness about the objectives and interest of this review. (Morocco)
- Support the Morocco's proposal for organization of a public launch event, which would have been a good way to start the process. Sectoral regulators are also responsible for consumer protection, so their work should also be considered. (Robin Simpson)
- Develop a process to encourage member states to volunteer as peer reviewees and peer reviewers. (USFTC Consumer)
- Include smaller countries to participate more as they are the ones that are affected the most. (Kiribati)
- Organize resource mobilization meetings for developing countries to follow-up in and foster the implementation of recommendations for developing countries. (WAEMU)
- Encourage further reviews of regional competition regimes. To facilitate regional reviews, elaborate a template for peer review reports of regional competition systems. (GTC)

<sup>1</sup> Although this has never happened, the note "Framework for voluntary peer reviews on consumer protection law and policy" identifies the following criteria against which candidatures will be assessed (which may be applied mutatis mutandis to competition):

- (a) Experience: Number of years in implementing consumer protection policies
- (b) Suitability: Opportunity for policy improvement, adjustment or reform
- (c) Sustainability: Appropriate capacities for implementing and monitoring the peer review recommendations and ensuing technical cooperation project, if applicable.



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- Discuss whether additional funding may be budgeted should be replaced with “additional funding should be budgeted” in order to ensure that the result of the peer review gets implemented. (Sweden)

## (2) Selection of expert(s) to draft the peer review background report

- UNCTAD secretariat identifies external expert(s) to draft the peer review background report. Expert(s) must have an advanced university degree in Economics, law, social affairs or related field that is relevant for competition/consumer protection law and policy; over ten years of direct experience in competition/consumer policy formulation/implementation; fluency in the official language of the reviewed member State and/or in the language of the peer review background report. Expert(s) must not be government officials at the time of the peer review. They should not be nationals of the peer reviewed member State.
- A pool of three experts is proposed to the reviewed member State, who chooses (one or more, depending on needs) in close consultation with UNCTAD secretariat.
- UNCTAD secretariat issues the contract with the selected expert(s).

### Proposals:

- Develop a process whereby peers can provide input in the selection of the individual(s) who will prepare the peer review report. (USFTC/USDOJ Competition)
- Requirements for as well as the background of external experts shall be agreed in advance with the reviewed member State. (Azerbaijan)

## (3) Fact-finding mission

- Prior self-assessment by the reviewed member State is strongly encouraged. (voluntary)
- Preparation of documentation by the reviewed member State (legislation, policy, judicial decisions, institutional documents and strategies).
- The expert(s) schedule and undertake desk research, fact-finding mission to the peer reviewed member State (accompanied by an UNCTAD staff) to collect necessary data and information.

### Proposals:

- It would be useful to include in the information gathering process the use of questionnaires that stakeholders can potentially submit if they consider it necessary to provide additional information. (Peru)
- This self-assessment could be guided by a questionnaire and checklist of relevant documents, both designed by the external expert. (Mexico IFT)
- Prior self-assessment by the reviewed member State should be obligatory in order for the contribution from that state to be ensured. (Sweden)

## (4) Drafting the peer review background report

- The expert(s) prepare a draft peer review background report, which includes recommendations, based on the research and fact-finding mission.
- The draft peer review background report is sent to the reviewed member State to correct factual errors.
- The final peer review background report is summarized in an overview report (max 6,000 words).



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- The overview report is translated and publicized in all six UN official languages. The overview report must be released online at the latest two weeks prior to the peer review session at the IGE ((8) below)<sup>2</sup>.
- The final peer review background report is submitted for **edition** and (eventual) translation, **at** least into English. The translation process takes approximately six months and UNCTAD Competition and Consumer Policies Branch is not in a position to guarantee that it will be ready for the peer review session at the IGE.

**Proposals:**

- Develop a process whereby peers review and comment on a preliminary draft of the review before it is finalized, taking care to build in mechanisms for robust and spontaneous discussion by and between peer reviewers and the reviewed country. (USFTC/USDOJ Competition)
- I would have liked more time to discuss the draft in French with my Moroccan colleagues. The draft was finally produced in English and we did not discuss the draft, although I got some late updates. (Robin Simpson)
- We think it would be beneficial for a translation of the **full** report to be made available to the peer reviewers prior to the review session, as the greater detail and information would enable reviewers to develop their approach. (Australia)
- **Important that the fact-finding mission succeed in finding not only the wording of the legal acts but how consumer protection legislation is implemented and enforced. (Sweden)**

**2. Peer review**

**(5) Selection of peer reviewers**

- UNCTAD secretariat proposes a pool of five peer reviewers (usually competition/consumer protection authorities of member States but could also be academics) considering experience in the most salient issues identified in the peer review background report and geographical balance, of which the peer reviewed member State chooses three.

- UNCTAD secretariat invites peer reviewers and briefs them about the process and responsibilities.

**Proposals:**

- Choose at least one peer reviewer with a level of development of consumer protection policy equal to that of the peer reviewee in order to have a closer sight of the reality of the country and recommendations more adapted to its economic and social situation, as well as one developed peer reviewer with advanced view. (Morocco)
- **Criteria for shortlisting a pool of five peer reviewers shall be agreed with the reviewed member State. (Azerbaijan)**

**(6) Preparation of peer review**

- The peer review background report is shared with the peer reviewers.

- UNCTAD secretariat hosts a meeting with reviewed and reviewers to present the process, expected inputs and occasions of intervention.

- The peer reviewers prepare around five to seven questions and send them to UNCTAD secretariat. UNCTAD secretariat systematizes questions (to avoid duplications) and selects two per peer reviewer.

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<sup>2</sup> Internally, the overview report is submitted to the Intergovernmental Support Service for edition, translation and publication 14 weeks prior to the peer review session at the IGE.





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- The reviewed member State has the opportunity to ask one or two questions to each peer reviewer, and also to ask one question to one or two member States attending the peer review session at the IGE ((8) below).
- UNCTAD secretariat prepares a script with all interventions and submits them to interpreters for the peer review session at the IGE ((8) below). Interpreters require all interventions in writing in advance.

**Proposals:**

- Providing opportunities to both the peer reviewers and country being reviewed to ask questions of each other ensures the review process remains fair, balanced and transparent, as well as providing opportunity for a useful two-way exchange of information. (Australia)
- We think that a webinar between the reviewers and also between the reviewers and the reviewees can be useful during the preparation of the review in order to discuss some specific questions that cannot be clarified in the desk analysis or through own research. (EU)
- Develop a process to enable peer reviewers to have a preliminary dialogue with the reviewed country and the Secretariat/report author at the beginning of the process to set the course for the review. (USFTC/USDOJ Competition)
- We also suggest including an informal preliminary exchange of views by the peer reviewers, again to inform the Secretariat/report author. (USFTC/USDOJ Competition)
- Interpreter's needs are not the most relevant part of the peer review exercise. We suggest avoiding preparing and reading scripts and rather upload later a translated audio embedded into the video recording or a translation of the transcript. Substantive discussion between peer reviewers and the reviewed State should be prioritized. (Mexico IFT)
- A more open discussion about what questions to include or exclude prior to the review could help ensure transparency and ensure the most relevant questions are being asked of both the country being reviewed and peer reviewer. (Australia)
- We believe it is important to develop substantive written standards or reference points for the peer review. (USFTC Consumer)
- Define precise review criteria with specific criteria for developing countries. (WAEMU)
- Set up a common methodological approach for all peer reviews. (WAEMU)
- Include a periodic evaluation framework. (WAEMU)
- Develop a written methodology, subject to approval of the relevant IGE. (USFTC/USDOJ Competition)
- The methodology should establish criteria against which the reviewed agency's work will be compared. (USFTC/USDOJ Competition)
- The review is mainly focused on legal acts but less on their enforcement. Some more emphasis on enforcement and redress can be useful. (EU)
- One option may be to create a committee, approved by the IGE, of experts from member state competition agencies, with a limited mandate of, e.g., five years, to oversee the process. (USFTC/USDOJ Competition)
- Peer review process must include timeline for each action. (Azerbaijan)
- Using the GPP as a framework, peer reviews could thoroughly cover and make recommendations on rules and experiences relating to international cooperation of the reviewed country. (GTC)

**(7) Prepare a capacity-building project proposal**



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UNCTAD secretariat develops a capacity-building project to implement the peer review recommendations.

**Proposals:**

- Important to take into account that implementing the recommendations stemming from a peer review is a time-consuming exercise. (Sweden)

**(8) Formal peer review session at the meeting of Intergovernmental Group of Experts (IGE) on Competition or Consumer Protection Law and Policy**

- UNCTAD secretariat organizes a peer review round-table discussion and presents the peer review background report and recommendations.

- Interactive session of questions and answers between reviewers and reviewed member State, and with the rest of participating member States (as contained in a script of the session) takes place. Interpreters require all interventions in writing in advance.

- UNCTAD secretariat presents the capacity building project proposal ((7) above) to accompany the reviewed member State in implementing the recommendations from the peer review background report and the interactive session.

- UNCTAD secretariat prepares a report of the session (translated into six UN official languages and released online) contained in the overall report of the IGE meeting.

**Proposals:**

- Having the ability to intervene during the review, or otherwise foster a more free-flowing discussion between the parties, could also provide greater opportunities for the peer reviewers and the reviewee to consider questions and topics that might arise during the conduct of the session. (Australia)

- The Secretariat should request questions in advance and share them also with the interpreters. The Secretariat should give access to the report to the interpreters so that they recognize ahead, the terminology that will be used. Alternatively, a glossary can be prepared by the Secretariat, enriched by the reviewed State, and shared with the interpreters ahead of the session, to improve the quality of interpretation. (Mexico IFT)

- Relevant stakeholders (other ministries, other agencies, other regional organizations, NGO, academia, private sector) from the reviewed State should be invited to provide inputs to develop this project proposal with the UNCTAD Secretariat, so that their views are incorporated and the implementation may be improved. (Mexico IFT)

**3. Follow-up**

**(9) Dissemination of peer review results**

- UNCTAD secretariat organizes a mission to disseminate the peer review findings and recommendations to all relevant stakeholders in the reviewed member State, for example by holding workshops, depending on availability of funds.

- Peer reviewers may be invited to participate in the dissemination mission, depending on availability of funds.

**Proposals:**

- Create a window of direct participation by consumer organizations and consumers in the country under review, via an accessible digital platform. (Laura Best)



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- Share the lessons learned with a wide audience to encourage the use of the reviews as teaching material at public service training institutes/civil service colleagues for public servants, and in university curricula. (Laura Best)
- Given the importance of the peer reviewers inputs, if no funds were available, virtual participation should be pondered. (Mexico IFT)
- Important that follow up activities should include the dissemination of the results of the Peer Review reports as well as capacity building and technical assistance from UNCTAD to reviewed countries. Clear cut recommendations in order for the reviewed state to be able to implement in a timely manner. (Sweden)

#### **(10) Implementation of the capacity-building project**

Activities involved depend on availability of funds (e.g. revision of laws, training workshops).

##### **Proposals:**

- UNCTAD could conduct monitoring exercises post the review to ensure progress on implementation of findings and assess the impact of the VPR. (Zimbabwe)
- Development partners to foster the implementation of recommendations (private partners, advanced competition authorities). (WAEMU)
- Virtual activities may substantially reduce costs and should be pondered along with or replacing in-person activities. Virtual formats should be considered if they increase the impact or if they allow to reach larger audiences or beneficiaries of the activity. In-person activities could be reserved for high-level meetings. (Mexico IFT)
- Important that the peer review is measured. (Sweden)

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## Annex II

### **Proposal (variations in red) for revised process of UNCTAD Voluntary Peer Review on Competition and on Consumer Protection Laws and Policies**

**Proposed by:**

**Australia (ACC), Chile (TLC), Italy (AGCM), Mexico (Profeco, Cofece), Philippines (DTI), USA (DOJ, FTC) and Nelson Mandela University**

### **Reference Points for Peer Review**

Peer reviews are to be done with reference to appropriate baseline reference points, as described below, with the scope of the topics covered adjusted in a flexible manner to take into account the particular economic and other circumstances of the reviewed Member State. A flexible approach will also take into account the fact that differences in the resources available to the authorities in each Member State will have an effect on the range of issues to be covered in the peer review process and resulting report.

The following guidelines serve as reference points for the consumer protection peer review reports: UN Guidelines for Consumer Protection (“UN Guidelines”); OECD Recommendation on Consumer Protection in E-commerce (2016) (cited in UN Guidelines, p. 21 ¶ 65); The OECD High-Level Principles on Consumer Protection (cited in UN Guidelines, p. 21, ¶ 68); the OECD Guidelines for Protecting Consumers from Fraudulent and Deceptive Commercial Practices Across Borders (2003) (cited in UN Guidelines, p. 27, ¶ 90).

The following guidelines serve as reference points for competition peer review reports: the 2019 **OECD Recommendation concerning Effective Action against Hard Core Cartels**; 2014 **OECD Recommendation concerning International Co-operation on Competition Investigations and Proceedings**; 2012 **OECD Recommendation on Fighting Bid Rigging in Public Procurement**; 2011 **OECD Recommendation concerning Structural Separation in Regulated Industries**; 2009 **OECD Recommendation on Competition Assessment**; 2005 **OECD Guiding principles for Regulatory Quality and Performance**; the 2005 **OECD Best practices on Information Exchange**; the 2005 **OECD Recommendation concerning Merger Review**; the 1979 **OECD Recommendation on Competition Policy and Exempted or Regulated Sectors**; the **ICN Recommended Practices for Merger Notification and Review**; the **ICN Recommended Practices for Merger Analysis**; the **ICN Recommended Practices for the Assessment of Dominance/Substantial Market Power**; the **ICN Recommended Practices for Investigative Process**; the **ICN Recommended Practices on Competition Assessment**; the **ICN Recommended Practices on the Application of Unilateral Conduct Rules to State-Created Monopolies**; the **ICN Recommended Practices for Predatory Pricing Analysis Pursuant to Unilateral Conduct Laws**; the UN Set; and the



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UNCTAD Guiding Policies and Procedures Under Section F of the UN Set.

## PHASE ONE: Formation & Fact-Finding

### (1) Request by Volunteering Member State/regional organization

- **Request:** The UNCTAD Secretariat receives the request for a peer review on competition or consumer protection matters from either a volunteering Member State (hereinafter, “Reviewed Member State”) or regional organisation via its permanent mission in Geneva.
- **Funding:** Funding is secured either through by the Reviewed Member State (*i.e.*, self-funding) or through a Trust Fund Agreement with a development partner/regional international institution/member States. Funds are transferred to UNCTAD to cover the following expenses: (1) expert fees; (2) fact-finding mission of one week by expert(s) and one accompanying UNCTAD staff; (3) edition, formatting and translation (depending on needs) of the Peer Review Background Report (*see* Step 5). Additional funding may be budgeted to organize post-review dissemination of the recommendations in the Reviewed Member State and/or conduct a Post-Review Implementation Assessment (*see* Steps 8 and 10).

### (2) Selection of Peer Reviewers

- **Selection:** The Reviewed Member State, in consultation with the Secretariat, selects **five representatives of Member States** to comprise a Peer Review Panel. Peer Reviewers may be from competition or consumer protection authorities of Member States, taking into consideration: expertise in priority subjects as identified by the Reviewed Member State, geographical/economic balance, and gender diversity.
- **Invitation:** The UNCTAD Secretariat invites peer reviewers and briefs them about the process, scope, timing and responsibilities.
- **Planning Meeting and Guidance Document:** Once selected, the Peer Review Panel meets the Reviewed Member State and the UNCTAD Secretariat to **set the course and terms for the review**. After this preliminary exchange of views (and any written follow-up suggestions by the peers), the Secretariat prepares a draft **Guidance Document describing the scope of the review, the timeline, deliverables and the format of the peer review**.



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- **Work Plan:** Based on the Guidance Document, the Reviewed Member State develops a detailed Work Plan for the peer review and shares it with the Secretariat and the reviewers, as applicable. The Work Plan describes in detail the issues and sectors to be reviewed and provides input on the type of expertise that will be needed from the external Consultants and that will be necessary to elicit the desired level of peer review. (see Step 3)
- **Prior Self-Assessment.** The Reviewed Member State should conduct a Prior Self-Assessment of the status of the legal and economic framework relevant to the matters under review and provides it to the Peer Reviewers, the UNCTAD Secretariat and the Consultant(s), once selected.

### (3) Selection of Consultant(s) to draft the Peer Review Background Report

- **Pool of Consultants:** The UNCTAD Secretariat, in consultation with the Peer Reviewers, proposes a pool of three or more external Consultants to the Reviewed Member State to draft the Peer Review Background Report, taking into consideration the Reviewed Member State's particular regulatory, social, cultural, and political conditions.
- **Criteria for Selection:** Consultant(s) must meet the following criteria:
  - an advanced university degree in economics, law, social affairs or other related fields relevant to competition/consumer protection law and policy topics at issue in the Peer Review
  - over ten years of direct experience in competition / consumer policy formulation and/or implementation
  - not a government official at the time of the Peer Review
  - not a national of the Reviewed Member State.NB: Proficiency in the official language of the Reviewed Member State is desirable.
- **Selection:** The Reviewed Member State chooses a Consultant (or more than one Consultant, depending on needs).
- **Execution of Consulting Contract:** UNCTAD Secretariat executes a contract with the selected Consultant(s).
- **Meeting with Experts:** The Peer Reviewers and the Reviewed Member State meet with the selected Consultant(s) before the Peer Review begins, in order to discuss the objectives and interests of the agency regarding the aspects that need to be improved.



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#### (4) Fact-finding mission

- **Background Documents**: The Reviewed Member State prepares package of Background Documents and submits it to the UNCTAD Secretariat, and the Consultant(s). The package of Background Documents may include relevant legislation, policy statements, judicial or administrative decisions, institutional documents and strategies, as well as the Prior Self Assessment, if the Reviewed Member State has conducted one. **The Peer Reviewers may request access to the Background Documents.**
- **Fact-Finding Mission**: The Consultant reviews the package and conducts independent research, followed by a fact-finding mission to the Reviewed Member State to collect necessary data and information, interview relevant officials, etc. UNCTAD staff may accompany the Consultant on the fact-finding mission.

#### (5) Peer Review Background Report

- **Draft Peer Review Background Report**: Based on the research and fact-finding mission, the Consultant(s) prepares a draft Peer Review Background Report, which includes specific recommendations for implementation, both short- and long-term **[and seeks comments from the Peer Reviewers ]**.
- **Review of Peer Review Background Report**: **The Consultant sends the draft Peer Review Background Report to the Reviewed Member State and the Peer Reviewers, who may comment on the draft of the report before it is finalized.** The Consultant holds a meeting or teleconference with the Reviewed Member State and the Peer Reviewers to discuss comments on the draft report for consideration in preparing the Overview Report. If necessary, **the Peer Review Background Report is translated into the language of the reviewed member State as soon as practicable.**
- **Overview Report**: The draft Peer Review Background Report is summarized in an **Overview Report (with a maximum of 6,000 words), in which any recommendations are presented as tentative.** The UNCTAD Secretariat submits the Overview Report the Intergovernmental Support Service for edition, translation and publication 14 weeks prior to the Peer Review Session at the IGE meeting.
- **Translation of Overview Report**: Once finalized, the Peer Review **Background Report is translated and published in all six UN official languages.** The Overview Report must be published online at the latest



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two weeks prior to the peer review session at the IGE meeting (see Step 7)<sup>2</sup>.

## PHASE TWO: PRESENTATION OF PEER-REVIEW REPORT

### (6) Preparation for the Peer Review

- **Transmission of Reports:** The Consultants transmits the final Peer Review Background Report and the Overview Report to the Peer Reviewers.
- **Preparatory Meeting:** The UNCTAD Secretariat hosts a meeting with the Reviewed Member State, the Peer Reviewers and the Consultant(s) to present the process, the expected inputs and opportunities for intervention.
- **Input by Peer Reviewers before Interactive Session:** Peer Reviewers may provide substantive suggestions or input (in writing or orally at the Preparatory Meeting) for consideration by the Reviewed Member State regarding the organization of the Interactive Session at the IGE meeting, as well as on the content of a Peer Review Background Report and Overview Report. The Peer Reviewers may submit draft written questions directly to the Reviewed Member State or convey generally the types of questions they propose to ask. Peer Reviewers coordinate among themselves to eliminate duplication of questions, for example, by allocating a particular area of focus to each Peer Reviewer.
- **Input by Reviewed Member State:** The Reviewed Member State may propose particular question(s) it would like to be asked or otherwise provide input on the Peer Reviewers' proposed questions.
- **Launch Event Strategy:** The Reviewed Member State, the UNCTAD Secretariat and the Peer Reviewers jointly develop a strategy for an in-country public launch event to increase awareness and information gathering among stakeholders in advance of the Peer Review.

### (7) Formal Peer Review Session at the Meeting of Intergovernmental Group of Experts (IGE) on Competition or Consumer Protection Law and Policy

- **Round Table Discussion:** The UNCTAD Secretariat organizes a Peer Review Round-Table Discussion and presents the Peer Review Background Report and Recommendations.





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- **Interactive Session:** The Peer Reviewers and Reviewed Member State conduct an interactive session of questions and answers, attended by the rest of participating Member States. **At the Interactive Session, Peer Reviewers may ask questions beyond those submitted in advance, provided they are within the parameters established in the preparatory meeting.**
- **Presentation of Capacity Building Project Proposal:** The UNCTAD Secretariat presents the Capacity Building Project Proposal (see Step 9) to guide the Reviewed Member State in implementing the recommendations from the Peer Review Background Report and the Interactive Session.
- **Final Recommendations:** **Following the Interactive Session, the Peer Reviewers, the Reviewed Member State, and the Consultant(s) meet to agree upon a list of Final Recommendations taking into account the perspectives discussed and information obtained during the Interactive Session. The list of Final Recommendations is submitted to the UNCTAD Secretariat.** Recommendations may be categorized into short- and long-term recommendations with an eye to monitoring their implementation in a systematic way.
- **Report of the Session:** The UNCTAD Secretariat prepares a Report of the Session to be included in the overall report of the IGE meeting. The Report of the Session is translated into six UN official languages and published online.

### **PHASE THREE: Follow-up (Dissemination, Implementation and Assessment)**

#### **(8) Dissemination of Peer Review Findings and Recommendations**

- **Dissemination of Information:** [ Depending on availability of funds, the UNCTAD Secretariat in consultation with the Reviewed Member State organizes ] the dissemination of the Peer Review Findings and Recommendations to all relevant stakeholders in the Reviewed Member State, for example, by holding workshops. Peer Reviewers may be invited to participate in the dissemination mission, depending on availability of funds.

#### **(9) Capacity Building Project**

- **Capacity Building Project:** The Reviewed Member State may propose a Capacity Building Project to implement the final Recommendations. The UNCTAD Secretariat and/or the Peer Reviewers may assist in the development of the Capacity Building Project. The nature of Capacity Building activities



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(e.g., revision of laws, training workshops) depends on availability of funds.

#### (10) Implementation Assessment

- **Review Implementation Assessment:** For each review, the Reviewed Member State decides, in consultation with the UNCTAD Secretariat and the Peer Reviewers, whether continued monitoring and/or a retrospective assessment is warranted to evaluate the extent to which the Recommendations have been implemented and, if so, when such monitoring/assessments are to be conducted.
- **Implementation Assessors:** For each Review Implementation Assessment, the Reviewed Member State selects Implementation Assessor(s) in consultation with the UNCTAD Secretariat. The Implementation Assessors identify whether each Recommendation has been fully, partially or not implemented. For those Recommendations that have not been implemented, the Implementation Assessor identifies factors that have hindered their implementation. The Implementation Assessors may make further recommendations to overcome the identified hurdles to reach full implementation.