



UNCTAD

<p style="text-align: center;"><b>Minutes Eighth Meeting</b> <b>Working Group on modalities of UNCTAD voluntary peer review exercises</b> <b>3 May 2022</b></p>
---

The nineteenth and fifth sessions of the Intergovernmental Groups of Experts (IGE) on Competition Law and Policy and on Consumer Protection Law and Policy, held from 5 to 9 July 2021, decided to “renew the mandate of the 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 further discuss and improve the existing procedures and methodology based on the possible improvements identified to date”. The Working Group held its eighth meeting on 3 May 2022 (at 14:00 CET).

1. The meeting was opened and moderated by the UNCTAD secretariat.
2. The UNCTAD secretariat presented the funding situation of peer reviews. The United Nations Conference on Competition and Consumer Protection of 2020 invited Member States to assist UNCTAD on a voluntary basis by providing experts and financial resources, as national laws and policies allow, for future activities in connection with these reviews; ([TD/RBP/CONF.9/9](#)).
3. The funds needed for voluntary peer reviews comprise the cost of a fact-finding mission of at least five working days depending on the institutions covered (travel and accommodation for the international consultant and other mission participants), the fees of international consultant(s) who draft the peer review report (payment) and the costs associated with the participation of key representatives at the relevant session of the Intergovernmental Group of Experts (travel and accommodation in Geneva), as well as the dissemination of results in the country that has undergone review (rental of room facilities for dissemination events). This currently totals approximately USD 30,000 to 60,000 depending on the scope of the review undertaken. ([TD/B/C.I/CPLP/6](#))
4. The current sources of funding are self-funding by volunteering member State or ad hoc development partners. This precarious situation implies that peer least developed countries are often excluded from applying to peer reviews if funds are not available.
5. The floor was opened for comments. Chile proposed to liaise with the Ministry of Foreign Affairs to raise awareness and interest. Brazil asked about the procedure to volunteer for the UNCTAD peer review. The secretariat informed that the procedure starts with a request from the permanent mission before



UNCTAD

UNCTAD and is followed by a Memorandum of Understanding between the funder of the peer review and UNCTAD.

6. The secretariat informed that it would report on the discussions about funding of peer reviews to the IGEs.
7. The secretariat presented the latest proposal circulated on 25 April: entitled Revised Methodological Guidelines for Peer Reviews, whose main changes in relation to the previous version circulated on 20 January are:
  - i. Revised title as Methodological guidelines
  - ii. Clarification on level of development of peer reviewers
  - iii. Expert to be fluent in language agreed with reviewing member State
  - iv. Reviewing member State may request to share background documentation with peer reviewers.
  - v. Peer reviewers to propose comments for consideration of reviewed member State.
  - vi. Additional online informal meetings between reviewed member State and peer reviewers
8. The floor was opened for comments. Peru expressed satisfaction with the current proposal to allow the peer reviewed country to consider (and therefore decide on) the comments proposed by the peer reviewers to the background report (point 7.v. above.)
9. The United States asked about the meaning of footnote \*\*\* of the 'Flowchart of the process' and proposed to include the reference "depending on the determination of the scope of the exercise." Sweden proposed to replace "is" by "may be."
10. Upon suggestion from the United States, the secretariat corrected the 'bubble' in the 'Flowchart of the process' on "(5) Drafting the peer review background report" to include the expert.
11. The United States asked whether UNCTAD's World Consumer Protection Map (WCPM) could be used in determining the level of development of peer reviewers (point 7.ii. above.) The secretariat noted that WCPM displays information on the national legal and institutional frameworks but does not benchmark or rate the level of development, so ultimately the peer reviewed member States will assess the level of development of peer reviewers and decide on the composition of the peer review panel.



UNCTAD

12. Mexico asked about the eligibility criteria that could be used to selected peer reviewing candidates. The secretariat referred that, although there have never been competing candidatures, the note “Framework for voluntary peer reviews on consumer protection law and policy” ([TD/B/C.I/CPLP/6](#)) identifies the following criteria against which candidatures are be assessed (which may be applied mutatis mutandis to competition):
  - i. Experience: Number of years in implementing consumer protection policies
  - ii. Suitability: Opportunity for policy improvement, adjustment or reform
  - iii. Sustainability: Appropriate capacities for implementing and monitoring the peer review recommendations and ensuing technical cooperation project, if applicable.The secretariat noted this reference was deleted from previous version of the revised methodological guidelines.
13. The secretariat attested no objections to the Revised Methodological Guidelines from Working Group participants and informed it would report to the IGEs that the current text was adopted by consensus of the Working Group. The secretariat will propose that the IGEs:  
*‘Welcome the revised methodological guidelines for UNCTAD Voluntary Peer Reviews on Competition and on Consumer Protection Laws and Policies and decides to discontinue the Working Group on Modalities of UNCTAD voluntary peer review exercises.’*
14. The text of the Revised Methodological Guidelines as adopted in the meeting and reproduced in Annex of these minutes (in track changes to show the additions during the meeting) will be posted on the IGEs websites as a room document and on the website of the Working Group on modalities of UNCTAD voluntary peer review exercises.
15. The UNCTAD secretariat informed that the minutes of the meeting would be uploaded in the Working Group website (<https://unctad.org/Topic/Competition-and-Consumer-Protection/working-group-on-voluntary-peer-reviews>).
16. Working group participants are invited to register online for the IGE sessions:
  - i. [Intergovernmental Group of Experts on Consumer Protection Law and Policy, sixth session](#)
  - ii. [Intergovernmental Group of Experts on Competition Law and Policy, twentieth session](#)

\*\*\*



UNCTAD

<b>Working Group on modalities of UNCTAD voluntary peer review exercises</b>		
<b>8<sup>th</sup> Meeting – List of Participants</b>		
<b>Name</b>	<b>Organization</b>	<b>Country</b>
Alexandra Dale	Australian Competition and Consumer Commission	Australia
Paola Rubin	DNDCYAC	Argentina
Md. Salahuddin Ahmed	Bangladesh Competition Commission	Bangladesh
Daniela Gil	National Consumer Service	Chile
Sávio da Silva Costa	Administrative Council for Economic Defense (CADE)	Brazil
Alexandre Carneiro Pereira	National Secretariat for Consumers	Brazil
Francisco Pacheco	PROCON - Florianópolis	Brazil
Gabriella Szilágyi	Hungarian Competition Authority	Hungary
Rafael Regla, Xyimena Galicia	Federal Attorney for Consumers (PROFECO)	Mexico
Francisco Alejandro Pedraza Cortes	Federal Economic Competition Commission (COFECE)	Mexico
Ivonne García González, Jimena Itzel Sierra Navarrete	Federal Telecommunications Institute (IFT)	Mexico
Grace Aguilar, Lesli Roxana Gonzales Cabanillas, Yvette Stephany Sanguinetti Campos,	National Institute for the Defense of Free Competition and the Protection of Intellectual Property (INDECOPI)	Peru
Precious Mathibe, Wandile Masango, Erika Pitso	Competition Commission	South Africa
Yvonne Stein	Ministry of Finance	Sweden
Hugh Stevenson, Russell Damtoft, Michael Panzera	Federal Trade Commission	United States
Peter Whelan	University of Leeds	
Rajan Dhanjee	Global Traders Conference	



UNCTAD

Eszter Nagy-Mihaly (Vendég)		
Petek Kinik		
Vicente Bagnoli		

\*\*\*



UNCTAD

## **Annex: Revised Methodological Guidelines for Peer Reviews (as adopted in 8<sup>th</sup> meeting of the Working Group)**

### **Phase 1. Consultation**

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

- UNCTAD secretariat receives the request for the peer review on competition or consumer protection law and policy from either an interested member State or regional organization (hereinafter “reviewed member State”) via its permanent mission to the UN in Geneva.
- In case of various simultaneous requests (it has not happened yet), candidatures will be assessed by the UNCTAD secretariat using objective criteria.
- Funding must be secured: either by the reviewed member State (i.e., self-funding), or through a Trust Fund Agreement with a development partner/regional international institution/developed member States. A quote will be provided by the UNCTAD secretariat<sup>1</sup>.
- Funds cover the following expenses: (i) expert(s) fees; (ii) fact-finding mission of one week by expert(s) and one accompanying UNCTAD staff; (iii) edition, formatting and translation (depending on needs) of the peer review background report ((5) below). Additional funding may be budgeted to organize post-peer review dissemination and implementation of the recommendations in the peer reviewed member State, and/or conduct a post-peer review implementation assessment ((9) and (10) below).
- Once the peer review is confirmed, in close cooperation with the peer reviewed countries’ authorities, UNCTAD secretariat organizes an awareness raising and communication event (online) for stakeholders, such as sectoral regulators and policy makers (invitation of high-level officials is desirable), of the reviewed member State.
- UNCTAD secretariats encourages member States to volunteer both as peer reviewees and peer reviewers, and also to contribute to funding, through various opportunities.

#### **(2) Selection of peer reviewers<sup>2</sup>**

- The reviewed member State, in consultation with UNCTAD secretariat, choose three (3) peer reviewers (usually competition/consumer protection authorities’ representatives of member States but also academics), considering expertise and experience in the most salient issues identified by the reviewed member State, language, and geographical and gender balance. **[2 weeks]**
- It is ideal to choose at least one peer reviewer of a jurisdiction whose competition/consumer protection legal framework and policies are at a level of development and/or breadth equal to that of the reviewed member State, as well as one peer reviewer of a jurisdiction whose legal framework and policies are marked by an advanced level of development and/or breadth.
- Once peer reviewers are selected, UNCTAD secretariat organizes a preliminary meeting with the reviewed member State and the peer reviewers, in order to define the process, timeline and scope of the peer review, and exchange views on priority subjects to be reviewed and expected inputs and deliverables.

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

- UNCTAD secretariat proposes a pool of three (or more) external expert(s) 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. **[1.5 months]**

---

<sup>1</sup> Current peer reviews require between 30 and 50 K USD depending on the region.

<sup>2</sup> The chronological order of items (2) to (4) is subject to the preference of the peer reviewed country.



UNCTAD

- Expert(s) must meet the following criteria: (i) an advanced university degree in economics, law, social affairs or other related fields relevant to competition/consumer protection laws and policies; (ii) over ten years of direct experience in competition/consumer policies formulation/implementation; (iii) fluency in the official language of the reviewed member State and/or in the language of the peer review background report, or as otherwise agreed with the reviewed member State; (iv) not a national of the reviewed member State. Other criteria can be proposed by the reviewed member State.
- The reviewed member State chooses an expert(s) (one or more, depending on needs) in close consultation with UNCTAD secretariat.
- UNCTAD secretariat executes a contract with the selected expert(s). **[3 weeks since the selection]**

#### **(4) Fact-finding mission**

- The reviewed member State submits background documents (relevant legislation, policy, administrative/judicial decisions, institutional documents and strategies) to UNCTAD secretariat and the expert(s). **[2-3 weeks]**
- The reviewed member State may request UNCTAD secretariat to share to the background documentation with peer reviewers
- The expert(s) review the background documents, and schedule and undertake desk research, fact-finding mission to the reviewed member State (accompanied by an UNCTAD staff) to collect necessary data and information, interview relevant officials, etc. **[2-3 weeks for desk research, 1 week for fact-finding mission]**

#### **(5) Drafting the peer review background report<sup>3</sup>**

- In consultation with UNCTAD secretariat, the expert(s) prepare a draft peer review background report in the language agreed with the reviewed member State, which includes recommendations, based on the research and fact-finding mission. The recommendations may be categorized into short- and long-term recommendations, with an eye to monitoring their implementation in a systematic way. **[1-2 months]**
- UNCTAD secretariat sends the draft peer review background report to the reviewed member State for assessment and to correct any factual errors. **[2-3 weeks]**
- UNCTAD secretariat also shares the draft peer review background report with the peer reviewers, who may propose comments for consideration of the reviewed member State. **[2 weeks]**
- UNCTAD secretariat and the expert(s) hold an online briefing with the reviewed member State and the peer reviewers to introduce the draft peer review report and discuss comments provided.

### **Phase 2. Interactive session at the Intergovernmental Group of Experts (IGE)**

#### **(6) Preparation of peer review<sup>4</sup>**

---

<sup>3</sup> According to the UNCTAD internal rules, the final peer review background report is summarized in an overview report (max 6,000 words). **[2 weeks]** The overview report is translated and released in all six UN official languages and must be released online at the latest two weeks prior to the peer review session at the IGE ((8) below). 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.

Also, the final peer review background report is submitted for edition **[1.5-2 months]** and (eventual) translation, at least into English. **[2-3 months]** 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.

<sup>4</sup> 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. **[1 week]**



UNCTAD

- The overall report and final peer review background report are shared with the peer reviewers.
- UNCTAD secretariat hosts an online preparatory meeting with reviewed member State and reviewers (and the expert(s)) to present the process, expected inputs and occasions of intervention. This is also an opportunity for them to have a dialogue and two-way exchange of information, and discuss questions to be asked. **[2 weeks]**
- Upon request, UNCTAD calls more online informal meetings between the reviewed member State and the peer reviewers.
- The peer reviewers prepare around five to seven questions and send them to UNCTAD secretariat. UNCTAD secretariat transmits all the questions to the reviewed member State and proposes a selection of two questions per peer reviewer to avoid duplications. **[1 month]**
- 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). **[1 week]**

#### **(7) Preparation of a capacity-building project proposal**

- UNCTAD secretariat, in consultation with the reviewed member State, develops a capacity-building project to disseminate and implement the peer review findings and recommendations. **[1 month]**
- Peer reviewers may be invited to contribute to those capacity-building activities.

#### **(8) Formal peer review session at the meeting of the IGE on Competition or Consumer Protection Law and Policy<sup>5</sup>**

- UNCTAD secretariat organizes a peer review round-table discussion and presents the peer review background report and recommendations.
- Upon the request from the reviewed member State, relevant stakeholders from the reviewed member State may be invited to the IGE for the awareness raising purposes.
- 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 guide the reviewed member State in implementing the recommendations from the peer review background report and the interactive session.

### **Phase 3. Follow-up (Dissemination, Implementation and Assessment)**

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

- UNCTAD secretariat, in consultation with the reviewed member State, organizes a mission to disseminate the peer review findings and recommendations to all relevant stakeholders in the reviewed member State, for example by holding (virtual) workshops, depending on availability of funds.
- It is encouraged to hold virtual activities (along with or replacing in-person activities), or to encourage the use of the peer reviews as teaching material at public service training institutes/civil service colleagues for public servants, and in university curricula, in case the funding limited.
- Peer reviewers may be invited to participate (virtually) in the dissemination mission, depending on availability of funds.

---

<sup>5</sup> UNCTAD secretariat prepares a report of the session to be included in the overall report of the IGE meeting, which is translated into six UN official languages and published online.





UNCTAD

**(10) Implementation of the capacity-building project [2-3 years, renewable]**

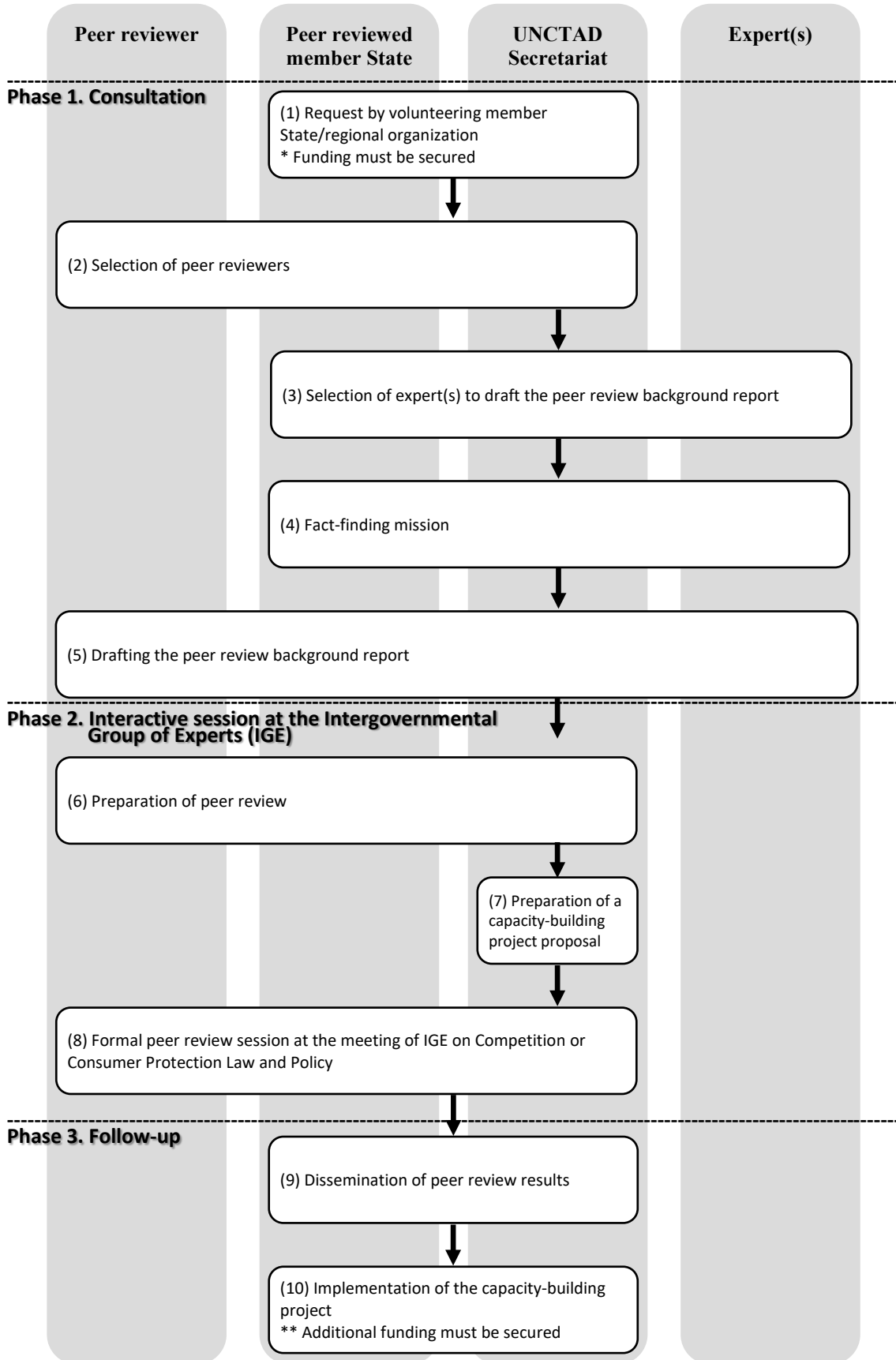
- Activities involved depend on availability of funds (e.g., revision of laws, training workshops).
- It is encouraged to hold virtual activities (along with or replacing in-person activities) in case the funding is limited.
- UNCTAD secretariat can, upon the interest of the reviewed member State, conduct monitoring exercises to evaluate the extent to which the recommendations have been implemented, and assess the impact of the peer review.

\*\*\*



UNCTAD

Reference: Flowchart of the process



\*\*\* The chronological order of items (2) to (4) may be subject to the preference of the peer reviewed country, depending on the determination of the scope of the exercise.