



The Report of the Working Group on Modalities of the voluntary peer review exercises to the twentieth session of the Intergovernmental Group of Experts on Competition Law and Policy

June 2022

The [nineteenth session of the Intergovernmental Group of Experts \(IGE\) on Competition Law and Policy](#) held from 7 to 9 July 2021, decided to renew the mandate of the working group on modalities of UNCTAD voluntary peer reviews of competition and consumer protection laws and policies “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 and to report to the twentieth session of the Intergovernmental Group of Experts on Competition Law and Policy.”¹

Since then, the [Working Group on Modalities of the voluntary peer review exercises](#) (WGPR) held three online meetings. On [9 February 2022](#), the WGPR discussed and adopted its workplan until the sixth session of the IGE and discussed a revised process for UNCTAD’s Voluntary Peer Reviews on competition and on consumer protection laws and policies, both proposed by the UNCTAD secretariat. On [17 March 2022](#), the WGPR further discussed the said revised process as well as comments, suggestions and reactions by member States. On [3 May 2022](#), the WGPR was invited to discuss the funding of UNCTAD’s peer review exercises but failed to reach any conclusion or recommendation. At the same meeting, the WGPR agreed on the document entitled “Revised Methodological Guidelines for Peer Reviews,” as circulated by the UNCTAD secretariat and reproduced in the Annex of this report. The WGPR agreed to request to the Intergovernmental Group of Experts on Competition Law and Policy that its mandate be discontinued.

All minutes and documentation of the WGPR are available in the dedicated UNCTAD [webpage](#).

¹ [TD/B/C.I/CLP/61](#).

Annex: Revised Methodological Guidelines for Peer Reviews (as adopted in 8th 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 secretariat².
- 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 reviewers³

- 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

² Current peer reviews require between 30 and 50 K USD depending on the region.

³ The chronological order of items (2) to (4) is subject to the preference of the peer reviewed country.

reviewed member State's particular regulatory, social, cultural, and political conditions. **[1.5 months]**

- 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 report⁴

- 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.

⁴ 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.

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

(6) Preparation of peer review⁵

- 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 Policy⁶

- 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

⁵ 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]**

⁶ 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.

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.

(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.

Reference: Flowchart of the process

