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Minutes 1st Meeting

Working Group on modalities of UNCTAD voluntary peer review exercises, 17 December 2020

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.*” These were the issues discussed in the first meeting:

1. The Head of Competition and Consumer Policies Branch (CCPB) opened the meeting (statement annexed).
2. She reminded the mandate of the Working Group (above). She mentioned that UNCTAD had been facilitating Voluntary Peer Reviews on Competition Law and Policy since 2005, having worked with 27 countries and 1 regional economic organization, and having conducted 2 Voluntary Peer Review on Consumer Protection Law and Policy since the revised United Nations Guidelines for Consumer Protection conferred this role to UNCTAD’s Intergovernmental Group of Experts meetings. She also shared the findings of the questionnaire circulated by the UNCTAD secretariat in preparation for the meeting. UNCTAD received 19 replies; corresponding to 11 countries (Armenia, Australia, Azerbaijan, Brazil, Japan, Kiribati, Mexico (2 answers), Morocco, Peru, the United States (2 answers), and Zimbabwe); 3 international organizations (the Eurasian Economic Commission, the European Union, and the West African Economic and Monetary Union); and three scholars:
 - a. Peer reviewed countries decided to participate in UNCTAD’s peer reviews as a way to identify gaps and improve legislation, implementation and enforcement of competition and consumer protection laws and policies in light of best practices. Peer reviewers participated as means to support reviewed countries and enhance bilateral and international cooperation.
 - b. Peer reviewed countries believe that the strength of UNCTAD’s peer reviews lies on its development dimension, the inclusion of short-and-medium term recommendations, the exchange with other countries’ experience and the proposed implementation plan. Reviewed countries also highlighted that UNCTAD peer reviews back national authorities’ activities and efforts involving all stakeholders. This view was shared by peer reviewers who highlighted UNCTAD peer reviews are a useful tool for exchange of experiences and best practices and cooperation and provide a benchmark for self-improvement.
 - c. Regarding the methodology, all peer reviewed countries found that it was good. Peer reviewers had different views: some thought it was good and some others provided detailed suggestions for the improvement.



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- d. Regarding the points of improvement, peer reviewed countries identified the following: increased awareness raising and information gathering among stakeholders at the beginning of the process and institutionalized monitoring mechanisms to assess implementation of recommendations. One peer reviewer shared very detailed proposals regarding the methodology, including an increased role for peer reviewers in developing a written methodology, setting standards and criteria for the review, deciding on the scope of the review, providing comments to drafts, discussing which questions should be asked during the review, and deciding on the choice of consultant/individual to write the background report. Some countries asked for documents to be translated in advance, which is always a challenge for UNCTAD, while another country suggested more focus on implementation of recommendations such as monitoring exercise and implementation assessment.
3. Participants shared their experiences:
- a. **Morocco:** praised its peer review (2018) as an external and independent assessment of consumer protection law in the country, identifying obstacles and areas of improvement, raising the degree of awareness among stakeholders, and taking into account economic, social and political particularities of the country. Peer reviews also support national efforts in policy reform involving all stakeholders. Morocco shared two proposals for the improvement of the methodology:
 - i. To select at least one peer reviewer with a similar level of economic and consumer protection development, so recommendations are adapted to the social and economic realities of the countries, as well as one developed peer reviewer with advanced view.
 - ii. To include an awareness raising/communication event at the outset of the review (similar to the one organized in the dissemination of the recommendations) to raise the engagement of stakeholders.
 - b. **Peru:** shared that its institution is currently implementing recommendations (after its peer review in 2020), which should always be in line with the actual capacities of the reviewed country. Peru thinks that this Working Group can be an opportunity to think about if we need to start measuring the impact of the peer review (evaluation of the two first peer reviews on consumer protection).
 - c. **WAEMU:** shared its experience as the first and latest regional grouping to be peer reviewed (2007 and 2020). WAEMU suggested to define precise review criteria from the outset, which should be specific for developing countries. Also, WAEMU suggested to set up a common methodological approach for all peer reviews and include a periodic evaluation framework. Finally, WAEMU called for a dedicated discussion with development partners to follow-up in and foster the implementation of recommendations for developing countries.
 - d. **United States (consumer protection):** thanked the opportunity to refine the peer review process and pointed out that the peer review on consumer protection is a newer activity (compared to peer review on competition) and thus there are not many



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guidepost/references. US stated that review criteria is needed, for example, UN Guidelines for Consumer Protection and other relevant guidelines such as those of the OECD. US also stated that formal and informal dialog between reviewed country/reviewers is important in the peer review process for getting inputs, and a greater role should be played by peer reviewers. The Working Group should address what are the steps needed.

- e. **OECD**: shared its extensive experience in competition peer reviews. The process is flexible to gear it towards the needs of the peer reviewed country. Process was presented as follows:
 - i. Initial standard questionnaire: to understand the rationale behind the peer review, the areas of particular concern, expected outcome; to be adjusted if necessary
 - ii. Sending the questionnaire, fact finding mission with all stakeholders;
 - iii. First Report drafted by the secretariat and sent to reviewed country for fact-check;
 - iv. Reviewers are selected on the basis of sharing similar experience to reviewee; and at least one or two OECD members as review is conducted under OECD standards;
 - v. Engagement reviewers upstream so they are kept informed on the drafting of the report and also ensuring their ownership on the recommendations. The report is adapted to reflect peer reviewers' comments;
 - vi. The implementation of the recommendations depends on the reviewee. OECD can develop roadmap on demand.
 - f. **Robin Simpson** (expert in charge of Morocco Consumer Protection peer review Report): supported 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.
 - g. **Italy**: argued in favor of more involvement of peers in the review, learning from experience of OECD.
 - h. **United States (competition)**: also called for greater involvement of peer reviewers as means to enrich the discussion.
 - i. **Mexico**: asked about the sources of funding for peer reviews.
4. The Head of CCPB highlighted that a priority for UNCTAD is that peer reviewed countries are comfortable with the peer review exercise. In this pursuit, the scope of the review is decided according to the needs of the reviewed country (in line with OECD methodology). The horizontal nature of consumer protection involves a greater number of stakeholders. The costs related to peer reviews are currently self-funded by the peer reviewed country or by development partners (donor countries).
 5. The Head of CCPB informed that the secretariat will prepare and circulate a proposed workplan by mid-January. The workplan will include: the scope of the discussions, the



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regularity of meetings, a proposed methodology and possible outcomes. Its final version should be adopted in the next meeting of this Working Group, which was proposed to be in early February.



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Working Group on modalities of UNCTAD voluntary peer review exercises		
1st Meeting – List of Participants		
Name	Organization	Country
Madeleine Wimpole	Australian Competition and Consumer Commission (ACCC)	Australia
Juan Barrera	Superintendence of Industry and Commerce (SIC)	Colombia
Georgia Kaoura	Hellenic Competition Commission	Greece
Gabriella Szilágyi	Competition Authority (GVH)	Hungary
Michele Pacillo	Competition Authority (AGCM)	Italy
Alejandro Pedraza	Federal Economic Competition Commission (COFECE)	Mexico
Ivonne García, Jimena Sierra	Federal Telecommunications Institute (IFT)	Mexico
Sara Cherkaoui	Ministry of Industry, Trade and Green and Digital Economy	Morocco
Melissa Torres, Wendy Ledesma	National Institute for the Defense of Free Competition and the Protection of Intellectual Property (INDECOPI)	Peru
Ana Maria Martinez Jerez	National Commission on Markets and Competition (CNMC)	Spain
Tilven Salazar	Consumer Product Safety Commission	United States
Hugh Stevenson, Russell Damtoft	Federal Trade Commission	United States
Lidiya Osaulenko, Nadya Pustovalova, Sergey Kulikov, Sergey Sinyakov	Eurasian Economic Commission	
Lynn Robertson	Organisation for Economic Co-operation and Development (OECD)	
Olivier Angaman	West African Economic and Monetary Union (WAEMU)	
Abdallah AbuOliem	Expert	
Robin Simpson	Expert	
Khalid Faiz		
Kim Heejin		
Minseon Jang		
Rajan Dhanjee		
Yesenia B		



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Annex 1: Opening words Ms. Teresa Moreira Head of Competition and Consumer Policies Branch

Dear colleagues,

Welcome to the first meeting Working Group on modalities of UNCTAD voluntary peer review exercises. As housekeeping, please write your name and affiliation in the chat of the meeting so it will be reflected in the minutes. Please mute your microphone when not speaking and raise your hand if you wish to take the floor. Finally, please note this meeting will be recorded for note-taking purposes, but the recording will not be circulated or made public.

As you are aware, the [Eighth United Nations Conference on Competition and Consumer Protection](#) was held from 19 to 23 October 2020. In operative clause 14 of its resolution, the Conference *underlined the value of the UNCTAD voluntary peer reviews as a useful tool for the exchange of experiences and cooperation, at both the national and regional levels, and 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.*

The Conference also 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.* This is its first meeting.

The implementation of peer review recommendations has given new impetus to UNCTAD's assistance to the countries under review. This is an opportunity for the secretariat to reiterate its sincere appreciation to member States and other development partners that have provided financial support to countries in need on this occasion.

My colleagues are now sharing some relevant links and references on UNCTAD's voluntary peer reviews on competition and consumer protection laws and policies in the chat of the meeting.¹

The objective of this first meeting is to exchange on experiences, priorities and expectations of member States and relevant stakeholders regarding UNCTAD Peer Reviews on competition and consumer protection and also regarding this Working Group. Following this meeting, the UNCTAD secretariat will systematize such inputs and produce a proposed workplan. The workplan will include:

¹ Voluntary Peer Reviews of Competition Law and Policy: <https://unctad.org/topic/competition-and-consumer-protection/voluntary-peer-review-of-competition-law-and-policy>

Voluntary Peer Reviews of Consumer Protection Law and Policy: <https://unctad.org/topic/competition-and-consumer-protection/voluntary-peer-review-of-consumer-protection-law-and-policy>

Framework for voluntary peer reviews on consumer protection law and policy: https://unctad.org/system/files/official-document/cicplpd6_en.pdf

Feedback for improving the efficiency of the application of UNCTAD voluntary peer reviews: https://unctad.org/system/files/official-document/tdrbpconf8d10_en.pdf

External evaluation of UNCTAD peer reviews on competition policy: https://unctad.org/system/files/official-document/ditcclp2014d5_en.pdf

UNCTAD peer review mechanism for competition law: 10 years of existence: https://unctad.org/system/files/official-document/ditcclp2015d4_en.pdf



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the scope of the discussions, the regularity of meetings, a proposed methodology and possible outcomes. The workplan will be circulated by mid-January and its final version should be adopted in the next meeting of this Working Group, which I propose to be in early February. I hope this will be agreeable to all of you.

As you know also, the UNCTAD secretariat circulated a questionnaire in preparation for this meeting. We received 19 replies; corresponding to 11 countries (Armenia, Australia, Azerbaijan, Brazil, Japan, Kiribati, Mexico (2 answers), Morocco, Peru, the United States (2 answers), and Zimbabwe); 3 international organizations (the Eurasian Economic Commission, the European Union, and the West African Economic and Monetary Union); and three scholars. I would now like to summarize the findings of these questionnaires:

1. Peer reviewed countries decided to participate in UNCTAD's peer reviews as a way to identify gaps and improve legislation, implementation and enforcement of competition and consumer protection laws and policies in light of best practices. Peer reviewers participated as means to support reviewed countries and enhance bilateral and international cooperation.
2. Peer reviewed countries believe that the strength of UNCTAD's peer reviews lies on its development dimension, the inclusion of short-and-medium term recommendations, the exchange with other countries' experience and the proposed implementation plan. Reviewed countries also highlighted that UNCTAD peer reviews back national authorities' activities and efforts involving all stakeholders. This view was shared by peer reviewers who highlighted UNCTAD peer reviews are a useful tool for exchange of experiences and best practices and cooperation and provide a benchmark for self-improvement.
3. Regarding the methodology, all peer reviewed countries found that it was good. Peer reviewers had different views: some thought it was good and some others provided detailed suggestions for the improvement.
4. Then regarding the points of improvement, peer reviewed countries identified the following: increased awareness raising and information gathering among stakeholders at the beginning of the process and institutionalized monitoring mechanisms to assess implementation of recommendations. One peer reviewer shared very detailed proposals regarding the methodology, including an increased role for peer reviewers in: developing a written methodology, setting standards and criteria for the review, deciding on the scope of the review, providing comments to drafts, discussing which questions should be asked during the review, and deciding on the choice of consultant/individual to write the background report. Some countries asked for documents to be translated in advance, which is always a challenge for UNCTAD, while another country suggested more focus on implementation of recommendations such as monitoring exercise and implementation assessment.

Unless participants object, and for the sake of transparency I suggest the secretariat circulates the summary of all answers received without attribution of answers, along with the minutes of this meeting. I would appreciate your comments on this.



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I would like to open the floor to participants to share experiences, priorities and expectations of member States and relevant stakeholders regarding UNCTAD Peer Reviews on competition and consumer protection, and also priorities and expectations regarding this Working Group. Please raise your hand with the button in MS Teams and I will give you the floor.
