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Minutes Sixth Meeting
Working Group on modalities of UNCTAD voluntary peer review exercises, 9 February 2022

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 sixth meeting on 9 February 2022 (at 14:00 CET).

1. The meeting was opened and moderated by the UNCTAD secretariat.
2. The UNCTAD secretariat presented the proposed workplan for the Working Group until the twentieth and sixth sessions of the Intergovernmental Groups of Experts (IGE) on Competition Law and Policy and on Consumer Protection Law and Policy (to be held from 18 to 22 July 2022), circulated to Working Group participants on 20 January 2022 and contained in Annex 1 of these minutes. The work plan was adopted.
3. The UNCTAD secretariat presented the document: “Revised Process of UNCTAD Voluntary Peer Review on Competition and on Consumer Protection Laws and Policies”, circulated to Working Group participants on 20 January 2022 and contained in Annex 2 of these minutes.
 - i. Professor Peter Whelan (University of Leeds) suggested to include general principles of the process and peer review exercises to better understand the document. He inquired on what does the “overall report” or “findings” refer to.
4. The UNCTAD secretariat received comments to the “Revised Process of UNCTAD Voluntary Peer Review on Competition and on Consumer Protection Laws and Policies” from the signatories of the joint proposal¹ on 7 February 2022, and circulated to Working Group participants shortly after.
 - i. The United States presented those comments, in particular: merging part 1 and 2; asking for more than 1 week to select peer reviewers; rephrasing of requirements for peer reviewers of equal development; include input from peer reviewers to propose a pool of experts; to finetune the language requirement for consultants; for peer reviewers to receive background documentation of the fact-finding mission; the role of peer reviewers in drafting the background report; to allow more than 1 week for peer reviewers to provide comments; that the

¹ United States (USDOJ and USFTC), Australia, Chile, Italy, Mexico (COFECE and Profeco), the Philippines, and Dr. Laura Best (Nelson Mandela University).



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- comments by peer reviewers to the background report not be considered/accepted by the peer reviewed country but that they be incorporated directly; for peer reviewers not to submit questions in advance; to include an informal discussion between peer reviewers and peer reviewed before the formal session at the IGE; to involve the peer reviewers in the drafting the capacity building project.
- ii. Consumers International suggested to describe the definitions and functions of every party in the peer review process. The UNCTAD secretariat took the opportunity to remind the Working Group that the UNCTAD's mandates on the peer review exercises are based on and confirmed in the UN General Assembly documents and the Resolutions of UN Review Conferences.
 - iii. Germany questioned whether the stronger involvement from peer reviewers could hamper countries from volunteering to these exercises.
 - iv. The United States stressed that the process should be led by peers, instead of secretariat-led process, and asked whether the scope of the peer reviews can be more targeted. The UNCTAD secretariat responded that the scope and focus of the peer review exercises were upon request from a peer reviewed member State.
 - v. Dr. Laura Best (Nelson Mandela University) suggested that the title of the final document could be "process guidelines".
5. For the next meeting, the UNCTAD secretariat asked to receive comments to the documents discussed and will circulate a revised one considering those additional comments.
 6. The UNCTAD secretariat informed that the minutes of these meeting would be uploaded in the Working Group subsite (<https://unctad.org/Topic/Competition-and-Consumer-Protection/working-group-on-voluntary-peer-reviews>). The next meeting will be held on 17 March 2022.



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Working Group on modalities of UNCTAD voluntary peer review exercises		
6th Meeting – List of Participants		
Name	Organization	Country
Delcio Penelas	Competition Regulatory Authority	Angola
Maria Paola Rubin	DNDCYAC	Argentina
Alexandra Dale	Australian Competition and Consumer Commission	Australia
Jafar Bbayev	State Service for Antimonopoly and Consumer Market Control	Azerbaijan
Salahuddin Ahmed	Bangladesh Competition Commission	Bangladesh
Patricia Semensato	National Consumer Secretariat	Brazil
Savio da Silva Costa	Administrative Council for Economic Defense (CADE)	Brazil
Francisco Pacheco	PROCON - Florianópolis	Brazil
Aura Elena Rincon Pena, Nataly Rojas	Superintendence of Industry and Commerce	Colombia
Gabriel Vasquez	Superintendency for Control of Market Power (SCPM)	Ecuador
Mareke Aden	Federal Ministry for Justice and Consumers	Germany
Andrea Minuto Rizzo	Competition Authority (AGCM)	Italy
Apoche Itimu	Competition and Fair Trading Commission	Malawi
Rafael Regla	Profeco	Mexico
Francisco Alejandro Pedraza Cortes, Paulina Valladares	Federal Economic Competition Commission (COFECE)	Mexico
Ivonne García González, Jimena Sierra	Federal Telecommunications Institute (IFT)	Mexico
Yvette Stephany Sanguinetti Campos, Grace Aguilar	National Institute for the Defense of Free Competition and the Protection of Intellectual Property (INDECOPI)	Peru
Yvonne Stein	Ministry of Finance	Sweden
Akarapon Houbcharaun	Office of Trade Competition Commission	Thailand
Caldwell Harrop	Department of Justice	United States
Russell Damtoft, Michael Panzera	Federal Trade Commission	United States



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María Cecilia Perez Aponte, Adolphe Gunnard Bulincx Machicado	General Secretariat of the Andean Community	Andean Community
Francois Souty	European Commission	European Union
Sita Zimpel	GIZ-Indonesia	
Joongweon Jeoing	Bae, Kim & Lee LLC	
Antonino Serra Cambaceres	Consumers International	
Laura Best	Nelson Mandela University	
Ana Maria Alfonso Gómez, Mateo Varela Martinez	Pontifical Javierian University	
Claudio Lombardi	University of Aberdeen	
Peter Whelan	University of Leeds	
Juan David Rico Polo	Universidad del Rosario	
Marek Martyniszyn	Queen's University Belfast	
Soniua Cruickshank	WIPO	
Angayar Kanni		
Ashok R Patil		
Aura Elena Rincon Pena		
Belarus		
Diana		
Ema Ogbe		
Maria Aguina		
Myles R		
Petek Konuk		
Santiago Roca		
Tishana Simon		



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Annex 1 – Proposed Workplan 2022 - Working Group on modalities of UNCTAD voluntary peer review exercises

This document contains UNCTAD secretariat work plan proposal for the Working Group on modalities of UNCTAD voluntary peer review exercises, to be discussed and decided at the sixth meeting of the Working Group on 9 February 2022.

Background

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”.

Scope of discussions

The Working Group focuses on discussing and improving existing procedures and methodologies of UNCTAD’s Voluntary Peer Reviews on Competition and on Consumer Protection.

Regularity of meetings

The Working Group meets approximately every 6 weeks until the twentieth and sixth sessions of the IGE on Competition Law and Policy and on Consumer Protection Law and Policy in July 2022. The calendar is as follows:

9 February
17 March
3 May

More meetings may be called, if needed, upon request from participating member States.

Proposed methodology

UNCTAD secretariat drafted a document on the revised peer review process considering comments provided by the Working Group participants so far (attached to this proposed workplan). The Working Group will further discuss possible improvements based on the document.

Possible outcomes

The discussions of the Working Group will be reported orally to the twentieth and sixth sessions of the IGE on Competition Law and Policy and on Consumer Protection Law and Policy, including possible improvements for consideration.



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Annex 2 – Revised process of UNCTAD Voluntary Peer Review on Competition and on Consumer Protection Laws and Policies

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 criteria².
- 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 secretariat³.
- 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 reviewers⁴

- 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. **[1 week]**
- It is ideal to choose at least one peer reviewer with a level of experience in competition/consumer protection policies similar to that of the peer reviewed member State, as well as one peer reviewer with advanced experience.
- 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.

² 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.

³ Current peer reviews require between 30 and 50 K USD depending on the region.

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



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(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]**
- 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; (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 ask UNCTAD secretariat to grant access to the background documentation to peer reviewers
- The expert(s) review the background documents, and 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, interview relevant officials, etc. **[2-3 weeks for desk research, 1 week for fact-finding mission]**

(5) Drafting the peer review background report⁵

- In consultation with UNCTAD secretariat, the expert(s) prepare a draft peer review background report in the language agreed with the peer 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 subject to the acceptance of the reviewed member State. **[1 week]**
- 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. Peer review

⁵ 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.



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(6) Preparation of peer review⁶

- 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 what kind of questions to include or exclude. **[2 weeks]**
- 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 Intergovernmental Group of Experts (IGE) on Competition or Consumer Protection Law and Policy⁷

- 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 IGEs 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.

⁶ 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]**

⁷ 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.



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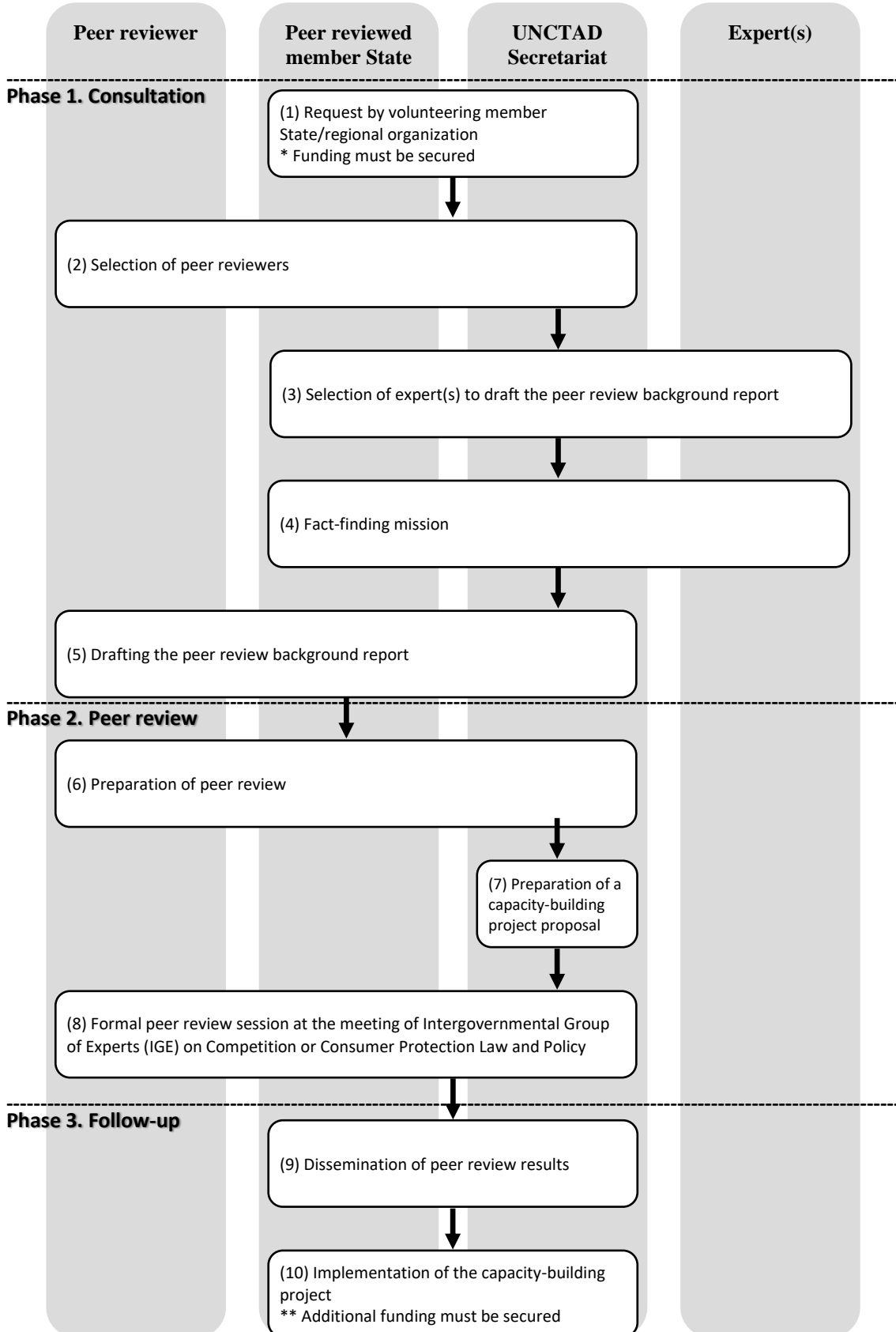
(10) Implementation of the capacity-building project [2-3 years, renewable]

- 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.



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Reference: Flowchart of the process



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