

Minutes First Substantive Meeting of 2025
Working Group on Cross-border Cartels
20 February 2025
14:00-16:00 (CET)

The twenty-second session of the Intergovernmental Group of Experts (IGE) on Competition Law and Policy, held from 3 to 5 July 2024 in Geneva, decided “welcomes the information exchanges and discussions on best practices to promote cooperation between competition authorities in dealing with cross-border cartel cases and common issues in the fight against bid rigging; and decides to renew the mandate of the informal working group on cross-border cartels, to highlight best practices, facilitate information exchanges, consultations and international cooperation, discuss tools and procedures and undertake other projects as agreed in the future, and to report to the Ninth United Nations Conference to Review All Aspects of the Set.”

Following the kick-off meeting on 21 November 2024, the first substantive meeting of the Working Group on Cross-border Cartels (WG on CBC) was held virtually on 20 February 2025 at 14:00 CET for 2 hours. This meeting comprised of the secretariat’s proposal of the 2025 work plan and three sets of presentations.

1. The meeting was opened and moderated by the UNCTAD secretariat.
2. The UNCTAD secretariat presented the Proposed Workplan in 2025 WG on CBC (**Annex**). There was no objection to the Proposed Workplan from the participants.
3. Professor Marek Martyniszyn from Queen’s University Belfast in the United Kingdom, who is also the Academic Coordinator of the WG, presented on the Chain of Enforcement Theory, emphasizing the importance of strengthening weak links in enforcement mechanisms. According to the theory, law enforcement is sequential, and weak links in the process can derail cases. Cross-border enforcement faces additional challenges such as jurisdictional issues, language barriers, and differing legal frameworks. In this regard, informal cooperation and information sharing between competition authorities are very important to deal with cross-border enforcement. Prof. Martyniszyn encouraged Members to consult a think piece he prepared for the meeting, which will be disseminated after the meeting, and expressed his willingness to provide further, specific assistance if needed.
4. The Agency for Protection and Development of Competition of the Republic of Kazakhstan raised a question on how competition agencies could improve cooperation, especially regarding information exchange. Professor Martyniszyn emphasized that most cooperation involves non-confidential data and that informal channels have proven effective. The Georgian Competition and Consumer Agency inquired about the applicable law in cross-border cases.

Professor Martyniszyn explained that most jurisdictions apply extraterritorial provisions of their competition laws, and international cooperation plays a key role.

5. Then Professor Frederic Jenny from Essex Business School in the United Kingdom gave a presentation on the Potash Cartel. He explained the structure of the potash market and the impact of export cartels operated a few major producers. He highlighted the failure of enforcement despite clear evidence of cartelization, and the need for stronger international enforcement cooperation such as organising joint investigation teams among competition authorities.
6. The UNCTAD Secretariat emphasized the challenges posed by export cartel and their implications for competition law enforcement. Professor Jenny suggested that joint investigations, like those seen in tax enforcement and anti-corruption efforts, could be a viable solution.
7. Next, Mr. Daniel Favoretto, a competition lawyer and former UNDP Consultant, presented on Brazil's anti-collusion policy. He discussed the declining number of leniency applications, its possible causes, and its impact on cartel detection. He also noted that cooperation between Brazil's competition authority and other law enforcement agencies has influenced investigations, making it easier to prosecute domestic collusion cases compared to cross-border ones. Additionally, he presented the alleged cartel case about a Brazilian startup that provides AI-driven pricing algorithms for fuel retailers. He elaborated on how such algorithms can blur the line between independent pricing decisions and collusive behavior, posing new challenges for competition authorities.
8. The Georgian Competition and Consumer Agency asked about special regulations for cross-border leniency programs. Mr. Favoretto clarified that Brazil does not have specific regulations but has adjusted its guidelines to allow flexibility in multinational cases. He explained that the updated leniency guidelines aim to address challenges posed by cross-border enforcement and provide greater legal certainty for applicants operating in multiple jurisdictions. Professor Martyniszyn emphasized that leniency programs depend on strong enforcement and that competition authorities must remain active in cross-border cases to ensure that companies have incentives to cooperate. He highlighted that enforcement gaps could weaken leniency applications, as companies might not perceive a credible threat of prosecution.
9. The UNCTAD secretariat informed that the next meeting will be on 10 April 2025 and closed the meeting.

1st Substantive Meeting of Working Group on Cross-Border Cartels		
List of Participants		
Shushan Sargsyan Tatev Hovhannisyan	Competition protection Commission of the Republic of Armenia (CPC RA)	Armenia
Troy Waterman	Barbados Fair Trading Commission	Barbados
Bruna Pamplona de Queiroz Victor Lubambo Peixoto Accioly Emmanuel Ali Novaes Faria Maurício Estellita Lins Costa	Administrative Council for Economic Defense (CADE)	Brazil
Zhang Mingming	State Administration for Market Regulation (SAMR)	China
Alejandra Arteta Llanos Diego Andres Solano Osorio	The Superintendence of Industry and Commerce (SIC)	Colombia
Armine Hakobyan	Eurasian Economic Commission	Eurasian Economic Commission
Adriana Berbec	European Commission	European Union
Ana Rukhadze Ramazi Razmadze	Georgian Competition and Consumer Agency (GCCA)	Georgia
Konstantina Skandali Mary Chamilou	Hellenic Competition Commission	Greece
Sara Todini	Italian Competition Authority	Italy
Aida Baimakanova	Kazakhstan Competition authority	Kazakhstan
Jihong Son Misun Chang	Korea Fair Trade Commission	Korea (Republic of)
Shakshi Sowaruth Caroline Seeruttun	Competition Commission of Mauritius	Mauritius
Pedraza Córtes Francisco Alejandro	Federal Economic Competition Commission (COFECE)	Mexico
Hanna Koehler	Polish Competition Authority	Poland
Catarina Tourais	Portuguese Competition Authority	Portugal
Anastasia Dokukina Uliana Arkhangelskaya	Federal Antimonopoly Service (FAS)	Russia
Juan Carlos Morales Alonso	Spanish National Commission on Markets and Competition (CNMC)	Spain
Daniel Müller	Competition Commission (WEKO)	Switzerland

Sanglard Blaise Gonin Pierre-Louis	State Secretariat for Economic Affairs (SECO)	Switzerland
Krystle S. Maharaj Jamari Wilson	Trinidad and Tobago Fair Trading Commission (TTFTC)	Trinidad and Tobago
Sil van Kordelaar	Competition and Markets Authority (CMA)	United Kingdom
Michelle Ofner	U.S. Department of Justice (US DOJ)	United States
Vicente Bagnoli	Mackenzie University Law School, Brazil	
Andreas Heinemann	University of Zurich, Switzerland	
Frederic Jenny	Essec Business School, United Kingdom	
Marek Martyniszyn	Queen's University Belfast, United Kingdom	Academic Coordinator of the WG
Daniel Favoretto		

Annex: Proposed Workplan in 2025 Working Group on Cross Border Cartels

This document contains UNCTAD Secretariat's work plan proposal for the Working Group on Cross-Border Cartels (WG on CBCs) in 2025, to be discussed and decided at the first substantive meeting of the Working Group on 20 February 2025.

Background

The twenty-second session of the Intergovernmental Group of Experts (IGE) on Competition Law and Policy, held from 3 to 5 July 2024 in Geneva, decided "welcomes the information exchanges and discussions on best practices to promote cooperation between competition authorities in dealing with cross-border cartel cases and common issues in the fight against bid rigging; and decides to renew the mandate of the informal working group on cross-border cartels, to highlight best practices, facilitate information exchanges, consultations and international cooperation, discuss tools and procedures and undertake other projects as agreed in the future, and to report to the Ninth United Nations Conference to Review All Aspects of the Set"

Also, the UNCTAD Secretariat reported to the twenty-second session of the IGE on Competition Law and Policy as follows:

"Based on the recommendations in the previous reports on the WG on CBCs in 2021 , 2022 , 2023 , as well as the discussions held in the meetings mentioned above, the Secretariat suggests requesting the 22nd session of the Intergovernmental Group of Experts (IGE) on Competition Law and Policy to renew its mandate to continue work on the following issues:

1. Continue discussions on practical case studies provided by member States, not only cross-border cartels but bid rigging cases and disseminate the lessons learnt from those cases.
2. Further disseminate and raise awareness of the UNCTAD Guiding policies and procedures under section F of the United Nations Set on Competition (GPP).
3. Enhance international cooperation to deal with cross-border cartels and bid rigging cases, including formal and informal cooperation between competition authorities, through consensus building and advocacy activities carried out under the auspices of UNCTAD in collaboration with member States' competition authorities."

Based on this background, the Working Group held its kick-off meeting on 21st November 2024, which discussed the way forward and possible outcomes.

Suggested way forward

- Disseminate the lessons learnt from the practical case studies in dealing with cross-border cartels and bid rigging
- Discuss tools and procedures on common issues against cross-border cartels and bid rigging
- Further advocacy work to disseminate and raise awareness of the GPP through case studies and sharing law enforcement experiences
- Promote international cooperation among competition authorities and facilitate information sharing and consultations

Additionally, the member States has invited Professor Marek Martyniszyn at Queen's University Belfast in the United Kingdom as the Academic Coordinator to enrich the discussion further.

Regularity of meetings

During the kick-off meeting on 21st November 2024, the UNCTAD Secretariat suggested the following meetings before the Ninth United Nations Conference to Review All Aspects of the Set, as follows:

20 February 2025

10 April 2025

Possible outcomes

The discussions of the Working Group will be reported orally to the Ninth United Nations Conference to Review All Aspects of the Set, including possible work products.
