

SEVENTH UNITED NATIONS CONFERENCE TO REVIEW THE UNITED NATIONS SET ON COMPETITION POLICY

Geneva, Palais des Nations

"International cooperation in Merger cases as a tool for effective enforcement of competition law"

Presentation by UNCTAD Secretariat

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Mergers; What's Special?

Mergers –M&A, takeovers, joint ventures; interlocking directorates. (UNCTAD Model Law)

- Assets ownership change.
- Merge or acquire? Parties Agree (economic, social or financial).

Key to businesses: -

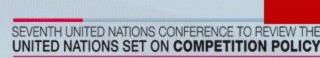
- <u>Domestic</u>: Synergies, value addition, new innovative ideas, profits.
- <u>Cross Border</u>: Market opportunities, access (production factors, brand name, risk spread.



The need to cooperate in competition Cases.

- Cooperation in mergers: Leading the wagon: dealing with cross-border cases.
- Cooperation: A key ingredient to effective enforcement of competition law.
- Facilitates agencies mandate execution: Market regulation; level playing field.





Drivers of International cooperation in merger cases.

- Trend: proliferation of multi-jurisdictional mergers.
- Waivers: most effective facilitative cooperation tool (legal based approach).
- Towards: Need to promote consistent analysis and remedies; and collaborative timing.



Formal vs Informal international cooperation

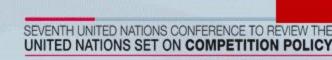
Formal

- Developed competition Agencies with legal frameworks;
- Emerging Arrangements; developing countries;

Informal Networks

- Convergence of competition agencies in international fora (promotes exchange of information and best practices);
- Giving rise to informal networks.





Agency Effectiveness?

- Prudent use of scarce resources;
- Impact on the market and business confidence;
- Accountability and reliability;
- Resolution of cases; timeliness especially in mergers.



Critical issue: what is outside the curve?

Case examples: Concerted effort yields results:

Cross-border: merger cases: pushes competition authorities to cooperation;

- Rio Tinto and BHP Biliton joint venture; EC, ACCC, German Cartel office, JFTC, KFTC;
- Coca -Cola/Schweppes merger; Zambia, Zimbabwe, ACCC;
- LAN/TAM merger case: Brazil, Chile, EU, US.





The future of International cooperation.

International cooperation is developing in a multi-facetted manner

- Formal cooperation: Continues its role in both developed and developing countries;
- Informal networks: Continues to be the first point of call for young competition agencies;
- International fora, continues its role; exchange of information and networking;
- > In other words, the debate continues!



Contra Palais rice Nation

THANK YOU FOR YOUR ATTENTION

