

# “Modalities and Procedures for International Cooperation in competition cases involving more than one country”

UNCTAD 13<sup>th</sup> Intergovernmental Group of Experts on Competition  
Law and Policy

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Presentation by the UNCTAD Secretariat

**See UNCTAD report TD/B/C.I/CLP/21 June 2013**

# Framing the Issue

**For the last 5 Intergovernmental Meetings, UNCTAD has organized its work on four main themes;**

- **Development Dimension of Competition policy;**
- **Agency Effectiveness;**
- **International Cooperation; and**
- **Capacity Building.**

**This RT is a continuation of work on International Cooperation.**



## Lessons Learnt so far

- **Takes note of work done by OECD, ICN separately and jointly**
- **UNCTAD work with both with developed and developing countries in this area**



# Lessons Learnt so far

## South/South Cooperation

- **Proliferation of Trade Agreements (with competition related provisions) at sub-regional and regional levels**
- **Examples are available in many regions**

### But;

- **Implementation takes a long time**
- **Impact has not been very visible especially in developing countries**



## Lessons continued.....

- **North/ South Agreements; EU/Euromed, EU/Mexico, Chile, South Africa etc.**
- **Possible areas of cooperation;**
  - **Cooperation is leniency applications;**
  - **Application in merger analysis; and**
  - **Cooperation in capacity building**
- **Tangible outcomes have been limited in terms of case specific cooperation, but in capacity building programmes, steady progress .**



# Question? Are cooperation objectives being fully met?

## Hinderances:

### North/South Cooperation Efforts

- **Trade and Investment environment which differs significantly**
- **Lack of mutual interest in many instances to facilitate information sharing.**



# Pre-conditions of Effective Cooperation

**Cooperation in anticompetitive agreements,  
mergers and abuse of dominance**

**Requires:**

**(a) Leniency programmes to address collusion**

- **Compatibility of legal systems**
- **Similarity in case procedures**
- **Ease of information access between agencies**
- **Common analytical approaches (unpacking the complaint)**



# Pre-conditions of Effective Cooperation

## (b) Mergers cases

**Mergers applications form a good basis for cooperation**

**• Requires:**

- **Comparable case procedures**
- **Trust between agencies**
- **Confidence with each other**
- **Businesses to develop confidence across borders**





# Pre-conditions of Effective Cooperation

## (b) Capacity Building Programmes

### • Requires:

- Targeted case information sharing sessions on case procedures
- Opportunity to look back on cases already finalized (usually same case in different jurisdictions)
- Do post analysis of information gathered, strategy, evidence and share experiences.
- Identify lessons and areas where cooperation would have assisted.



# Pre-conditions of Effective Cooperation

## (b) Capacity Building Programmes

### Further;

- **Build a data bank of such shared experiences and build capacity enhancement programmes based on such lessons**
- **Invoke knowledge management techniques to share such information, locally and across borders.**



**THANK YOU FOR YOUR  
ATTENTION**

