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Afternoon Session

**Agenda Item 3e. Report of the discussion
group on international cooperation**

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The Report on Discussion Group on International Cooperation¹

Geneva, 11 July 2018

(1) Background

Pursuant to paragraph 9 of the Agreed conclusions of the Intergovernmental Group of Experts on Competition Law and Policy (IGE on Competition) at its sixteenth session (5-7 July 2017), member States requested the UNCTAD Secretariat (Competition and Consumer Policies Branch) to facilitate the establishment of a discussion group on international cooperation. The mandate in paragraph 9 states:

“9. Requests the UNCTAD secretariat to facilitate member States to establish a discussion group on international cooperation, open to member States participation on a voluntary basis, to pursue the exchanges and the debate on the modalities for facilitating cooperation under Section F of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices and report to the seventeenth session of the Intergovernmental Group of Experts.”

The concept note prepared by the UNCTAD Secretariat for the Discussion Group on the 12th of September 2017 detailed the purpose, mode of delivery, deliverables and the role of the Secretariat as follows.

Purpose

The main purpose of the discussion group is to provide a forum for member States representatives, on a voluntary basis, and interested stakeholders to exchange experiences and share ideas/views on how to implement the cooperation mechanisms provided under Section F of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices (the UN Set).

¹ This report has been drafted by the Competition and Consumer Policies Branch of the UNCTAD Secretariat as part of the work of the UNCTAD Discussion Group on International Cooperation. For more information about this report, please contact Dr. Pierre Horna at Pierre.Horna@UN.org



Mode of delivery

UNCTAD Secretariat will organize quarterly meetings through video conference and conference calls, for discussions and consultations with member States' representatives and interested stakeholders on the proposed topics. UNCTAD Secretariat may also propose informal meetings on the side of regional Competition conferences or events across the world. To maximize resources, the Secretariat may organize these meetings back-to-back with planned UNCTAD technical assistance activities.

Deliverables

The Group will produce minutes of all meetings held as well as a compilation of the voluntary contributions received, which will be considered in the report to be presented at the 17th Session of the IGE o Competition law and policy.

The role of the Secretariat

The UNCTAD Secretariat (Competition and Consumer Policies Branch) will provide support to the discussion group. The Secretariat proposes to organize virtual and regional meetings in order to report to the next 17th session of the IGE in July 2018. The regional meetings will be organized as of October 2017 onward.

In the 1st audio conference, the members of the Discussion Group unanimously endorsed the concept note prepared by the UNCTAD Secretariat and agreed to hold quarterly virtual meetings to discuss issues on international cooperation.

(2) Activities

The 1st audio conference² was held on the 9th of October 2017 (minutes see Annex 1a), and the following 5 items were discussed: (1) Introductory session of the Group: mandate, purpose, expected results; (2) Definition of the Group's method of work; (3) Consultations to agree on a 1st topic to be presented at the next conference call in Jan

²Participating member States and organizations in this conference call were: Algeria, Armenia, Australia, Austria, Botswana, Brazil, Chile, Croatia, El Salvador, Germany, Egypt, Hungary, India, Italy, Kazakhstan, Kyrgyz, Montenegro, Pakistan, Philippines, Russia, South Africa, Swaziland, the United States (USDOJ and USFTC), Zambia, Zimbabwe, OECD Secretariat and GIZ.



2018; (4) Consultations to hold back-to-back regional meetings with other planned activities; (5) Any Other business. In the conference, Russia briefly explained the Toolkit on international cooperation which it had distributed in the IGE on Competition in 2017. The Toolkit contained “Notification”, “Exchange of Information”, “Exchange of confidential information”, “Enforcement cooperation”, “Consultations”, “Avoid of conflicts”, “Regional cooperation” and “Requests for UNCTAD assistance” as a useful tool to facilitate international cooperation among competition agencies. Besides, following suggestions made by several members, it was essential to identify challenges which competition agencies face when seeking international cooperation with other agencies, the Discussion Group agreed to conduct a survey focused on the members of the Discussion Group to identify actual obstacles to international cooperation. Algeria, Austria, Brazil, Philippines, Russia, South Africa and USFTC volunteered to support the designing of the survey.

UNCTAD Secretariat, in cooperation with the above-mentioned 7 agencies, drafted and circulated the survey in November and December 2017 to the members of the Discussion Group. Based on the responses from 35 agencies, UNCTAD Secretariat drafted and circulated the first version of the survey report as well as its comments to the Russian Toolkit in February 2018. Furthermore, following suggestion from some of the member of the Discussion Group, UNCTAD Secretariat circulated the survey to all the participants of 2017 IGE on Competition in February 2018. The survey aimed at gathering more information on the topic from those agencies that do not normally participate in international cooperation.

The 2nd audio conference³ was held on the 20th of February 2018 (minutes see Annex 1b), and the following 2 items were discussed: (1) The preliminary results of the UNCTAD Survey on the obstacles to international cooperation; (2) The UNCTAD initial comments on the Toolkit on International Cooperation submitted by FAS Russia⁴. In the conference, Russia once again explained the content of the Toolkit, mentioning that the

³ Participating member States and organizations in this conference call were: Armenia, Austria, Belarus, Botswana, Brazil, Croatia, El Salvador, Germany, Hungary, Italy, Japan, Kazakhstan, Kyrgyz, Mexico, Montenegro, Panama, Peru, Russia, South Africa, the United Kingdom, the United States (USDOJ and USFTC) and OECD Secretariat.

⁴ See the latest version of the Toolkit in Annex 3.



idea of the Toolkit was to incorporate practical tools and methods of international cooperation between competition authorities into Section F of the UN Set as an annex, and that the Toolkit is not intended to create new obligations. Responding to the Russian presentation, UNCTAD Secretariat urged the members to submit their views on the Russian Toolkit

UNCTAD Secretariat drafted and circulated the second version of the survey report based on the responses from 48 agencies and the comments received in the previous conference in April 2018. Besides, Croatia, the United States, Italy, Austria, Germany and Hungary submitted comments on the Russian Toolkit in between February and April 2018.⁵

The 3rd audio conference⁶ was held on the 23rd of April 2018 (minutes see Annex 1c), and the following 2 items were discussed: (1) The updated survey report on the obstacles to international cooperation; (2) The comments from the members on the Toolkit on International Cooperation submitted by FAS Russia. In the conference, in response to the Russian Toolkit, several members pointed out that there was no need to establish a new instrument in parallel with past efforts done by other international fora such as OECD Recommendation, emphasizing the need to avoid duplication of work. Participants of the DG felt that it would be useful if UNCTAD Secretariat could disseminate past experiences of other international fora to the participants of the IGE on Competition. UNCTAD Secretariat urged Russia to reply to the comments on the Toolkit made by other agencies.

UNCTAD Secretariat drafted and circulated the third version of the survey report, in June 2018, based on the responses from 54 agencies, all having some geographical representation in each region or sub-region worldwide, and the comments received in the previous conference. Furthermore, Mexico submitted a proposal for international cooperation in May 2018; Japan submitted comments on the Russian Toolkit and Russia

⁵ All these comments have been discussed and circulated amongst the members of the Discussion Group. Upon request, the comments can be made available to members outside the Discussion Group.

⁶ Participating member States and organizations in this conference call were: Argentina, Australia, Austria, Belarus, Botswana, Brazil, Canada, Croatia, Germany, Hungary, India, Italy, Japan, Kazakhstan, Kyrgyz, Montenegro, Russia, Peru, the United Kingdom, the United States (USDOJ and USFTC), and OECD Secretariat. The meeting had also observers which were the European Commission DG COMP and Hong Kong (China).



submitted the revised version of the Toolkit as well as comments on the Mexican proposal in June 2018.

The 4th audio conference⁷ was held on the 19th of June 2018 (minutes see Annex 1d), and the following 4 items were discussed: (1) The last version of the survey report on the obstacles to international cooperation; (2) The revised version of the “Toolkit on International Cooperation” by Russia; (3) The new proposal for international cooperation by Mexico⁸; (4) The report of the Discussion Group on International Cooperation (DGIC) to be submitted to the 17th session of the IGE Competition. In the conference, Mexico introduced its proposal, stating that it was built on past works developed by ICN, OECD, and UNCTAD to facilitate international cooperation. Mexico mentioned that it was important that competition authorities engage in international cooperation efforts in a structured manner, but also with sufficient flexibility and on a case-by-case basis, with complete autonomy in decision-making processes. Mexico also stressed that the implementation of Section F of the UN Set should be carried out by avoiding binding mechanisms that could potentially be overlapping with existing agreements and overall practices. Russia emphasized that the Mexican proposal and the Toolkit were on the same grounds and that they were not contradicting each other. South Africa felt that there was contradiction between the two proposals, mentioning that the Mexican one was leaning towards an informal system, while the Russian one was more on the formal side. Finally, the more members supported the inclusion of the Mexican proposal and suggested to explore the way to integrate two into one instrument for further discussions.

(3) The Survey Report on Obstacles to International Cooperation

The report (**the final version see Annex 2**) assessed the responses made by 54 competition agencies worldwide.

The survey has three parts. The first part dealt with providing a pre-assessment of the responding agency with respect to the willingness to cooperate with foreign peers and the

⁷ Participating member States in this conference call were: Argentina, Australia, Austria, Brazil, Canada, El Salvador, Germany, Hungary, India, Italy, Japan, Mexico, Panama, Peru, Russia, South Africa, the United Kingdom, and the United States (USFTC). The meeting had also an observer which was Hong Kong (China).

⁸ See the full proposal in Annex 4.



factors surrounding international cooperation. The second part assessed critical factors that a competition agency faces when engaged in international cooperation activities. The survey classified three types of factors: awareness, legal and practical that facilitates a quicker response from competition agencies. The third part looked at the future of cooperation and suggestions that each member of the group could put forward. A forward-looking section was included to request competition agencies to provide ideas on what they see as a way forward on this issue at the global level while considering the specific needs of younger and smaller agencies.

The UNCTAD Secretariat deliberately refrained from providing additional comments or observations on the issues and points discussed in the Survey.

(4) The way forward

Following what has been discussed through the four audio conferences, the Discussion Group agreed to propose to the IGE on Competition at its seventeenth session (11-13 July 2018) a renewal of the mandate of the Discussion Group for another year to further discuss the following issues.

a) Brainstorming ideas gearing towards the consolidation of the Russian Toolkit and the Mexican proposal aiming at establishing a single document, which could be agreeable for all participants of the IGE Competition, thereby, facilitating international cooperation between competition agencies under Section F of the UN Set.

b) Examine the past efforts by other international fora such as OECD and ICN concerning international cooperation; how the Discussion Group could avoid duplication of work and how these accomplished works could be utilized to facilitate international cooperation between competition agencies under Section F of the UN Set.

c) Identify specific roles and tasks that UNCTAD is envisaged to undertake to support competition agencies which seek international cooperation under Section F of the UN Set.



Annexes

Annex 1: Minutes of the 4 virtual meetings held during 2017-2018
(uploaded at “Documents” in the official website of IGE 2018 on Competition)

Annex 2: Final version of the UNCTAD Survey Report
(uploaded at “Documents” in the official website of IGE 2018 on Competition)

Annex 3: Revised version of the Draft Toolkit on International Cooperation as submitted by the Russian Federation
(uploaded at “Contributions” in the official website of IGE 2018 on Competition)

Annex 4: A new proposal for International Cooperation submitted by Mexico
(uploaded at “Contributions” in the official website of IGE 2018 on Competition)

The official website of IGE 2018 on Competition

<http://unctad.org/en/Pages/MeetingDetails.aspx?meetingid=1675>



Minutes of the 1st Audio-Conference Call of UNCTAD Secretariat Discussion Group on International Cooperation (09.10.2017 12:30-13:30)

The Competition and Consumer Policies Branch (CCPB) of UNCTAD Secretariat organized the 1st audio-conference call of Discussion Group on International Cooperation following the agreed conclusions of the Sixteenth Session of the Intergovernmental Group of Experts on Competition Law and Policy, held in July 2017 in Geneva... Participating member States and organizations in this conference call were: Algeria, Armenia, Australia, Austria, Botswana, Brazil, Chile, Croatia, El Salvador, Germany, Egypt, Hungary, India, Italy, Kazakhstan, Kyrgyz, Montenegro, Pakistan, Philippines, Russia, South Africa, Swaziland, the United States (USDOJ and USFTC), Zambia, Zimbabwe, GIZ and OECD. In the conference call, the following 5 items were discussed:

- (1) Introductory session of the Group: mandate, purpose, expected results;
- (2) Definition of the Group's method of work;
- (3) Consultations to agree on a 1st topic to be presented at the next conference call in Jan 2018;
- (4) Consultations to hold back-to-back regional meetings with other planned activities;
- (5) Any Other business.

(1) Introductory session of the Group: mandate, purpose, expected results

CCPB explained the background of the establishment of the discussion group; the purpose, the mode of delivery, the deliverables, and the expected result of the discussion group; and the role of UNCTAD Secretariat based on the concept note entitled "Setting up the "Secretariat Discussion Group on International Cooperation (UNCTAD-DGIC)", which was circulated beforehand.

El Salvador and Brazil suggested that it would be more convenient for them to participate in the conference calls if future calls would start later in the day., *CCPB* promised to reconsider the timing of the conference calls..

(2) Definition of the Group's method of work



CCPB proposed to narrow the discussion topics on international cooperation taking into account the limited time devoted to the Group as well as the need to maximize available resources.

Russia suggested that the discussion group should focus on particular challenges which competition agencies face in dealing with concrete international anticompetitive cases.

USFTC, making reference to the ICN/OECD joint study conducted a couple of years ago, pointed out, that it is still unclear why international cooperation does not happen more frequently and that it is meaningful if the discussion group explores where the obstacles lie when agencies, especially developing or young ones, deal with international cases.

Armenia introduced its recent investigation against a transnational company where they made request of information to other agencies but received very few responses, and suggested that the toolkit proposed by Russia in the last IGE would serve as a useful means to solve the challenges in terms of international cooperation.

Zambia stated that every country has its own priority area or industry where they wish to concentrate its international cooperation effort, and suggested that the discussion group should take this into account when deciding the topics to be discussed in the future.

Algeria pointed out that it is important to discuss how international cooperation can be boosted particularly with neighboring countries in specific region.

Germany suggested that the discussion group could learn a lot from works done by other international organizations such as ICN and OECD when discussing international cooperation.

(3) Consultations to agree on a 1st topic to be presented at the next conference call in Jan 2018

CCPB summarized what had been mentioned by the conference call participants and



asked for opinions about the possible topics to be discussed in the next conference call.

USFTC suggested that it would be necessary to develop a methodological framework for gathering information about where the obstacles can be found. The latter should be presented in the next IGE.

Russia proposed sharing experiences of international cooperation and its challenges, especially focusing on concrete cases, and also emphasized that the toolkit it proposed in the last IGE would be very practical means to address obstacle to international cooperation.

Botswana proposed that the discussion group should discuss what the obstacles to international cooperation are.

Algeria mentioned that the practical exchange of experiences on a regional or sub-regional level would boost the international cooperation between agencies in the long term, and promised to provide a written contribution on this topic.

CCPB summarized the discussions by pointing out that the challenges faced by competition agencies and obstacles to international cooperation are more or less two sides of the same coin, and eventually proposed that obstacles to international cooperation would be the topic for the next conference call, and there were no objections from the floor. Furthermore, *CCPB* proposed to conduct a simple survey in order to gather information concerning obstacles, and asked for volunteers who would help *CCPB* carrying out the survey and lead it from regional balance perspective. **USFTC, Russia, Austria, South Africa, Brazil, Philippines and Algeria** volunteered to support the survey. Finally, *CCPB* mentioned that the survey would be circulated among the member States who have registered to be part of the discussion group as soon as *CCPB* prepares the document.

(4) Consultations to hold back-to-back regional meetings with other planned activities

CCPB suggested that it might be useful to organize specific regional events to discuss



the topic of obstacles to international cooperation in more detail, and asked participants for their opinions in this regard.

Philippines mentioned that they are having an anniversary event early in February 2018, which topic is “Theory and Practice of Competition in Developing Countries”, and suggested that it might be an excellent opportunity to hold a back-to-back event to discuss the international cooperation issues with other Asian developing countries.

Russia expressed their intention to host some events which are connected to Eurasian Economic Union and Commonwealth of Independent States in order to facilitate the discussion, and invited any member states who wish to participate (actual dates are not yet decided).

Brazil mentioned that they are hosting the 5th international BRICs conference together with other BRICs countries from the 8th to 10th of November, in which they would also discuss international cooperation issues in both BRICs region and Latin America region.

Algeria mentioned that they might hold a MENA Project event to discuss the topic in the future.

Germany suggested that it would be helpful to have either an opportunity to dial-in or to provide comments afterwards in case member states cannot attend the regional meetings. *CCPB* promised to provide an opportunity to all members of the discussion group to be connected using whatever means.

(5) Other businesses

CCPB proposed the 15th of January 2018 as a date for 2nd audio-conference call of the discussion group and there were no objections from the participants.



Minutes of the 2nd Audio-Conference Call of UNCTAD Secretariat Discussion Group on International Cooperation (20.02.2018 14:00-15:30)

The Competition and Consumer Policies Branch (CCPB) of UNCTAD Secretariat organized the 2nd audio-conference call of Discussion Group on International Cooperation on the 20th of February. Participating member States and organizations in this conference call were: Armenia, Austria, Belarus, Botswana, Brazil, Croatia, El Salvador, Germany, Hungary, Italy, Japan, Kazakhstan, Kyrgyz, Mexico, Montenegro, Panama, Peru, Russia, South Africa, the United Kingdom, the United States (USDOJ and USFTC) and OECD. In the conference call, the following 2 items were discussed:

- (1) The preliminary results of the UNCTAD Survey on the obstacles to international cooperation;
- (2) The UNCTAD initial comments on the Toolkit on International Cooperation submitted by FAS Russia.

(1) The preliminary results of the UNCTAD Survey on the obstacles to international cooperation

CCPB presented the preliminary results of the survey aimed at the members of the Discussion Group item by item based on the document entitled “Obstacles to International Cooperation in Specific Cases”, which was circulated in advance. *CCPB* emphasized that the UNCTAD survey is to complement the efforts done by international fora such as OECD and ICN and not to duplicate any efforts undertaken by others. *CCPB* also explained that an advanced version of the report, enhanced by the suggestions and observations from the members of the Discussion Group, will be circulated by the next audio-conferences in April; a consolidated version of the report, which includes the responses from all the members of the IGE, will be circulated by the audio-conference in June; and the final version of the report will be presented at the IGE on competition in July 2018.

The United Kingdom asked how many members that are not the members of the Discussion Group have responded to the questionnaire so far. *CCPB* replied that the only two members have submitted their contributions to date as the deadline is March



15 and urged members of the Discussion Group to help the peers in the respective regions to reply to the questionnaire.

South Africa suggested that it would be reader-friendly to incorporate the questions into the report as well as the responses from member states, and that it would be meaningful to group the member states by regional economic blocks when analyzing the responses.

Italy suggested that it would be more informative to have more figures and index in the revised report.

El Salvador suggested that it would be more equitably balanced if the report reflects the views of all geographical regions and sub-regions.

Finally, *CCPB* asked the members to submit their suggestions, observations or concerns (some members (e.g. Hungary) pointed out that there are some descriptions in the report that are unclear, misrepresented etc.) on the preliminary report by February 23.

(2) The UNCTAD initial comments on the Toolkit on International Cooperation submitted by FAS Russia

Russia explained that the idea of the Toolkit is to incorporate practical tools and methods of international cooperation between competition authorities into the Section F of the UNSET as an annex, and that the Toolkit would be especially very helpful for small and developing competition authorities. *Russia* also emphasized that the Toolkit is not intended to create new obligations, but it is for convenience of all competition authorities. *Armenia and Kyrgyz* supported the idea of the Toolkit.

OECD referred to “The Recommendation concerning International Co-operation on Competition Investigations and Proceedings” adopted in 2014 and OECD/ICN joint study conducted in 2013 and emphasized that it would be advisable to avoid overlaps and duplication of work and to concentrate on the areas which were not covered by the past works of other international fora.

Germany stated that a lot of works have been done in OECD in terms of international



cooperation, and that it would be important to be careful not to cause conflicts between the works of two organizations.

Italy pointed out that younger agencies might be reluctant in responding to the survey because they don't have much experience in international cooperation and mentioned that it would be important to find a way to reach out to such agencies. *Italy* also proposed to refer to the works done by ICN, particularly in the field of merger and cartel investigation where competition authorities have been discussing actively in terms of international cooperation.

The United Kingdom mentioned that the existence of national laws which prohibit or limit the sharing of confidential information between agencies is the major obstacle to the international cooperation and enabling national legislations/regulations to remove such restrictions would be a solution.

CCPB stated responding to the United Kingdom's observations that the national laws are bottle neck for international cooperation for some countries and that outreach activities toward national governments are essential to solve this issue, which UNCTAD has been doing for a long time in its technical assistance and capacity building programs.

CCPB urged the members to look at the UNCTAD's comments on the Toolkit and submit their views on the Toolkit, either in written form (e.g. Croatia) or orally by the next video conference in April in order to facilitate the discussion.

The 3rd audio conference will be convened by UNCTAD by mid-April 2018.



Minutes of the 3rd Audio-Conference Call of UNCTAD Secretariat Discussion Group on International Cooperation (23.04.2018 14:00-15:20)

The Competition and Consumer Policies Branch (CCPB) of UNCTAD Secretariat organized the 3rd audio-conference call of Discussion Group on International Cooperation on the 23rd of April. Participating member States and organizations in this conference call were: Argentina, Australia, Austria, Belarus, Botswana, Brazil, Canada, Croatia, Germany, Hungary, India, Italy, Japan, Kazakhstan, Kyrgyz Republic, Montenegro, Russian Federation, Peru, the United Kingdom, the United States (USDOJ and USFTC), and OECD Secretariat. The meeting had also observers which were the European Commission DG COMP and Hong Kong (China). In the conference call, the following 2 items were discussed:

- (1) The updated survey report on the obstacles to international cooperation;
- (2) The comments from the members on the Toolkit on International Cooperation submitted by FAS Russia.

(1) The updated survey report on the obstacles to international cooperation

CCPB briefly presented the updated version of the survey which was circulated beforehand, referring mainly to statistical changes made based on the responses from the members submitted to *CCPB* after February 2018. *CCPB* also introduced its effort to obtain more responses from the other members who not yet replied to the survey, especially from younger and smaller agencies, and mentioned that those responses will be incorporated in the updated version of the report which will be released by the last conference call scheduled to be held in mid-June 2018. Furthermore, *CCPB* stated that the final version of the report will be presented at the IGE on competition in July 2018.

Italy suggested that it would be more informative to have an annex which shows exact number of responses to each question.

The United Kingdom suggested that it would be better to elaborate the report by introducing members' concrete experiences which are written in the responses. *The United Kingdom* also mentioned that the term "lack of trust" needs to be clarified as



members may have different views on this term.

OECD clarified that the questionnaire of OECD/ICN joint survey in 2013 was sent to ICN membership, consisting about 120 agencies, and 55 agencies responded to the survey. The other agencies did have opportunity to reply, but some of them said that they could not reply because they didn't have much experience in the field of international cooperation.

CPPB agreed to consider all the comments provided by the members and incorporate them into the final version of the survey report.

(2) The comments from the members on the Toolkit on International Cooperation submitted by FAS Russia

The United States stated, based on the document circulated in advance, the practical barriers to international cooperation are confidentiality issues, resource constraints, the lack of trust and a basic lack of awareness of the options available for engaging in cooperation with another agency. *The United States* also emphasized that there is no need for establishing a new instrument, in parallel with OECD Recommendation, as it would not solve any of the problems identified in the survey report as obstacles to international cooperation. *The United States* furthermore suggested, instead of creating a new instrument, it would be better that UNCTAD engage more in activities such as disseminating best practices of international cooperation and providing awareness programs for younger and less experienced agencies in order to solve practical problems identified in the survey report.

Croatia explained in detail, based on the document circulated in advance, its comments to some of the items indicated in the text of the Toolkit: “notification”, “exchange of information”, “exchange of confidential information”, “enforcement cooperation”, “consultations”, “regional cooperation” and “UNCTAD assistance.” For more information, see submission from Croatia.

Italy pointed out, based on the document circulated in advance, that main obstacles that competition authorities might encounter when engaging in international cooperation are



“lack of points of reference to start cooperation”, “lack of awareness of the existing instrument to foster cooperation”, “lack of working relationships” and “legal obstacles” highlighted in the survey. *Italy* suggested that, to overcome these hurdles, UNCTAD could expand and circulate the existing contact lists, disseminate useful documents produced by OECD and ICN, and encourage the development of working relationships. Furthermore, *Italy* stated that more structured mechanisms for formal cooperation might be considered at a later stage.

Russia emphasized that the text of Toolkit should be the subject of discussion and encouraged more jurisdictions to further provide comments to the text.

Japan supported the idea of not duplicating the past work of OECD and ICN and emphasized that checking these past works would be very useful. *Japan* also pointed out the usefulness of referring to existing international cooperation framework such as ICN working groups and of sharing cooperative experiments among UNCTAD members.

Germany supported the points mentioned by the United States and Italy, stating that learning from previous experiences of OECD and ICN is useful and that further efforts by UNCTAD to approach jurisdictions that have not yet replied to the survey would be certainly important.

Austria stated three topics which need to be discussed in the future conference call: the legal quality of the Toolkit, the issues concerning exchange of confidential information, explaining that at this moment Austrian legislation does not provide a legal basis to exchange confidential information outside the European Union, and the different institutional set up of agencies.

Hungary suggested that it might be useful to change the addressee of the Toolkit from “States” to “competition authorities” to avoid confusion.

Finally, *CCPB* urged Russia to reply to the comments on the Toolkit made by other agencies. Furthermore, *CCPB* proposed, as the topics of next conference call, to discuss



the last version of the report and the issues where consensus was reached among the participants of the call such as increasing awareness, disseminating contact lists etc. The proposal was duly endorsed by the participants.

The 4th audio conference will be convened by UNCTAD by mid-June 2018.



UNCTAD

Minutes of the 4th Audio-Conference Call of UNCTAD Secretariat Discussion Group on International Cooperation (19.06.2018 14:15-15:35)

The Competition and Consumer Policies Branch (CCPB) of the UNCTAD Secretariat organized the 4th audio-conference call of Discussion Group on International Cooperation on the 19th of June. Participating member States in this conference call were: Argentina, Australia, Austria, Brazil, Canada, El Salvador, Germany, Hungary, India, Italy, Japan, Mexico, Panama, Peru, Russian Federation, South Africa, the United Kingdom, and the United States (USFTC). The meeting had also an observer which was Hong Kong (China). In the conference call, the following 4 items were discussed:

- (1) The last version of the survey report on the obstacles to international cooperation;
- (2) The revised version of the “Toolkit on International Cooperation” by Russia;
- (3) The new proposal for international cooperation by Mexico;
- (4) The report of the Discussion Group on International Cooperation (DGIC) to be submitted to the 17th session of the IGE Competition.

(1) The last version of the survey report on the obstacles to international cooperation

CCPB briefly presented the last version of the survey, mainly referring to the newly added annex 2 and the fact that the tendency of views of the respondents concerning obstacles to international cooperation which had been established in the previous version was not changed after incorporating the responses from the members submitted to *CCPB* after April 2018. *CCPB* also stated that the final version of the report will be included as an annex in the overall report of the Discussion Group on International Cooperation to be submitted to the 17th session of the IGE Competition in July 2018. Finally, *CCPB* urged the members to submit their comments to the last version of the report **by the 29th of June**, in order to incorporate all the comments submitted into the final version of the report and circulate it among the members **in the first week of July**.

(2) The revised version of the “Toolkit on International Cooperation” by Russia



Russia explained that the revised version of the Toolkit builds on the comments by the other members, and also mentioned that further comments are very much welcomed to make the document more helpful to all the member states.

Japan argued, based on the paper circulated in advance, that obstacles to international cooperation should be identified before discussing new instruments for international cooperation. *Japan* also underscored the importance of checking previous efforts made by OECD and ICN and considering whether it is possible to utilize these past works to achieve the goal of the Discussion Group. Furthermore, *Japan* pointed out that the discussion has become very much complicated and asked UNCTAD to play a guiding role to organize the arguments made by the members and to put all the ideas into one instrument which is acceptable for every member state.

Germany, Canada and Italy supported the idea of *Japan* to avoid duplication of work and to ask the UNCTAD Secretariat to structure the discussion according to sequential steps by separating the analysis of obstacles for cooperation which should be dealt with first and any possible measures to overcome these obstacles.

Brazil asked for more time to look at the proposals suggested by *Mexico* and *Russia* and see how these proposals can be complemented.

The United Kingdom pointed out that, although the OECD recommendation is not comprehensive, it is very useful and that non-OECD members could still make use of the recommendation. *The United Kingdom* also supported the JFTC's view and the Mexican proposal.

(3) The new proposal for international cooperation by Mexico

Mexico presented a new proposal for international cooperation, which was circulated among the members in May 2018, which puts great emphasis on informal cooperation. *Mexico* stated that the proposal builds on past works which have been developed by ICN, OECD, and UNCTAD to facilitate international cooperation. *Mexico* mentioned that it is important that competition authorities engage in international cooperation



efforts in a structured manner, but also with sufficient flexibility to decide on a case-by-case basis, with complete autonomy in their decision-making processes. Mexico also stressed that the implementation of Section F of the UN Set of Principles should be carried out by avoiding adhering to binding mechanisms that could potentially be overlapping with existing agreements and overall practices. As to the role of UNCTAD, *Mexico* said that UNCTAD should continue to serve as an ad-hoc forum for high-level discussions in order to develop and set agreeable standards, policies and good practices. Furthermore, *Mexico* indicated that the role of UNCTAD in implementing the Section F of the UN Set of Principles can be interpreted in three main areas: forging relationships such as maintaining and updating a contact list; knowledge management and fostering networking.

Russia emphasized that the Mexican proposal and the Toolkit are on the same ground and that they are not contradicting each other. *Russia* also mentioned that they agree with the idea of putting together and expanding contact lists; disseminating knowledge and good practices of international cooperation and fostering networking and informal communication among competition experts from different jurisdictions. Finally, *Russia* stated that the Mexican proposal seems to be an additional proposal to the Toolkit and that they could be simultaneously discussed in the framework of the IGE of UNCTAD.

Italy and *Canada* supported the Mexican proposal and pointed out the importance of discussing the way to put all ideas which has been put forward by the members into one instrument during the forthcoming IGE.

USFTC supported the Mexican proposal and mentioned that the efforts should be done to reach a consensus among member states. At the same time, *USFTC* also pointed out that it would be difficult to reach a consensus if some of the members seek a solution which takes a form of another multilateral agreement.

South Africa mentioned that they see contradictions between the Mexican proposal and the Toolkit, pointing out that the Mexican proposal prefers an informal form as a solution, whereas the Toolkit prefers a more formal form. *South Africa* suggested that the Discussion Group should clarify whether there is a clash between two proposals



before taking a decision to move forward.

USFTC mentioned that they don't see great difference between the Mexican proposal and the Toolkit as to the substance, and that only the form of the solution that they are seeking is different.

CCPB replied to the comments by agreeing generally with Japan in terms of need to have a constructive discussion on one track regarding the way forward of the DGIC for the next period 2018-2019. Hence, there should be a way of reconciling both proposals that should be aggregable for all members of the DGIC by building up the necessary consensus to move forward the agenda of the Group. A first attempt to do so shall be the opportunity that the UNCTAD Secretariat will facilitate an informal discussion of the Group on the margins of the IGE Competition in July as described below.

(4) The report of the Discussion Group on International Cooperation (DGIC) to be submitted to the 17th session of the IGE Competition

CCPB stated the following points and asked the participants for an endorsement.

- The session on DGIC is scheduled to be held on the 11th of July from 17:00 to 18:00. *CCPB* will have a short introductory presentation regarding what the Discussion Group has achieved so far. An intervention from Russia and Japan from the floor (5 minutes each), after *CCPB*'s presentation, are confirmed as of today and an intervention from OECD Secretariat is also expected. The other members who wish to intervene are requested to inform *CCPB* **by 29th of June**. After the meeting was adjourned and until the drafting of these minutes, Austria, Italy and the US have requested to intervene at the session in the IGE. The overall report to be submitted to the session on DGIC introduces what has been discussed in the Discussion Group and the way forward, such as proposing the renewal of the mandate of the Discussion Group for another one year. It also contains the survey report and the proposals submitted by the members as an annex. The report is expected to be sent to the members **by the 29^h of June** and to be printed and circulated in IGE.

- Beside the session on 11th, *CCPB* proposes to organize informal consultations on the 12th of July from 8:30 to 10:00 to discuss contentious issues such as ways and means to



consolidate two parallel discussions (the Toolkit and the Mexican proposal), into one, how to incorporate past efforts made by other international fora into the discussion, among other issues.

- Points agreed by consensus in the sessions on 11th and 12th are expected to be incorporated into the draft Agreed Conclusion of IGE on Competition 2018.

Australia and *the United Kingdom* asked UNCTAD to prepare a web facility to access the meetings of the IGE on line in case they will not be able to attend the meetings.

The above-mentioned proposals from CCPB were duly endorsed by all the participants and the meeting was adjourned.

Obstacles to International Cooperation in Specific Cases

Survey Report by the UNCTAD Secretariat¹

Geneva, 11 July 2018

¹This report has been drafted by the Competition and Consumer Policies Branch of the UNCTAD Secretariat as part of the work of the UNCTAD Discussion Group on International Cooperation. For more information about this report, please contact Dr. Pierre Horna at Pierre.Horna@UN.org.

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A. Background

1. Pursuant to paragraph 9 of the Agreed conclusions of the Intergovernmental Group of Experts on Competition Law and Policy at its sixteenth session (5-7 July 2017), member States requested the UNCTAD secretariat to facilitate the establishment of a discussion group on international cooperation (UNCTAD-DGIC). The mandate in paragraph 9 states:

“9. Requests the UNCTAD secretariat to facilitate member States to establish a discussion group on international cooperation, open to member States participation on a voluntary basis, to pursue the exchanges and the debate on the modalities for facilitating cooperation under Section F of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices and report to the seventeenth session of the Intergovernmental Group of Experts.”²

2. The concept note prepared by the UNCTAD Secretariat for this Discussion Group on 12 September 2017 detailed the purpose, mode of delivery, deliverables and the role of the Secretariat envisaged. It was agreed to have quarterly virtual meetings of the Group. The first meeting was on 9 October 2017.
3. Members who attended the 1st Audio Conference of the Discussion Group of October 2017 agreed to choose the topic for the next audio conference as “the obstacles to international cooperation in specific cases.” For purposes of gathering as much information on this topic as possible, it was also agreed to prepare and circulate a survey to all members of the Group. With the support of USFTC, Russia, Austria, South Africa, Brazil, Philippines and Algeria, UNCTAD Secretariat prepared the survey that was circulated in November and December 2017. Furthermore, from the viewpoint of gathering more information on this topic from those agencies that do not normally participate in international cooperation, UNCTAD secretariat circulated the survey to all the members of the IGE Competition in February 2018.

B. The Survey

4. The survey has three parts. The first part dealt with providing a pre-assessment of the responding agency with respect to the willingness to cooperate with foreign peers and the factors surrounding international cooperation.
5. The second part assessed critical factors that a competition agency faces when engaged in international cooperation activities. The survey classified three types of factors: awareness, legal and practical factors that facilitates a quicker response from competition agencies.
6. The third part looked at the future of cooperation and suggestions that each member of the group could put forward. A forward-looking section was included to request competition agencies to provide ideas on what they see as a way forward on this issue at the global level while considering the specific needs of younger and smaller agencies.

² Agreed Conclusions of the Sixteenth Session of the Intergovernmental Group of Experts on Competition Law and Policy. Geneva Switzerland (5-7 July 2017). Available at: <http://unctad.org/en/Pages/MeetingDetails.aspx?meetingid=1275>

C. The Respondents

7. The UNCTAD Secretariat received 54 survey responses until **15 May 2018**, which constitutes the basis for this report. Annex 1 of this document lists all the agencies that replied to the survey, and Annex 2 indicates number of responses to each question (excluding questions which request specific descriptions).

D. Summary of Survey Results: some preliminary notes

8. UNCTAD Secretariat wishes to provide results on the 54 agencies which replied to the survey. The following analysis is presented:
 - a. The mandate was received at the last IGE on Competition in July 2017. Member States decided to discuss issues of international cooperation that are covered by the UN Set on Competition, Section F on international measures.³ Hence, the survey dedicated a couple of questions on Section F.
 - b. Extensive research has been carried out by major international actors such as the OECD ⁴, ICN ⁵ and UNCTAD ⁶ when assessing the obstacles of international cooperation in specific competition cases. For example, a joint ICN and OECD Survey was conducted in 2013 having replies from 55 agencies worldwide and yielded relevant results pointing to the main obstacles that agencies face in this area.⁷ The value added by this UNCTAD survey is to complement these international efforts in a coherent manner and not to duplicate work undertaken by others. The fact of the matter is that the 139 jurisdictions with competition laws did not all respond in the 2013 survey. Consequently, UNCTAD tried to reach out to these jurisdictions, particularly smaller and younger agencies, as much as possible.

D.1. Pre-assessment of the competition agencies wishing to cooperate internationally with its peers

9. Out of the 54 responses from agencies, there are some preliminary observations to highlight:
 - a. 24 agencies started enforcing competition laws after the year 2000. Therefore, one could say that younger agencies constitute the minority group in the survey sample.

³ THE UNITED NATIONS SET OF PRINCIPLES AND RULES ON COMPETITION.

⁴ See for example: OECD, 'Challenges of International Co-Operation in Competition Law Enforcement' (2014) <<https://www.oecd.org/daf/competition/Challenges-Competition-Internat-Coop-2014.pdf>> accessed 6 February 2017.

⁵ See for instance: ICN, 'Anti-Cartel Enforcement Manual Chapter 9: International Cooperation and Information Sharing' (2013) <http://www.internationalcompetitionnetwork.org/uploads/cartel%20wg/icn_chapter_on_international_cooperation_and_information_sharing.pdf> accessed 17 February 2017.

⁶ See the latest work of UNCTAD in this field: UNCTAD, 'Enhancing International Cooperation in the Investigation of Cross-Border Competition Cases: Tools and Procedures' (2017) TD/B/C.I/CLP/44 <http://unctad.org/meetings/en/SessionalDocuments/ciclpd44_en.pdf> accessed 16 May 2017.

⁷ OECD & ICN, 'Secretariat Report on the OECD/ICN Survey on International Enforcement Co-Operation' (2013) International Enforcement Co-operation <<http://www.oecd.org/daf/competition/InternEnforcementCooperation2013.pdf>> accessed 25 February 2017.

- b. 24 agencies replied that they *often* encounter situations where international cooperation with other peers could be useful to their work. The number of respondents is mixed: there are younger and older agencies that replied with that view. Notably from Albania⁸, Armenia⁹, Botswana¹⁰ and Gambia¹¹ which demonstrate that younger agencies can indeed benefit from international cooperation activities in their daily practice.
- c. 28 agencies replied that they *sometimes* encounter situations where international cooperation with other peers could be helpful to their work. Older and bigger agencies such as Japan,¹² United Kingdom,¹³ Italy¹⁴, Sweden¹⁵ and Hungary¹⁶ are part of this group of respondents. India¹⁷, which is relatively younger but large agency, is also part of this group.
10. The agencies that replied positively to questions 2 and 3, indicated with more precision what areas of cooperation they would develop with its counterparts. A range of options were included in the survey such as to coordinate remedies; discuss theories of harm, relevant market information; request background information about firms; prior investigations or experience with the market; sending notifications; exchange of non-confidential information (views, ideas, information on methodologies and the markets, etc.); exchange of confidential information (including waivers); consultations between senior agency officials; conducting enforcement actions on behalf of a foreign jurisdiction (dawn raids, request for information, etc.); and seeking consensus on absence or existence of violation.
11. For the sake of brevity, this report selects one area of cooperation, “discuss theories of harm”, for the purposes of showing interesting results. Based on the responses received from the agencies, the following observations are made:
- a. Almost all the respondents replied positively that they have exchanged views at least in one of the areas related to cartels, mergers and unilateral conduct cases, except for Bulgaria, El Salvador, Kyrgyz Republic¹⁸, Netherlands, and Sri Lanka¹⁹.
- b. Botswana²⁰, Croatia²¹, El Salvador, Kyrgyz Republic, Montenegro, Netherlands, Panama, Poland, Seychelles, Spain, Lao PDR, Sri Lanka, India²², South Africa²³, Switzerland²⁴, Bulgaria²⁵, Malawi²⁶ and Nicaragua²⁷ replied that they have not shared

⁸ Albanian Competition Authority, 'Survey Response by Albania' P. 2.

⁹ State Commission for Protection of Economic Competition of RA, 'Survey Response by Armenia' P.2.

¹⁰ Competition Authority of Botswana, 'Survey Response by Botswana' P. 2.

¹¹ Gambia Competition and Consumer Protection, 'Survey Response by Gambia' P. 2.

¹² Japan Fair Trade Commission, 'Survey Response by Japan' P. 2.

¹³ Competition and Markets Authority, 'Survey Response by the United Kingdom' P. 2.

¹⁴ Italian Competition Authority (AGCM), 'Survey Response by Italy' P. 2.

¹⁵ Swedish Competition Authority, 'Survey Response by Sweden' P.2.

¹⁶ Hungarian Competition Authority (GVH—Gazdasági Versenyhivatal), 'Survey Response by Hungary' P. 2.

¹⁷ Competition Commission of India, 'Survey Response by India' P. 2.

¹⁸ State Agency of Antimonopoly Regulation under the Government of the Kyrgyz Republic (n 7) P. 2.

¹⁹ Consumer Affairs Authority, 'Survey Response by Sri Lanka' P. 2.

²⁰ Competition Authority of Botswana (n 10) P. 2.

²¹ Croatian Competition Agency, 'Survey Response by Croatia' P. 2.

²² Competition Commission of India (n 16) P. 3.

²³ Competition Commission of South Africa (CCSA), 'Survey Response by South Africa' P. 2.

²⁴ Swiss Competition Commission (COMCO), 'Survey Response by Switzerland' P. 2.

²⁵ Commission on Protection of Competition, 'Survey Response by Bulgaria' P. 2.

²⁶ Competition and Fair Trading Commission, 'Survey Responses by Malawi' P.2.

²⁷ Instituto Nacional de Promoción de la Competencia, 'Survey Response by Nicaragua' P.2.

any views on theories of harm when it comes to cartel cases. In addition, Indonesia²⁸, Kazakhstan²⁹, Peru³⁰, Honduras³¹, El Salvador, Kyrgyz Republic, Netherlands, Seychelles, Sri Lanka, Bulgaria³², Malaysia³³ and Dominican Republic³⁴ replied that they have not shared theories of harm in merger review cases. Finally, Austria, Bulgaria, Democratic Republic of the Congo, El Salvador, Hungary, Kyrgyz Republic, Lao PDR, Montenegro, Netherlands, Nicaragua, Panama, Spain and Sri Lanka replied that they have not shared theories of harm in unilateral conduct cases.

12. A question related to the enforcement experience of the responding agencies was part of the survey. The question was in relation to the cooperation that would have been useful but did not happen. In this regard, 31 agencies replied that they did not experience such a situation.³⁵ Within this group of agencies, the US FTC³⁶ mentioned that cooperation did not take place because the other party did not respond to their queries. Zambia reported that in one occasion, agencies which are part of a signed regional cooperation agreement, did not reply to queries due to *jurisdictions limitations*.³⁷
13. In addition, reactions to a question that addressed whether there have been cases whereby cooperation has worked especially well, a sweeping majority of agencies (42) replied positively. Only 11 agencies (Albania, Bulgaria, Costa Rica, Honduras, Indonesia, Kyrgyz Republic, Lao PDR, Montenegro, Panama, Sri Lanka and Swaziland) said that there was not any case where cooperation worked well. Within the range of the 42 agencies that replied positively to this question, some highlights are observed:
 - a. Armenia³⁸ referred to the usefulness of the OECD regional centres such as the one managed by the Hungarian Competition Authority (RCC)³⁹ to contact persons in foreign agencies. Croatia⁴⁰ mentioned the exchange of experiences through the Sofia Competition Forum⁴¹, an initiative by the Bulgarian Competition Authority and UNCTAD.
 - b. Other countries such as Germany, the Netherlands, Italy and Hungary mentioned the enabling factors that provided the European Competition Network under the EU

²⁸Komisi Pengawas Persaingan Usaha (KPPU), 'Survey Response by Indonesia' P. 2.

²⁹Committee on Regulation of Natural Monopolies, Protection of Competition and Consumer Rights under the Ministry of National Economy of the Republic of Kazakhstan (n 17) P. 3.

³⁰National Institute for the Defense of Competition and Intellectual Property (INDECOPI), 'Survey Response by Peru' P. 3.

³¹Commission for the Defense and Promotion of Competition (CDPC), 'Survey Response by Honduras' 2.

³²Commission on Protection of Competition, 'Survey Response by Bulgaria' P.2.

³³Malaysia Competition Commission (MyCC), 'Survey Response by Malaysia' P.2.

³⁴National Commission for the Defense of Competition, 'Survey Response by Dominican Republic' P.2.

³⁵The countries that replied in that sense were: Albania, Argentina, Armenia, Botswana, Bulgaria, Costa Rica, Croatia, Dominican Republic, El Salvador, Gambia, Germany, Honduras, Hungary, India, Indonesia, Italy, Japan, Kyrgyz Republic, Lao PDR, Malaysia, the Netherlands, Nicaragua, Panama, Peru, Sri Lanka and the United Kingdom.

³⁶Although it has been infrequent, no response from other agencies in the area of mergers has happened. See Federal Trade Commission, 'Survey Response by the United States' P. 3.

³⁷Competition and Consumer Protection Commission (CCPC), 'Survey Responses by Zambia' P. 3.

³⁸State Commission for Protection of Economic Competition of RA (n 9) P. 3.

³⁹'Regional Centre for Competition in Budapest (Hungary) - OECD -GVH' <<http://www.oecdgvh.org/>> accessed 8 February 2018.

⁴⁰Croatian Competition Agency (n 22) P. 3.

⁴¹'Sofia Competition Forum' (SCF) <<http://scf.cpc.bg/>> accessed 8 February 2018.

legal framework.⁴² In addition, while Mexico⁴³ and Brazil⁴⁴ mentioned that trust is an important factor for cooperation, US FTC⁴⁵, UK⁴⁶ and Peru⁴⁷ suggested that early contacts for coordination and consultations are central to the discussion.

- c. Malaysia⁴⁸ referred to some bid rigging cases where it had a useful assistance from an enforcement officer of the Indonesian Competition Authority (KPPU) who had been seconded to Malaysia through the Staff Exchange Programme under the Japan-ASEAN Integration Fund (JAIF) Project 2017.
- d. Belarus⁴⁹ and Kazakhstan⁵⁰ provided specific merger cases within the CIS region. Further, South Africa mentioned how cross-border mergers have allowed discussions on market definition, theories of harm, potential remedies, some information sharing of non-confidential information, facilitation of waivers from parties where possible etc.⁵¹
- e. Botswana and Zambia referred to the importance of effective regional competition policies to fostering cooperation. Enabling factors such as the implementation of regional obligations to enhance effective enforcement was mentioned by Botswana.⁵² Finally, India referred to the importance of sharing non-confidential information such as data and market delineation.⁵³

D.2. Assessment of critical obstacles to international cooperation

14. The UNCTAD Secretariat together with the task force set up to prepare the survey, structured three types of factors that can be real-life obstacles to international cooperation. The purpose was to better identify issues that respondents have in practice and to better assess the results of the options picked by the responding agencies.
15. Respondents were given the options with a tri-matrix options (often/sometimes/never) in accordance to each of the individual factors identified per category. See below the options provided through the following factors:

⁴² 'European Commission - Competition - ECN - Overview'

<http://ec.europa.eu/competition/ecn/index_en.html> accessed 8 February 2018.

⁴³ Mexican Federal Economic Competition Commission (COFECE), 'Survey Response by Mexico' P.

4.

⁴⁴ Administrative Council for Economic Defense (CADE), 'Survey Response by Brazil' P. 3.

⁴⁵ Federal Trade Commission (n 33) P. 4.

⁴⁶ Competition and Markets Authority (n 14) P. 4.

⁴⁷ National Institute for the Defense of Competition and Intellectual Property (INDECOPI) (n 27) P. 3.

⁴⁸ Malaysia Competition Commission (MyCC), 'Survey Response by Malaysia' P.3.

⁴⁹ MART referred to the merger of Yandex N.V. and Uber International C.V. in 2017. See Ministry of Antimonopoly Regulation and Trade of the Republic of Belarus (MART), 'Survey Response by Belarus' P. 5.

⁵⁰ The authority reported that in 2010 the competition authorities of the Republic of Kazakhstan and the Russian Federation conducted investigation in the market of roaming services, which resulted in reduction the cost of telecommunications services operators Committee on Regulation of Natural Monopolies, Protection of Competition and Consumer Rights under the Ministry of National Economy of the Republic of Kazakhstan (n 17) P. 4.

⁵¹ Competition Commission of South Africa (CCSA) (n 24) P. 4.

⁵² SADC Member States are obliged to cooperate in the implementation of Competition Policy is part of the SADC Protocol on Trade. To this effect, heads of States signed a Declaration on cooperation in Competition Policies and a commitment to a joint Memorandum of Understanding between SADC competition authority to cooperate in the enforcement of Competition Laws. This has formed a basis for cooperation in addressing cross boarder restrictive business practices Respective Competition Laws for Member States also authorized competition agencies to share information, although most laws require sharing of non-confidential information only. Competition Authority of Botswana (n 11) P. 3.

⁵³ Competition Commission of India (n 16) P. 5.

a. Awareness

- i. We are not familiar with what types of cooperation exist or might be possible.
- ii. We are not familiar with the cooperation practices of the foreign agency.
- iii. We are not confident about the foreign agency's confidentiality laws and practices.
- iv. The foreign agency says that it is not confident about our confidentiality laws and practices.

b. Legal

- i. Our law restricts our ability to seek cooperation from foreign agencies in general (please explain how it does so)
- ii. **Our law contains special restrictions on exchange of some kind of information (please, specify)**
- iii. **Foreign agencies tell us that their laws restrict their ability to cooperate with us in general**
- iv. Foreign agencies tell us that their laws contain special restrictions on exchange of confidential information
- v. **Absence of international agreements/documents which contain special provisions on cooperation between Competition Authorities**
- vi. There are substantive differences between our law and the other countries' law. If so, indicate if:
- vii. The difference is in the nature of the conduct that is illegal?
- viii. The nature of the sanction that can be imposed?
- ix. The undertakings involved have not waived confidentiality rules.

c. Practical

- i. **Lack of trust between agencies**
- ii. **We do not know who to contact at foreign agencies.**
- iii. The other agency says it does not have the resources to cooperate with us (heavy workload, lack of financial resources, difficulties in attracting interpreters, etc.)
- iv. The other agency did not respond to our request
- v. The other agency says that cooperation was against its interests
- vi. Language difficulties made it hard to communicate with the other agency

16. On awareness factors, several observations can be made:

- a. 9 agencies responded in some form that *often* awareness factors are obstacles to cooperation. Out of these 9 agencies, 3 agencies (Malawi⁵⁴, Lao PDR⁵⁵ and Zimbabwe⁵⁶) mentioned that foreign agencies would not be confident about their own confidentiality laws and practices.

⁵⁴Competition and Fair Trading Commission, 'Survey Responses by Malawi' P.4.

⁵⁵Division of Competition, Dept. of Internal Trade, Ministry of Industry and Commerce (n 29) P. 4.

⁵⁶Competition and Tariff Commission, 'Survey Response by Zimbabwe' P.4.

- b. 40 agencies replied in some form that *sometimes* awareness factors are considered as obstacles to cooperation. Costa Rica⁵⁷, Korea, Serbia⁵⁸ and Zambia⁵⁹ replied that all factors considered are *sometimes* obstacles to cooperation.
- c. 9 agencies (Argentina⁶⁰, Botswana, India⁶¹, Kazakhstan⁶², Kenya, Nicaragua⁶³, Russian Federation⁶⁴, South Africa⁶⁵ and Switzerland⁶⁶) mentioned that none of the four options provided as awareness factors can *never* be obstacles to international cooperation.
- d. 10 agencies (Brazil, Canada, Italy, Hungary, Mexico, Netherlands, Peru, Poland, US DOJ and US FTC) stressed their familiarity with the types of cooperation that exist and the cooperation practices of foreign agencies. In addition, these agencies said that they are not aware if any foreign agency says that it is not confident about their own confidentiality laws and practices. However, these 10 agencies did underline that *sometimes* they are not confident about the foreign agency's confidentiality laws and practices.
17. For the sake of brevity of this brief report, three legal factors were selected to assess the results: "*our law contains special restrictions on exchange of some kind of information*"; "*foreign agencies tell us that their laws restrict their ability to cooperate with us in general*;" and "*absence of international agreements/documents which contain special provisions on cooperation between competition authorities.*" The following highlights are made based on the respondent agencies' views:
- a. As per the issue "*our law contains special restrictions on exchange of some kind of information*", Bulgaria, Costa Rica, Ecuador, Germany, Italy, Korea, Malawi, Mexico and Montenegro said that *often* this is an obstacle due to severe restrictions on confidential rules. However, the majority of agencies (25) responded this can *sometimes* be an issue. It is worth noting the response provided by the UK as to how this issue can be overcome using information gateways that could be available under relevant legislations.⁶⁷ Another 15 agencies replied by saying that is never an issue, including one EU national agency (Netherlands)⁶⁸.
- b. Replies to the topic "*foreign agencies tell us that their laws restrict their ability to cooperate with us in general*" only 4 agencies (Australia⁶⁹ and Lao PDR⁷⁰) said that this is *often* an issue. The majority (28 respondents) said that this has *never* been an issue. However, 13 agencies reported that *sometimes* that can be a problem. The majority of this last group are younger agencies with the exception of Argentina and Canada.

⁵⁷ Comisión para Promover la Competencia (COPROCOM), 'Survey Response by Costa Rica' P.4.

⁵⁸ Commission for Protection of Competition, 'Survey Response by Serbia' P.4.

⁵⁹ Competition and Consumer Protection Commission (CCPC) (n 34).

⁶⁰ National Commission for the Defence of Competition (CNDC), 'Survey Response by Argentina' P.5.

⁶¹ Competition Commission of India (n 16).

⁶² Committee on Regulation of Natural Monopolies, Protection of Competition and Consumer Rights under the Ministry of National Economy of the Republic of Kazakhstan (n 17).

⁶³ Instituto Nacional de Promoción de la Competencia, 'Survey Response by Nicaragua' P.4.

⁶⁴ Federal Antimonopoly Service (FAS), 'Survey Responses by the Russian Federation'.

⁶⁵ Competition Commission of South Africa (CCSA) (n 24).

⁶⁶ Swiss Competition Commission (COMCO), 'Survey Response by Switzerland' P.4.

⁶⁷ Competition and Markets Authority (n 14) P. 6.

⁶⁸ Authority for Consumers and Markets, 'Survey Response by the Netherlands' P. 5.

⁶⁹ Australian Competition and Consumer Commission, 'Survey Response by Australia' P.4.

⁷⁰ Division of Competition, Dept. of Internal Trade, Ministry of Industry and Commerce (n 29) P. 4.

- c. Reactions towards “*absence of international agreements/documents which contain special provisions on cooperation between competition authorities*” divide the younger and smaller agencies that reply that this is *often* a factor with the relatively older agencies (15) that stressed that this can be *sometimes* a factor to be considered when engaging into international cooperation schemes. However, 21 agencies reported that this factor can *never* be a problem for cooperation.
 - d. It is worth noting that 7 agencies (Botswana⁷¹, Democratic Republic of the Congo, Hungary⁷², Kenya, Malaysia⁷³, Netherlands and Nicaragua⁷⁴) replied that these three-legal factors are *never* a problem for cooperation.
18. Finally, on practical factors, two were selected: “*lack of trust;*” and “*we do not know who to contact at foreign agencies*”. As a result, the following observations were identified:
- a. Contrary to conventional wisdom that attributes the lack of trust as the main problem that competition agencies have in order to boost international cooperation, the respondents replied with a majority of 28 agencies indicating that trust can *never* be a practical factor in the equation of cross-border cooperation. In this group, smaller agencies such as Armenia, Dominican Republic, Kyrgyz Republic, Malaysia, Malawi, Montenegro, Nicaragua, Seychelles and Serbia do believe that trust is not an issue.
 - b. On the contrary, 17 agencies do realise that *sometimes* trust can be a problem. Agencies that replied in this manner are older and larger (e.g. Australia, Canada, US FTC, US DOJ and Germany) as well as relatively younger but larger such as Brazil and Russia. Smaller agencies such as Albania, Costa Rica, Swaziland and Zimbabwe also replied that way. Only 3 agencies (Belarus, Lao PDR and Zambia⁷⁵) replied that *often* the lack of trust is an issue in establishing international cooperation programmes.
 - c. On the question “*we do not know who to contact at foreign agencies*”, a striking majority of 29 agencies replied that this can *never* be an issue for cooperation. Only 18 agencies replied *sometimes* and 3 agencies (Albania, Gambia and The Philippines) reported that *often* this is a problem.

D.3. The way forward

19. This section follows-up the responses made by the participating agencies. To facilitate this task, agencies provided their views towards the specific solutions indicated as follows:

To solve the awareness factors:

- **International awareness programmes on international cooperation through capacity building and training between larger and smaller agencies.**

On issues related to law reform and institutional issues

⁷¹ Competition Authority of Botswana (n 10) P. 5.

⁷² Hungarian Competition Authority (GVH-- Gazdasági Versenyhivatal) (n 18) P. 5.

⁷³ Malaysia Competition Commission (MyCC), ‘Survey Response by Malaysia’ P.4.

⁷⁴ Instituto Nacional de Promoción de la Competencia, ‘Survey Response by Nicaragua’ P.4-5.

⁷⁵ Competition and Consumer Protection Commission (CCPC) (n 34) P. 6.

- **Development of specific national legislation to enable international cooperation**
- Changes of institutional design of your Agency (ex. gaining more independence)
- Obtaining more resources for cooperation (additional funding, more staff, attracting interpreters etc.)
- **Using mechanisms and procedures of international cooperation established on international level**

To address the practical issues

- Trust building activities
- Updated directory of contacts of international units in the competition agencies
- **Assistance or facilitation of cooperation by UNCTAD**
- Further development of UN Set to establish mechanisms for international cooperation on concrete cases

20. Based on the replies and three options provided (*a major help/somewhat helpful/not helpful*), the following observations are in order concerning four selected topics (see above-mentioned bold topic selected):

- a. Views of the respondents regarding the helpfulness of international awareness programmes on international cooperation seem to be *a major help* for 26 agencies and *somewhat helpful* for 23 agencies. Only two agencies (Indonesia⁷⁶ and Switzerland⁷⁷) said that this sort of programmes would not be helpful.
- b. On the suggestion to develop specific national legislations to enhance international cooperation, 23 agencies replied that this would be *a major help*. 17 agencies replied that it would be *somewhat helpful* and 8 agencies (Australia, Botswana, Dominican Republic, India, Kenya, Lao PDR, Peru and Serbia) said it would *not be helpful*.
- c. In relation to the question “using mechanisms and procedures of international cooperation established on international level,” 28 agencies⁷⁸ replied that it would be *a major help*. 20 agencies said it would be *somewhat helpful* and only two agencies (Indonesia and US DOJ⁷⁹) opted for the answer *it would not be helpful*.
- d. Regarding the option of a possible “assistance or facilitation of cooperation by UNCTAD”, 24 agencies replied positively that it would be *a major help*. In addition, 17 agencies said that this initiative would be *somewhat helpful*. Finally, 8 agencies said it would *not be helpful*.

21. Finally, responding agencies expressed their views on the UN Set on Competition, Section F on international measures. On the question of the possibility of holding consultations under Section F of the UN Set, out of the 54, 31 agencies replied that they are aware of this possibility but none of them have undertaken any consultations.⁸⁰ Some

⁷⁶Komisi Pengawas Persaingan Usaha (KPPU) (n 25) P. 6.

⁷⁷Swiss Competition Commission (COMCO), ‘Survey Response by Switzerland’ P.8.

⁷⁸Being the US FTC one of these agencies. Federal Trade Commission (n 33).

⁷⁹While the US Department of Justice said that OECD and ICN mechanisms are of major help, the US FTC stressed that having mechanisms and procedures of international cooperation is a major help. See above footnote. Department of Justice, ‘Survey Response by the United States’ P. 7.

⁸⁰Swaziland said that consultations are taking place but at the higher level of management. However, it did not provide details whether this was under the UN Set. Swaziland Competition Commission, ‘Survey Response by Swaziland’ P. 6.

agencies, notably the older and larger ones ⁸¹, said that the main reason why these consultations were not made under the UN Set is because they rely on direct communication with foreign agencies and it would not be appropriate to involve non-investigatory parties in the cooperation as could be, in some instances, a threat to the cooperation itself.⁸² Two agencies (Albania⁸³ and Russia⁸⁴) said that the framework is underdeveloped and would be important to devote efforts to address this issue. Kazakhstan⁸⁵ and Hungary⁸⁶ said that there is no need for this framework as cooperation outside their regional economic groupings (CIS, and EU, respectively) is not needed. Malawi⁸⁷ and Sweden⁸⁸ said that most of the cooperation takes place within the regional legal frameworks (COMESA SADC and ECN, the Nordic cooperation, respectively).

E. Concluding remarks

22. This report attempted to assess the responses made by 54 competition agencies worldwide.
23. The UNCTAD Secretariat has deliberately refrained from providing additional comments or observations of qualitative nature on the issues and points discussed in the Survey. The Secretariat wishes to maintain its neutrality vis-à-vis the topics discussed and facilitate the discussion in a fair and balanced way to all positions indicated by the respondent agencies.
24. Finally, this report does not cover all the questions and answers provided in the Survey. A selection was made by the Secretariat to highlight the main issues discussed in the survey responses.

⁸¹Bundeskartellamt, 'Survey Response by Germany' P. 8; Italian Competition Authority (AGCM) (n 15) P. 10; Japan Fair Trade Commission (n 13) P. 13; Department of Justice (n 64); Federal Trade Commission (n 33).

⁸²Mexican Federal Economic Competition Commission (COFECE) (n 40) P. 10.

⁸³ Albanian Competition Authority (n 7) P. 8.

⁸⁴ Federal Antimonopoly Service (FAS) (n 55) 12–13.

⁸⁵Committee on Regulation of Natural Monopolies, Protection of Competition and Consumer Rights under the Ministry of National Economy of the Republic of Kazakhstan (n 17) P. 9.

⁸⁶Hungarian Competition Authority (GVH—Gazdasági Versenyhivatal) (n 18) P. 9.

⁸⁷ Competition and Fair Trading Commission, 'Survey Responses by Malawi' P.8.

⁸⁸Swedish Competition Authority, 'Survey Response by Sweden' P.8.

Annex 1: Competition Agencies that participated in the Survey

1. Administrative Council for Economic Defense (CADE). “Survey Response by Brazil,” December 2017.
2. Agency for Protection of Competition, Montenegro. “Survey Response by Montenegro,” December 2017.
3. Albanian Competition Authority. “Survey Response by Albania,” December 2017.
4. Australian Competition and Consumer Commission. “Survey Response by Australia,” April 2018.
5. Austrian Competition Authority. “Survey Responses by Austria,” November 2017.
6. Authority for Consumer Protection and Competition Defense (ACODECO). “Survey Response by Panama,” December 2017.
7. Authority for Consumers and Markets. “Survey Response by the Netherlands,” December 2017.
8. Bunderskartellamt. “Survey Response by Germany,” February 2018.
9. Comisión para Promover la Competencia (COPROCOM). “Survey Response by Costa Rica,” March 2018.
10. Commission for Protection of Competition. “Survey Response by Serbia,” April 2018.
11. Commission for the Defense and Promotion of Competition (CDPC). “Survey Response by Honduras,” December 2017.
12. Commission Nationale de la Concurrence (CONAC). “Survey Response by D.R. Congo,” April 2018.
13. Commission on Protection of Competition. “Survey Response by Bulgaria,” March 2018.
14. Committee on Regulation of Natural Monopolies, Protection of Competition and Consumer Rights under the Ministry of National Economy of the Republic of Kazakhstan. “Survey Response by Kazakhstan,” December 2017.
15. Competition and Consumer Protection Commission (CCPC). “Survey Response by Zambia,” December 2017.
16. Competition and Fair Trading Commission. “Survey Responses by Malawi,” April 2018.
17. Competition and Markets Authority. “Survey Response by the United Kingdom,” January 2018.
18. Competition and Tariff Commission. “Survey Response by Zimbabwe,” December 2017.
19. Competition Authority of Botswana. “Survey Response by Botswana,” December 2017.
20. Competition Authority of Kenya. “Survey Response by Kenya,” March 2018.
21. Competition Bureau. “Survey Response by Canada,” January 2018.
22. Competition Commission of India. “Survey Response by India,” December 2017.
23. Competition Commission of Mauritius (CCM). “Survey Response by Mauritius,” April 2018.
24. Competition Commission of South Africa (CCSA). “Survey Response by South Africa,” December 2017.
25. Consumer Affairs Authority. “Survey Response by Sri Lanka,” March 2018.
26. Croatian Competition Agency. “Survey Response by Croatia,” January 2018.
27. Department of Justice. “Survey Response by the United States,” December 2017.
28. Division of Competition, Dept. of Internal Trade, Ministry of Industry and Commerce. “Survey Response by Lao PDR,” December 2017.
29. Fair Trading Commission. “Survey Response by Seychelles,” December 2017.
30. Federal Antimonopoly Service (FAS). “Survey Responses by the Russian Federation,” November 2017.
31. Federal Trade Commission. “Survey Response by the United States,” December 2017.
32. Gambia Competition and Consumer Protection Commission. “Survey Response by Gambia,” December 2017.
33. Hungarian Competition Authority (GVH— Gazdasági Versenyhivatal). “Survey Response by Hungary,” January 2018.
34. Instituto Nacional de Promoción de la Competencia. “Survey Response by Nicaragua,” April 2018.
35. Italian Competition Authority (AGCM). “Survey Response by Italy,” January 2018.
36. Japan Fair Trade Commission. “Survey Response by Japan,” January 2018.
37. Komisi Pengawas Persaingan Usaha (KPPU). “Survey Response by Indonesia,” January 2018.
38. Korea Fair Trade Commission. “Survey Response by Korea,” May 2018.
39. Malaysia Competition Commission (MyCC). “Survey Response by Malaysia,” February 2018.
40. Mexican Federal Economic Competition Commission (COFECE). “Survey Response by Mexico,” January 2018.
41. Ministry of Antimonopoly Regulation and Trade of the Republic of Belarus (MART). “Survey Response by Belarus,” December 2017.
42. National Commission for the Defence of Competition (CNDC). “Survey Response by Argentina,” April 2018.

43. National Commission for the Defense of Competition. "Survey Response by Dominican Republic," February 2018.
 44. National Institute for the Defense of Competition and Intellectual Property (INDECOPI). "Survey Response by Peru," December 2017.
 45. Philippines Competition Commission. "Survey Response by the Philippines," December 2017.
 46. Spain's National Authority for Markets and Competition (CNMC). "Survey Response by Spain," March 2018.
 47. State Agency of Antimonopoly Regulation under the Government of the Kyrgyz Republic. "Survey Response by Kyrgyz Republic," December 2017.
 48. State Commission for Protection of Economic Competition of RA. "Survey Response by Armenia," December 2017.
 49. Superintendencia de Control de Poder de Mercados "Survey Response by Ecuador". April 2018
 50. Superintendencia de Competencia. "Survey Response by El Salvador," December 2017.
 51. Swaziland Competition Commission. "Survey Response by Swaziland," December 2017.
 52. Swedish Competition Authority. "Survey Response by Sweden," March 2018.
 53. Swiss Competition Commission (COMCO). "Survey Response by Switzerland," April 2018.
 54. The Office of Competition and Consumer Protection. "Survey Response by Poland," March 2018.
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Annex 2: Number of responses to each question of the Survey

Q1		Q2			Q3										
In what year did your agency begin active enforcement of competition law?		How many non-administrative official in your agency are assigned to enforcement of competition law?			How frequently do you encounter situations where you believe that cooperation with other competition agencies on specific cases would be helpful to your work? (Check one)			In which kinds of cases would cooperation be helpful? (please, check one for each type of the case)							
before YR2000 (old)	YR2000 and after (young)	50 and more (large)	less than 50 (small)	a) never	b) sometimes	c) often	a) mergers		b) cartels		c) unilateral conduct				
							never	sometimes	often	never	sometimes	often	never	sometimes	often
30	24	26	28	1	28	24	1	25	24	0	32	19	2	36	13

Q4																																									
If you indicated "sometimes" and/or "often" to question 3 above, indicate below which areas are you likely to seek cooperation?																																									
a) Coordinate timing			b) Coordinate remedies			c) Discuss theories of harm, markets, etc.			d) Request background information about firms, prior investigations or experience with the market			e) Sending notifications			f) Exchange of non-confidential information (views, ideas, information on methodologies and the markets, etc.)			g) Exchange of confidential information (incl. using waivers)			h) Consultations between senior agency officials			i) Conducting enforcement actions on behalf of the foreign jurisdiction (dawn raids, request for information, etc.)			j) Seeking consensus on absence or existence of violation			k) Other, please explain											
mer	cart	unila	mer	cart	unila	mer	cart	unila	mer	cart	unila	mer	cart	unila	mer	cart	unila	mer	cart	unila	mer	cart	unila	mer	cart	unila	mer	cart	unila	mer	cart	unila	mer	cart	unila	mer	cart	unila			
gers	els	teral	gers	els	teral	gers	els	teral	gers	els	teral	gers	els	teral	gers	els	teral	gers	els	teral	gers	els	teral	gers	els	teral	gers	els	teral	gers	els	teral	gers	els	teral	gers	els	teral	gers	els	teral
25	36	19	34	21	23	42	35	40	45	46	44	28	23	21	43	44	44	26	33	25	32	35	31	9	28	16	10	19	17	2	2	0									

Q5		Q6		Q7	
Have there been cases when you believed cooperation with another competition agency would be useful, but in which it did not happen? (Check one)		Have there been cases when some cooperation took place, but it was not as extensive as you had hoped? (Check one)		Have there been cases where cooperation has worked especially well? (Check one)	
yes	no	yes	no	yes	no
22	31	18	32	42	11

Q9																													
Depending on your answers on question 4 above, please, indicate, where applicable, any obstacles that you have encountered when cooperating with other competition (Check all that apply)																													
a) We are not familiar with what types of cooperation exist or might be possible.			b) We are not familiar with the cooperation practices of the foreign agency.			c) We are not confident about the foreign agency's confidentiality laws and practices.			d) The foreign agency says that it is not confident about our confidentiality laws and practices.			e) Our law restricts our ability to seek cooperation from foreign agencies in general (please explain how it does so)			f) Our law contains special restrictions on exchange of some kind of information (please, specify)			g) Foreign agencies tell us that their laws restrict their ability to cooperate with us in general			h) Foreign agencies tell us that their laws contain special restrictions on exchange of confidential information			i) Absence of international agreements/documents which contain special provisions on cooperation between Competition Authorities					
often	some	never	often	some	never	often	some	never	often	some	never	often	some	never	often	some	never	often	some	never	often	some	never	often	some	never			
a	a	a	a	a	a	a	a	a	a	a	a	a	a	a	a	a	a	a	a	a	a	a	a	a	a	a	a	a	a
factor	factor	factor	factor	factor	factor	factor	factor	factor	factor	factor	factor	factor	factor	factor	factor	factor	factor	factor	factor	factor	factor	factor	factor	factor	factor	factor	factor	factor	factor
2	17	31	5	21	23	5	24	19	3	8	33	5	8	35	9	25	15	4	13	28	10	28	8	9	15	21			

Obstacles to International Cooperation in Specific Cases

Q9

Depending on your answers on question 4 above, please, indicate, where applicable, any obstacles that you have encountered when cooperating with other competition (Check all that apply)

j) There are substantive differences between our law and the other countries' law. If so, indicate if:			j)a. The difference is in the nature of the conduct that is illegal?			j)b. The nature of the sanction that can be imposed?			k) The undertakings involved have not waived confidentiality rules.			l) Lack of trust between agencies			m) We do not know who to contact at foreign agencies.			n) The other agency says it does not have the resources to cooperate with us (heavy workload, lack of financial resources, difficulties in attracting interpreters, etc.)			o) The other agency did not respond to our request			p) The other agency says that cooperation was against its interests			q) Language difficulties made it hard to communicate with the other agency		
often	some times	never	often	some times	never	often	some times	never	often	some times	never	often	some times	never	often	some times	never	often	some times	never	often	some times	never	often	some times	never	often	some times	never
3	12	22	0	15	8	2	16	7	7	26	12	3	17	28	3	18	29	0	25	23	2	18	28	0	6	42	3	16	30

Q14														
Overall, what do you think could help to overcome the obstacles to international cooperation in your jurisdiction? (Check all that apply)														
a) International awareness programmes about international cooperation through capacity building and training between larger and smaller agencies.			b) Development of specific national legislation to enable international cooperation			c) Changes of institutional design of your Agency (ex. gaining more independence)			d) Obtaining more resources for cooperation (additional funding, more staff, attracting interpreters etc.)			e) Using mechanisms and procedures of international cooperation established on international level		
a major help	somewh at helpful	not helpful	a major help	somewh at helpful	not helpful	a major help	somewh at helpful	not helpful	a major help	somewh at helpful	not helpful	a major help	somewh at helpful	not helpful
26	23	2	23	17	8	7	15	25	28	18	5	28	20	2

Q14														
Overall, what do you think could help to overcome the obstacles to international cooperation in your jurisdiction? (Check all that apply)														
f) Trust building activities			g) Updated directory of contacts of international units in the competition agencies			h) Assistance or facilitation of cooperation by UNCTAD			i) Further development of UN Set to establish mechanisms for international cooperation on concrete cases			j) Other activities, please explain		
a major help	somewh at helpful	not helpful	a major help	somewh at helpful	not helpful	a major help	somewh at helpful	not helpful	a major help	somewh at helpful	not helpful	a major help	somewh at helpful	not helpful
25	23	1	37	10	2	24	17	8	20	15	12	3	2	1

Q15		Q16			
Does your agency need some international organizations or institutions (as a third-party) to facilitate international cooperation?		Are you aware of a possibility to hold consultations under Section F (“International measures”) of the UN Set of Principles and Rules of Competition?		If yes, have you ever held consultations on the basis of this document?	
yes	no	yes	no	yes	no
20	32	31	23	0	31