
Intergovernmental Group of Experts on Competition Law and Policy

17th Session
11-13 July 2017
Room XVII, Palais des Nations, Geneva

Friday, 13 July 2017
Morning Session

Agenda Item 3d. Review of chapters V and VI of the Model Law on Competition

Presentation by
UNCTAD

This material has been reproduced in the language and form as it was provided. The views expressed are those of the author and do not necessarily reflect the views of UNCTAD.



INTERGOVERNMENTAL GROUP OF EXPERTS ON
**COMPETITION
LAW AND POLICY**



REVISION OF THE UNCTAD MODEL LAW ON COMPETITION CHAPTERS V AND VI

Ebru Gokce Dessemond

Legal Officer

Competition and Consumer Policies Branch

UNCTAD



UNCTAD MODEL LAW ON COMPETITION

- A reference document used as a benchmark for competition law and policy drafting and revising purposes.
- Composed of two parts: Part 1, a permanent guide including model competition law provisions and is NOT subject to revision.
- Part 2 - Commentaries to relevant Chapters.
- Part 2 is a compilation of competition law and enforcement practices from both advanced and young competition regimes.

REVISION OF THE UNCTAD MODEL LAW ON COMPETITION

- **WHAT IS REVISED?** The commentaries in Part 2 of the Model Law are revised every few years by the UNCTAD secretariat.
- The mandate to revise the Model Law is given by the UN Conference to Review the UN Set on Competition held every five years.
- Member States CAN contribute to the revision if they send their inputs by **END OF FEBRUARY** of the year following the IGE.
- For IGE 2018, the secretariat revised the commentaries to Chapters 5 and 6 of the Model Law.

REVISION OF CHAPTER V NOTIFICATION OF AGREEMENTS

- Last revised in 2010. The 2018 Revision includes:
- Reinforced comparison of *ex ante* and *ex post* notification regimes in terms of advantages and disadvantages of both regimes, especially for young competition agencies.
- Updated information on competition legislation and authorities of jurisdictions mentioned in Part 2.
- Additional examples from various jurisdictions on:
 - A new table on types of notification regimes in Australia, COMESA, Italy, Albania, Singapore and Turkey, are provided.
 - Review standards and exemptions (Australia)

REVISION OF CHAPTER VI MERGER NOTIFICATIONS

- Last revised in 2010. The 2018 Revision includes:
- Updates of information to reflect changes in competition legislation or institutions in relevant jurisdictions.
- Additional examples on:
 - Jurisdictional thresholds in voluntary merger control regimes from Hong Kong, China and Mauritius; in mandatory merger control regimes from Canada, Chile and Israel.
 - Substantive assessment criteria from Costa Rica, India.
 - Remedies from the Russian Federation.

REVISION OF CHAPTER VI MERGER NOTIFICATIONS (CONT'D)

- A new section on “**Recent enforcement trends**”, including updates on:
 - Competition law reform in Argentina in November 2017 right after the UNCTAD Peer Review of Competition Law and Policy of Argentina in July 2017.
 - Saudi Arabia – increase in merger notifications; direct enforcement by the Competition Council.
 - China – increased reviews of mergers between TNCs; recent big merger cases reviewed by MOFCOM and remedies imposed.
 - European Commission – Simplified procedures for mergers that do not raise competition concerns.

REVISION OF CHAPTER VI MERGER NOTIFICATIONS (CONT'D)

- New section on “**Recent enforcement trends**”, including updates on:
 - Novelties in merger review: Examine the impact of a merger on innovation competition (Dow/DuPont merger).
 - Substantial increase in concentration in high-tech markets with examples from Microsoft-Skype and Microsoft-LinkedIn mergers – European Commission’s approach.
 - Challenges in assessing competition effects in mergers in technology markets: relevant market definition; and innovation competition - United States FTC approach to some recent cases.



THANK YOU FOR YOUR ATTENTION!

Ebru Gokce Dessemond
Legal Officer
Competition and Consumer Policies Branch
UNCTAD

