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**Intergovernmental Group of Experts on Competition Law and Policy**

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**Report of the UNCTAD Discussion Group on International Cooperation:  
« Guiding Policies and Procedures Under Section F of the  
UN Set of Competition »**

**Presentation by Intergovernmental Group of Experts on  
Competition Law and Policy - UNCTAD**

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





# REPORT OF THE UNCTAD DISCUSSION GROUP ON INTERNATIONAL COOPERATION:

## Draft “Guiding Policies and Procedures under Section F of the UN Set on Competition”



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# 1. GUIDING PRINCIPLES

- Benefits of Cooperation
- Importance to provide tools for developing countries
- Cooperation is based on mutual trust
- Significant flexibility exists in the way authorities may seek to cooperate with each other
- Key requisite of successful cooperation in competition cases is the ability to provide effective and credible assurances that shared information will be maintained in confidence and will be used only for purposes that the sharing authorities have permitted.





## 2. TOOLKIT FOR COOPERATION IN COMPETITION CASES

- Flexibility between the authorities in initiating cooperation based on each authority's relevant domestic law and policy, or mutual agreement and understanding.
- Cooperation among authorities may include the following:
  - ✓ Initial contacts
  - ✓ Further communication among authorities
  - ✓ Timing alignment
  - ✓ Exchange of information, confidentiality and waivers of confidentiality
  - ✓ Discussions on substance and case resolution



### 3. THE ROLE OF UNCTAD IN FACILITATING COOPERATION UNDER SECTION F OF THE UN SET

UNCTAD Secretariat can assist authorities with:

- ✓ developing confidentiality provisions and promote mutual trust among authorities that will support more effective cooperation
- ✓ providing publicly available legal texts and guidelines that are relevant to cooperation, such as confidentiality rules, rules concerning investigations, and data protection rules in other jurisdictions.
- ✓ maintaining a list of contact persons who may facilitate international cooperation at each Member State's authority, including where appropriate by identifying contacts for particular types of conduct (e.g., mergers, cartels) and identifying linguistic abilities among contacts



### 3. THE ROLE OF UNCTAD IN FACILITATING COOPERATION UNDER SECTION F OF THE UN SET (CONT')

In case of consultation under Section F.4 of the UN Set, the requesting authority may ask UNCTAD Secretariat for:

- ✓ assistance with preparing the request for consultation;
- ✓ advice on procedural matters within the scope of the consultation;
- ✓ the provision of mutually agreed conference facilities by the Secretary-General of UNCTAD, if needed;
- ✓ guidance, especially for authorities from developing countries and countries with economies in transition, with regard to confidentiality assurances and any use of information shared in the course of such consultation, if necessary, based on work products listed in the ANNEX;
- ✓ interpretation of the UN Set provisions; and
- ✓ upon specific request and consent by all authorities involved, participation in the consultation.





### 3. THE ROLE OF UNCTAD IN FACILITATING COOPERATION UNDER SECTION F OF THE UN SET (CONT')

- ✓ In case the assistance of UNCTAD Secretariat is needed to facilitate consultations, the scope of the assistance needs to be determined before the consultation officially begins.
- ✓ Consultations should be in compliance with the laws and rules on confidentiality applicable in the jurisdictions involved



**COURTESY TRANSLATIONS IN RUSSIAN, SPANISH, ARABIC WERE PROVIDED BY THE RUSSIAN FEDERATION, ECUADOR/MEXICO AND EGYPT.**

**THE FRENCH VERSION WAS PREPARED BY THE SECRETARIAT**

Final draft by Drafting Committee, 13 June 2019

### **Guiding Policies and Procedures under Section F of the UN Set on Competition**

[Draft proposed to/agreed at the 18<sup>th</sup> Session of the IGE on Competition Law and Policy for consideration by the Eighth United Nations Conference to Review the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices]

The Eighth United Nations Conference to Review the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices

Неофициальный перевод

### **Руководящие принципы и процедуры в соответствии с Секцией F Комплекса по конкуренции ООН**

[Проект документа, предложенный/согласованный на 18-й сессии Межправительственной группы экспертов по законодательству и политике в области конкуренции, для рассмотрения восьмой Конференцией Организации Объединенных Наций по рассмотрению всех аспектов Комплекса согласованных на многосторонней основе справедливых принципов и правил для контроля за ограничительной деловой практикой]

Final draft by Drafting Committee, 13 June 2019

### **Políticas y procedimientos de orientación bajo la Sección F del Conjunto de Competencias de la ONU**

[Proyecto propuesto para / acordado en la 18<sup>a</sup> Sesión del IGE sobre Derecho y Política de la Competencia para que sea considerado por la Octava Conferencia de las Naciones Unidas para revisar el Conjunto de Principios y Reglas Equitativas de Acuerdo Multilateral para el Control de Prácticas Comerciales Restrictivas]

La Octava Conferencia de las Naciones Unidas para revisar el conjunto de principios y normas equitativos acordados multilateralmente para el control de las prácticas comerciales restrictivas, en adelante "Conjunto de la ONU".



EIGHTEENTH SESSION OF THE INTERGOVERNMENTAL GROUP OF EXPERTS ON **COMPETITION LAW AND POLICY**



UNITED NATIONS  
UNCTAD



**THANK YOU**

**Dr. Pierre Horna**  
[pierre.horna@un.org](mailto:pierre.horna@un.org)

**Legal Affairs Officer**

**COMPETITION AND CONSUMER  
POLICIES BRANCH  
UNCTAD**

