

8th United Nations Review Conference on Competition and Consumer Protection

19-23 October 2020

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Draft Resolution

**All Aspects of the Set of Multilaterally Agreed Equitable Principles and Rules for
the Control of Restrictive Business Practices**

Contribution of the Russian Federation

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

Having reviewed all aspects of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices, 40 years after its adoption, and recognizing the positive contribution made by the Set and by the Intergovernmental Group of Experts on Competition Law and Policy in promoting the adoption and implementation of competition law and policy as a competition culture,

Having reviewed the implementation of the United Nations Guidelines for Consumer Protection, 35 years after their adoption and five years since their last revision,¹ and recognizing the positive contribution made by the guidelines and by the Intergovernmental Group of Experts on Consumer Protection Law and Policy in promoting the adoption and implementation of consumer protection law and policy as a consumer protection culture,

Reaffirming the resolutions on strengthening the implementation of the Set adopted by the previous seven United Nations Conferences to Review All Aspects of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices,

Taking note of the decision taken by the fourteenth session of the United Nations Conference on Trade and Development ministerial session (Nairobi, Kenya, 2016) in paragraphs 69 and 76 (x) that “Fair, sound and robust national competition and consumer protection laws and policies are also important, as is international cooperation, information exchange and capacity-building in these areas, particularly in light of the expansion of global markets, the increasing role of transnational companies, the need for enhanced transparency and accountability, the information and communications technology revolution and the emergence of e-commerce” and that UNCTAD should “Continue to assist developing countries and countries with economies in transition to formulate and implement competition and consumer protection policies and laws, including through voluntary peer reviews and the sharing of best practices; as well as facilitating international cooperation among competition and consumer protection agencies together with other relevant international organizations, taking into account the revised United Nations Guidelines for Consumer Protection (Nairobi Maafikiano) ”,

¹ A/RES/70/186.

Considering the exceptional circumstances of the COVID-19 pandemic which has severely affected developed and developing countries with devastating consequences on the global economy and international trade resulting from a disruption of global supply chains and markets with long lasting and uncertain implications,

Stressing the United Nations General Assembly call for global solidarity (A/74/L.52/) which led to launch a special project that put in practice the UN Secretary-General's Shared Responsibility, Global Solidarity report (UN framework for the immediate socio-economic response to COVID-19);

Welcoming decisive measures and interventions taken by Governments in the field of competition and consumer protection through coordinated international, regional, and multilateral actions to respond to this crisis and attempt to mitigate its negative impact on domestic markets and consumers' welfare,

Emphasizing the importance of international cooperation to tackle the crisis as stressed by the General Assembly (A/74/L.56) and by the UN Secretary-General Antonio Guterres, and to foster a prompt recovery post crisis through coordinated actions at regional and international levels among governments, policymakers, society and business representatives, competition authorities and agencies,

Stressing that the COVID-19 pandemic is exposing deep inequalities and the failures that are addressed in the 2030 Agenda for Sustainable Development that can be leveraged through a profound systemic shift to a more sustainable and inclusive economy that works for both people and the planet ²,

Reaffirming the fundamental role that competition and consumer protection laws and policies play in the achievement of the Agenda 2030 Sustainable Development Goals, by promoting competitive, open and contestable markets, ensuring access by consumers to essential goods and services, empowering and protecting consumers from unfair commercial practices,

Recognizing that effective policies that prevent trade in hazardous consumer products and unfair or misleading commercial practices can improve consumer confidence and provide more favourable conditions for sustainable economic development,

² The SDGs: Framework for the response to COVID-19.

Fundamental role of competition and consumer protection laws and policies

1. *Reaffirms* the fundamental role of competition and consumer protection laws and policies for sustainable and inclusive economic development and recommends the continuation of the relevant work programme within UNCTAD's intergovernmental machinery that addresses competition and consumer protection laws and policies, and proceeds with the active engagement and participation of competition and consumer protection authorities of member States;
2. *Calls upon* member States to strive to efficiently implement the provisions of the Set and the Guidelines, given that an effective application of competition and consumer protection policies is important to guarantee well-functioning markets and respect for consumer rights;
3. *Calls upon* member States to facilitate international cooperation between competition **authorities** and among consumer protection authorities in order to strengthen the effectiveness and efficiency of law enforcement against cross-border anticompetitive and unfair commercial practices as referred to in Section F of the Set and the Guidelines 79 to 94 , **inter alia, with a focus on cross border cartels;**

UNCTAD work programme support

4. *Recommends* the strengthening of the work programme within UNCTAD's secretariat and intergovernmental machinery that addresses competition and consumer protection law and policy issues, and proceeds with the active support and participation of competition law and policy authorities of member States;
5. *Invites* member States in a position to do so to support the implementation of the activities outlined in this resolution and, in this respect, expresses its appreciation and gratitude to those member States and organizations that have provided financial contributions;

6. *Invites* intergovernmental organizations and financing programmes and agencies to provide resources for the activities mentioned in this resolution;

Documentation

7. *Takes note with appreciation* of the documentation prepared by the UNCTAD secretariat for the Conference:

TD/RBP/CONF.9/1, TD/RBP/CONF.9/2, TD/RBP/CONF.9/3,
TD/RBP/CONF.9/4, TD/RBP/CONF.9/5, D/RBP/CONF.9/6,
TD/RBP/CONF.9/7, TD/RBP/CONF.9/8,
TD/RBP/CONF.9/8/Corr.1, TD/RBP/CONF.9/L.1 and
TD/RBP/CONF.9/L.2.

8. *Takes note with appreciation* of member States' contributions to the UNCTAD secretariat background documentation and their facilitation of round tables, and of the written and oral contributions from member States and other participants that enriched the debate during the Conference;

9. ***Calls upon*** member States to ensure effective consumer protection, and promote and protect competition in the digital economy; and to facilitate international cooperation between consumer protection **authorities to deal more effectively with misleading commercial practices and competition authorities to efficiently cope with unfair anticompetitive business practices in digital markets, including those connected to cross border cartels;**

10. *Calls upon* member States to intensify their efforts to protect consumers and markets from the negative economic and social effects of the COVID-19 pandemic, through the robust application and enforcement of competition and consumer protection laws and policies;

Interactive Consumer protection and Competition tools

11. *Encourages* the continuation of the information-gathering process on the legal and institutional framework for consumer protection, in particular through the UNCTAD world consumer protection map, and invites all member States to participate in its completion and update;

12. *Invites* member States to continue sharing experiences and best practices regarding the protection of vulnerable and disadvantaged consumers, including through the UNCTAD Virtual Catalogue on International Best Practices on consumer protection and competition policies;

UNCTAD voluntary peer reviews of competition and consumer protection laws and policies

13. *Congratulates* the Government of Peru and the West African Economic and Monetary Union for their voluntary peer review on consumer protection law and policy and competition law and policy, respectively, looks forward to the successful implementation of their policy recommendations and encourages interested member States to volunteer for future peer reviews on consumer protection and competition laws and policies, including as peer reviewers;
14. *Underlines* the value of the UNCTAD voluntary peer reviews as a useful tool for the exchange of experiences and cooperation, at both the national and regional levels, and invites member States to assist UNCTAD on a voluntary basis by providing experts and financial resources for future activities in connection with these reviews;
15. *Decides* that UNCTAD should undertake further voluntary peer reviews of competition and consumer protection law and policy in member States or regional groupings, alongside sessions of the Intergovernmental Groups of Experts.

Technical cooperation - Competition and Consumer protection policies and frameworks

16. *Underlines the essential role of* UNCTAD in providing technical assistance and capacity-building in the fields of competition and consumer protection through close cooperation with beneficiary countries and employing a multi-stakeholder approach to foster a culture of competition and consumer protection and raise awareness among consumers and businesses;
17. *Requests* UNCTAD, under its technical cooperation pillar, to:
 - (a) Conduct follow-up and impact assessment of its technical cooperation activities to improve them and better adjust them to the beneficiaries' needs and priorities;

(b) Further explore and develop joint and complementary work with other international and regional organisations for a more effective and stronger assistance to developing countries and transition economies;

Model Law on Competition

18. *Takes note of* the revised Model Law commentaries as an important guide to the economic development and competition approaches followed by different countries on various points;

19. *Requests* the UNCTAD secretariat to continue to revise periodically the commentary to the Model Law, Part 2 in the light of legislative developments and comments made by member States, for consideration by future sessions of the Intergovernmental Group of Experts on Competition Law and Policy, and to disseminate widely the Model Law and its commentary as revised;

UNCTAD Research Partnership Platform on Competition and Consumer Protection

20. *Recognizes* the fundamental role of the Platform in strengthening UNCTAD's research and policy analysis capacities and linking research findings to UNCTAD's technical cooperation pillar; and the extensive growth of the Platform, in terms of projects and participants since its establishment in 2010;

International cooperation on competition law enforcement

21. *Underlines* the importance of international cooperation as recognized by the Section F of the UN Set on Competition, including the informal collaboration among authorities, and calls upon UNCTAD to continue to promote and support cooperation among competition authorities, , as underlined by the Seventh United Nations Conference to Review All Aspects of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices (paragraphs 3 and 16 of the Conference's resolution);

22. *Welcomes* and decides to adopt the "Guiding Policies and Procedures under Section F of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices" (TD/B/C.I/CLP/55/Add.1), agreed upon in the eighteenth session of the Intergovernmental Group of Experts on Competition Law and Policy, annexed to this resolution;

Product Safety

23. Emphasizes the importance of strengthening consumer product safety frameworks at national, regional and international levels to protect consumers from hazards to their health and safety, recognizing that collecting and processing key injury data and assessing risks is necessary to improve consumer product safety around the world;
24. *Decides to adopt* the recommendation on preventing cross-border distribution of known unsafe consumer products as annexed to the present resolution annexed to this resolution;
25. *Requests* the Trade and Development Board of UNCTAD to take note of the Guiding Policies and Procedures under Section F of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices” and of the recommendation on preventing cross-border distribution of known unsafe consumer products as annexed to the present resolution;

Informal consultations for future sessions of the Intergovernmental Groups of Experts on Competition and on Consumer Protection Law and Policy

26. *Reaffirms* that future sessions of the Intergovernmental Groups of Experts on Competition and on Consumer Protection Law and Policy should include four clusters of issues for informal consultations, namely:
 - (a) Competition and consumer protection policies’ contribution to the achievement of inclusive and sustainable development;
 - (b) Improving digital markets: the role for competition and consumer protection;
 - (c) Competition and consumer protection laws and policies and Government interventions in markets economic recovery in the post COVID-19 period;
 - (d) International cooperation between competition **authorities** and between consumer protection authorities against cross-border anticompetitive and unfair business practices, **inter alia, in addressing violations of competition law, including combating cross border cartels.**

27. Requests the UNCTAD secretariat to prepare reports and studies as background documentation on the following topics for proposed informal consultations during the nineteenth session of the Intergovernmental Group of Experts on Competition Law and Policy:

(a) Competition law and policy and regulation in the digital era;

(b) Competition advocacy during and in the aftermath of the COVID-19 crisis.

(c) Legal aspects of combating cross border cartels including investigative tools and practical cooperation in cartel enforcement or Legal aspects of combating cross border cartels.

28. Requests the UNCTAD secretariat to prepare reports and studies as background documentation on the following topics for proposed informal consultations during the fifth session of the Intergovernmental Group of Experts on Consumer Protection Law and Policy:

(a) Behavioural insights in consumer protection policymaking.

(b) Consumer protection and public utilities: vulnerable and disadvantaged consumers' needs and challenges.

Further review of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices

29. *Recommends* that the General Assembly rename the United Nations Conference to Review All Aspects of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices to United Nations Conference on Competition and Consumer Protection.

30. *Recommends also* that the General Assembly convene a Ninth United Nations Conference on Competition and Consumer Protection, to be held under UNCTAD auspices, in the year 2025.

Closing plenary meeting

23 October 2020