



**Ad-Hoc Expert Group Meeting on Competition Law and Policy:**  
**International Cooperation in Competition Law Enforcement: Challenges  
and opportunities for younger and smaller agencies in developing  
countries and countries with economies in transition.**

**Monday, 8 April 2019 (10:00 - 18:00)**  
**Palais des Nations, Room XXVII**  
**Geneva, Switzerland**

While globalization has encouraged economic transactions worldwide in the last years/decades, they have also facilitated cross-border anti-competitive practices led by global companies. Hence, competition cases have become increasingly international in nature, calling for enhanced international cooperation in law enforcement and for the rethinking of appropriate tools to tackle this.<sup>1</sup>

The development of international cooperation in competition enforcement requires competition authorities to overcome challenges faced in cross-border investigations, such as different legal systems, specific procedures for gathering evidence and the implementation of leniency programmes. Formal cooperation agreements play an important role but informal cooperation is relevant in international cartel investigations, mergers and acquisitions and abuse of dominance cases. Trust issues may be a challenge when triggering cooperation schemes.

Being mindful of the above, paragraph 7 of the Agreed Conclusions of the Intergovernmental Group of Experts on Competition Law and Policy (IGE on Competition) at its 15<sup>th</sup> session (19-21 October 2016) requested the UNCTAD secretariat to prepare a study on “Enhancing international cooperation in the investigation of cross-border competition cases: Tools and procedures.” Furthermore, paragraph 9 of the Agreed conclusions of the IGE on Competition at its 16<sup>th</sup> session (5-7 July 2017), member States requested the UNCTAD Secretariat 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.”*

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<sup>1</sup> UNCTAD, “Enhancing International Cooperation in the Investigation of Cross-Border Competition Cases: Tools and Procedures,” April 26, 2017,  
[http://unctad.org/meetings/en/SessionalDocuments/ciclpd44\\_en.pdf](http://unctad.org/meetings/en/SessionalDocuments/ciclpd44_en.pdf).

<sup>2</sup> UNCTAD, “Report of the Intergovernmental Group of Experts on Competition Law and Policy on Its Sixteenth Session,” August 7, 2017,  
[http://unctad.org/meetings/en/SessionalDocuments/ciclpd47\\_en.pdf](http://unctad.org/meetings/en/SessionalDocuments/ciclpd47_en.pdf).

During the first year of the Discussion Group's work, the Secretariat prepared a survey report on the obstacles to international cooperation, which assessed the responses made by 54 competition agencies worldwide.<sup>3</sup>

At the seventeenth session of the IGE on Competition (11-13 July 2018), the mandate of the Discussion Group was renewed for one year until July 2019:

*12. Expresses its appreciation for the report prepared by the UNCTAD secretariat on the work carried out within the discussion group on international cooperation (...), takes note of the survey report on obstacles to international cooperation as well as the proposals by member States on enhancing international cooperation, and calls for **the extension of the mandate of the discussion group on international cooperation for another year** so as to continue the work of discussion group on international cooperation members on a voluntary basis and report on its activities to the eighteenth session of the Intergovernmental Group of Experts on Competition Law and Policy;<sup>4</sup>*

Following the renewal of the Discussion Group's mandate on a drafting committee composed by 10-member agencies was established aiming to draft a consolidated text on the improvement of international cooperation in competition law enforcement, based on the contributions received by member States. The Ad-hoc Expert Group Meeting on Competition law and policy will provide an opportunity for all UNCTAD member States and relevant stakeholders to hold consultations on the topic at stake, allowing for a comprehensive and detailed discussion before the next 18<sup>th</sup> session of the IGE on Competition Law and Policy to be held in July 2019.

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<sup>3</sup> The final version see Annex 2 at: "Report of the Discussion Group on International Cooperation" (Intergovernmental Group of Experts on Competition Law and Policy 17th Session 11-13 July 2018, July 2018), [https://unctad.org/meetings/en/SessionalDocuments/ciclp17th\\_UNCTAD\\_rep\\_en.pdf](https://unctad.org/meetings/en/SessionalDocuments/ciclp17th_UNCTAD_rep_en.pdf).

<sup>4</sup> UNCTAD Secretariat, "Report of the Intergovernmental Group of Experts on Competition Law and Policy on Its Seventeenth Session," September 5, 2018, P. 5, [https://unctad.org/meetings/en/SessionalDocuments/ciclpd52\\_en.pdf](https://unctad.org/meetings/en/SessionalDocuments/ciclpd52_en.pdf).