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

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Item 6 of the provisional agenda

Report on the implementation of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices, including a brief assessment of 20 years of voluntary peer reviews of competition law and policy

Note by the UNCTAD secretariat

Summary

The major developments in the field of competition law and policy since 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 are reviewed in this note, and the work of UNCTAD related to the implementation of the Set is addressed. An assessment is provided of voluntary peer reviews of competition law and policy undertaken since 2005. Finally, possible topics in the field of competition policy are proposed that delegates may wish to consider in future.



I. Introduction

1. The Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices was adopted by the General Assembly of the United Nations in resolution 35/63 of 5 December 1980. The Set is the only internationally agreed instrument on competition and has guided many developing countries in introducing competition law and policy, and competition law regimes have been implemented widely across the world, including in many developing countries. When the Set was established, only 24 countries had competition laws, and most of these were developed countries;¹ at present, around 140 countries have adopted competition laws.²

2. The Set comprises recommendations on anticompetitive practices; establishes objectives, principles and rules for regulating such practices and ensuring effective enforcement by member States; and creates a framework for international cooperation and the exchange of best practices, since anticompetitive practices often transcend national boundaries. Collaboration among member States, through the exchange of information, best practices and technical assistance, fosters a collective approach to addressing global competition challenges. The Set also includes a development dimension, stating that States should take into account the development, financial and trade needs of developing countries (section C, paragraph 7). Accordingly, developing countries should be able, if needed, to tailor competition policies to align with their particular circumstances; gradually implement competition laws; and determine goals adjusted to their economic development priorities, institutional capacities and sectoral needs. The framework also allows for temporary exemptions to ensure that competition policy contributes to economic growth and development strategies, including those related to industrialization, poverty reduction and sustainable growth objectives.

3. UNCTAD is the custodian of the Set and the focal point for competition law and policy within the United Nations system, facilitating the annual sessions of the Intergovernmental Group of Experts on Competition Law and Policy and the United Nations Conference to Review All Aspects of the Set, held every five years. The Conferences assess the execution of the UNCTAD mandate on competition policy and the implementation of the Set, on the basis of proposals for improvement and further development, which comprises discussing additional areas of common interest, such as voluntary peer reviews of competition law and policy and technical cooperation and capacity-building efforts.³

4. The Intergovernmental Group of Experts on Competition Law and Policy, at its twenty-second session, which acted as the preparatory body for the Conference, welcomed the efforts of member States in implementing the Set, reaffirmed “the interest of competition authorities in exchanging experiences, best practices and challenges regarding competition law and policy” and requested the UNCTAD secretariat to prepare a review of the implementation of the Set, including a brief assessment of 20 years of voluntary peer reviews of competition law and policy, for the Ninth United Nations Conference to Review All Aspects of the Set.⁴

5. Developments in the implementation of the Set since the Eighth United Nations Conference to Review All Aspects of the Set are reviewed in chapter II of the present note, including trends in competition laws aimed at improving digital market regulation and enhancements in international cooperation following the adoption of the guiding policies and procedures under section F of the Set. An assessment of 20 years of voluntary peer reviews of competition law and policy is provided in chapter IV, based on feedback from member States that have voluntarily submitted to peer reviews of their competition law and

¹ Australia, Austria, Belgium, Canada, Chile, Denmark, Finland, France, Germany, Greece, India, Ireland, Israel, Japan, Luxembourg, Netherlands, New Zealand, Norway, Pakistan, South Africa, Sweden, Switzerland, United Kingdom of Great Britain and Northern Ireland, United States of America.

² See <https://www.ftc.gov/policy/international/competition-consumer-protection-authorities-worldwide>.

³ A/RES/35/63, A/C.2/35/6, section G, paragraph 6.

⁴ TD/B/C.I/CLP/77.

policy frameworks, the enforcement of their laws and advocacy activities and the consistency of their institutional systems.⁵ Possible topics to be addressed at sessions of the Intergovernmental Group of Experts over the next five years are outlined in chapter V.

II. Major developments since 2020

A. Competition laws at the national and regional levels

6. The objectives of the Set are to promote the benefits that arise from competition law and policy and to strengthen enforcement against anticompetitive practices worldwide. With a particular focus on developing countries, the five objectives are to: ensure that anticompetitive practices do not impede or negate the realization of benefits that should arise from the liberalization of tariff and non-tariff barriers affecting world trade; attain greater efficiency in international trade and development, such as through the creation, encouragement and protection of competition; protect and promote social welfare in general and the interests of consumers; eliminate the disadvantages to trade and development which may result from anticompetitive practices and thus help to maximize benefits to international trade; and facilitate the adoption and strengthening of laws and policies in this area at the national and regional levels (section A).

1. Adoption of and improvements to competition laws in developing countries

7. Many jurisdictions, including developing countries, have enacted legislation since the Eighth United Nations Conference to Review All Aspects of the Set and UNCTAD technical assistance has made a significant contribution to establishing competition law frameworks. For example, Egypt has issued an executive regulation to clarify merger control procedures, in line with recommendations made during the peer review of competition law and policy.⁶ Malawi has reformed its competition law, to include new provisions such as a mandatory suspensory merger regime, following recommendations made during the peer review.⁷ Several other countries have adopted their first competition laws, including Maldives (2020), Cambodia (2021), Lebanon (2022) and Mauritania (2023).⁸ Bhutan, in 2024, prepared a draft competition law and UNCTAD supported capacity-building for competition authority officials by conducting a series of workshops on competition law.⁹ In Guatemala in 2024, following over 15 years of debate on several proposals, the Congress of the Republic approved a competition law; in this regard, for over a decade, UNCTAD has consistently supported Guatemala in awareness-raising and advisory activities.¹⁰ In addition, since 2020, UNCTAD has assisted Portuguese-speaking countries in Africa in improving and effectively implementing competition and consumer laws and policies, as well as in further developing regional cooperation in this area. In addition, Timor-Leste is in the process of approving a competition law, with capacity-building in 2025.¹¹ Together, the adoption of competition law and legislative reforms in developing countries demonstrates the growing global consensus on the need to regulate anticompetitive practices, underlining the critical role of competition policy in promoting sustainable economic development, fostering consumer welfare and enabling integration into the global economy.

⁵ Albania, Botswana, Egypt, Philippines, Paraguay, Uruguay, West African Economic and Monetary Union (WAEMU).

⁶ See <https://globalcompetitionreview.com/review/the-european-middle-east-and-african-antitrust-review/2024/article/egypt-new-merger-control-regime-updates-competition-law-framework>.

⁷ See <https://lexafrika.com/2024/07/malawi-competition-act-merger-regime/>.

⁸ UNCTAD, 2024a, *The UNCTAD Model Law on Competition After 30 Years: Some Reflections* (United Nations publication, sales No. E.24.II.D.4, Geneva).

⁹ See https://ccaa.gov.bt/wp-content/uploads/2024/08/August-Consumer-Report-_Final.pdf and <https://unctad.org/meeting/third-workshop-competition-and-consumer-affairs-authority-bhutan>.

¹⁰ See https://www.congreso.gob.gt/noticias_congreso/12426/2024/4.

¹¹ See <https://unctad.org/project/technical-assistance-and-capacity-building-competition-and-consumer-protection-african>.

2. Regional agreements on implementing competition policy

8. Since 2020, several regional trade agreements have addressed competition policy and the promotion of fair market practices. The African Continental Free Trade Area Agreement, aimed at creating a single market for goods and services across 54 countries in Africa, includes a protocol on competition policy, adopted in 2023, which regulates and prohibits anticompetitive practices in order to, among other objectives, promote economic integration and sustainable development in the African Continental Free Trade Area.¹² The Arab Competition Network, launched in 2022, fosters collaboration among national competition authorities, to strengthen competition law enforcement and policy frameworks.¹³ The Regional Comprehensive Economic Partnership, which came into force in 2022, includes 15 economies in Asia and the Pacific and includes provisions on promoting fair competition and regulatory cooperation.¹⁴ These regional agreements positively influence global competition policy by encouraging cross-border regulatory alignment and facilitating international collaboration, to address anticompetitive practices. In 2020, the Secretariat of Central American Economic Integration (SIECA) adopted its first competition policy regulation, effective since 2021, applicable to its member States,¹⁵ which led to the creation of the Central American Competition Committee, aimed at serving as the technical forum for discussions on fostering cooperation and promoting competition at the regional level, within the framework of SIECA, including representatives from SIECA and from national competition authorities.

3. Trends in competition laws: More effective regulation of digital markets

9. As the digital economy has grown and large platform companies have emerged, competition authorities in various countries have recognized the need to supplement traditional competition law frameworks in order to effectively address related challenges.¹⁶ Several jurisdictions have recently enacted legislation, to preserve and promote competition in digital markets. UNCTAD, through research and discussions, including at sessions of the Intergovernmental Group of Experts on Competition Law and Policy, helps to ensure that less experienced authorities in developing countries understand the competition policy options adopted by advanced jurisdictions to harness digital markets.¹⁷

10. In 2020, Japan established the Act on Improving Transparency and Fairness of Digital Platforms.¹⁸ In 2024, the United Kingdom established the Digital Markets, Competition and Consumers Act, introducing an ex ante regulatory regime for businesses active in digital markets and with strategic market status.¹⁹ The European Union, under the Digital Markets Act, implements ex ante regulation, including obligations such as data accessibility, interoperability and the prevention of self-preferencing with regard to large digital platform companies referred to as gatekeepers.²⁰ The Act serves as a point of reference for competition authorities in various jurisdictions. These wide-sweeping laws

¹² See <https://www.tralac.org/resources/infographic/16150-afcfta-protocol-on-competition-policy-factsheet.html>.

¹³ See <https://www.spa.gov.sa/w1708176?lang=en&newsid=2338002>.

¹⁴ See <https://asean.org/summary-of-the-regional-comprehensive-economic-partnership-agreement/>.

¹⁵ Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, Panama.

¹⁶ Business electronic-commerce sales grew by nearly 60 per cent in 2016–2022, to \$27 trillion in 2022 (UNCTAD, 2024b, *Digital Economy Report 2024: Shaping an Environmentally Sustainable and Inclusive Digital Future* (United Nations publication, sales No. E.24.II.D.12, Geneva)). For information on enforcement and legislative and soft law initiatives undertaken by member States with regard to competition in digital markets, see UNCTAD, 2024c, *Global Competition Law and Policy Approaches to Digital Markets* (United Nations publication, sales No. E.24.II.D.5, Geneva).

¹⁷ TD/B/C.I/CLP/57, TD/B/C.I/CLP/74, 1 UNCTAD, 2024c.

¹⁸ See https://www.meti.go.jp/english/policy/mono_info_service/information_economy/digital_platforms/tfdpa.html.

¹⁹ See <https://www.gov.uk/government/news/digital-markets-competition-and-consumers-act-receives-royal-assent>.

²⁰ See <https://www.consilium.europa.eu/en/press/press-releases/2022/07/18/dma-council-gives-final-approval-to-new-rules-for-fair-competition-online/>.

convey recognition of the need to regulate digital platforms, to prevent anticompetitive practices, alongside competition law enforcement.

11. Some other jurisdictions have amended competition laws, to better regulate digital platforms. In 2022, China added “encouraging innovation” to the legislative goals and prohibited the abuse of data and algorithms, technologies, platform rules and capital advantages, to engage in monopolistic behaviour.²¹ In 2021 and 2023, through the tenth and eleventh amendments to the competition law, Germany prohibited undertakings of paramount significance for competition across markets from engaging in practices damaging to competition, in line with the European Union Digital Markets Act.²² The further prohibition of digital anticompetitive practices in these large economies can, in turn, shape the online global economy as a whole.

12. Many countries are considering legislative reforms with regard to anticompetitive conduct by digital platforms. Brazil has introduced a bill to amend the competition law, to allow the antitrust authority to designate certain digital platforms as systemically relevant, subjecting them to new obligations if necessary.²³ India has proposed a draft digital competition bill on implementing effective measures to deal with anticompetitive practices and the abuse of dominant position in digital markets.²⁴ The Republic of Korea Fair Trade Commission has adopted an amendment to the competition law, to strengthen regulations against anticompetitive practices such as self-preferencing, tying and restrictions on multi-homing in digital markets, to ease the burden of proof on the competition authority with regard to the actions of dominant platforms.²⁵

13. Some authorities aim to promote competition in digital markets through other approaches. Brazil, El Salvador, Mexico, the Philippines and South Africa have developed soft law instruments, either to complement legal amendments or as a temporary alternative, providing guidance for businesses. Market studies are used in Türkiye to identify areas for intervention under the existing rules of competition law and/or areas in which new tools are needed. In addition, initiatives are ongoing to coordinate responses to global challenges through international organizations such as UNCTAD, regional cooperation frameworks such as the African Heads of Competition Authorities Dialogue and intergovernmental organizations such as BRICS [Brazil, Russian Federation, India, China, South Africa] Plus.²⁶ Such initiatives, combined with legislative reforms and new regulation, illustrate a global awareness of the need to address anticompetitive practices in online markets.

²¹ See https://english.www.gov.cn/news/topnews/202208/02/content_WS62e8755fc6d02e533532ec64.html.

²² See https://www.bundeskartellamt.de/EN/Digital_economy/RulesDigital_economy/rulesdigitaleconomy_node.html and https://www.bundeskartellamt.de/SharedDocs/Meldung/EN/Pressemitteilungen/2023/07_11_2023_GWB_Novelle.html.

²³ See <https://www.reuters.com/technology/brazil-suggests-reform-tighten-antitrust-regulation-big-techs-2024-10-10/>.

²⁴ See <https://www.mca.gov.in/bin/dms/getdocument?mds=gzGtvSkE3zIVhAuBe2pbow%253D%253D&type=open>.

²⁵ See <https://www.ftc.go.kr/www/selectReportUserView.do?key=10&rpttype=1> and <https://competitionlawblog.kluwercompetitionlaw.com/2025/01/31/main-developments-in-competition-law-and-policy-2024-korea>.

²⁶ TD/B/C.I/CLP/74.

B. UNCTAD work and achievements related to implementing the Set

1. Consensus-building

(a) Discussions at the Intergovernmental Group of Experts on Competition Law and Policy

14. The Set outlines the role of the Intergovernmental Group of Experts in providing a forum and modalities for multilateral discussions; undertaking research on restrictive business practices related to the provisions of the Set; and disseminating information on matters related to the Set (section G, paragraph 3). Following the Eighth United Nations Conference to Review All Aspects of the Set, four sessions of the Intergovernmental Group of Experts were held, as well as one ad hoc expert group meeting. The meetings covered topics related to promoting competition in digital markets, competition law and inclusive growth and improvement of the competition law enforcement system. Topics at round-table consultations held during sessions of the Intergovernmental Group of Experts have generally focused on the improvement of competition law enforcement systems, as well as the following issues related to recent economic challenges: promoting competition in digital markets; the relationship between competition law and inclusive growth; and the importance of cooperation with industrial policy authorities and international collaboration.

Improvement of the competition law enforcement system

15. Discussions have been held on how to enhance the effectiveness of competition law enforcement in response to global crises. Discussions at the Intergovernmental Group of Experts have noted that competition authorities need to address concerns raised by the abuse of monopsony power through additional enforcement and to respond to emerging issues in merger control; addressed the need for advocacy work aimed at promoting market competition while alleviating pandemic-related burdens on Governments and markets; and analysed the global impact of the pandemic on microenterprises and small and medium-sized enterprises and encouraged the actions and initiatives of competition authorities in supporting the post-pandemic resurgence of such enterprises.²⁷

Promoting competition in digital markets

16. Digitalization has been a major issue in the enforcement of competition laws in various countries in the last decade. Sessions of the Intergovernmental Group of Experts have addressed the challenges faced by competition authorities in dealing with competition issues in digital markets and recent cases involving online platforms. Member States have discussed legislative and regulatory initiatives undertaken in some jurisdictions, based on a comparative analysis of recent initiatives of Governments worldwide. In developing countries, authorities often face additional challenges due to limited resources and experience with which to analyse complex digital markets, and it is crucial for young authorities to improve capabilities to not only enforce traditional competition laws but also to, simultaneously, respond to the new challenges brought about by digital markets. The Intergovernmental Group of Experts recognized that it is crucial to respond appropriately to the challenges of competition in digital markets and ecosystems, to enable digitalization to contribute to sustainable and inclusive growth.²⁸ UNCTAD continues to recommend the enhancement of regional and international cooperation, to strengthen the

²⁷ See TD/B/C.I/CLP/58, TD/B/C.I/CLP/66, TD/B/C.I/CLP/68, TD/B/C.I/CLP/72, TD/B/C.I/CLP/77, <https://unctad.org/meeting/intergovernmental-group-experts-competition-law-and-policy-twentieth-session> (round table on the role of competition law and policy in supporting microenterprises and small and medium-sized enterprises during the economic recovery in the post-pandemic period) and <https://unctad.org/meeting/intergovernmental-group-experts-competition-law-and-policy-twenty-second-session> (round table on recent developments in merger control standards).

²⁸ TD/B/C.I/CLP/77.

action of competition authorities in a more coordinated manner or jointly, to more effectively address challenges in digital markets.²⁹

Competition law and inclusive growth

17. Sustainability is defined as “meeting the needs of the present without compromising the ability of future generations to meet their own needs”.³⁰ In 2015, the United Nations adopted the 2030 Agenda for Sustainable Development, a global framework aimed at addressing climate change, poverty, inequality and other pressing challenges. As sustainability has become a priority policy objective for policymakers worldwide, it has also become an important area of discussion in competition law and policy. Competition law and policy can be aligned with sustainability objectives, although there may be tensions between the two in certain circumstances. UNCTAD has had a role in facilitating discussions and exchanging information, to encourage sustainability initiatives by businesses in a way that safeguards market efficiencies.³¹ The Intergovernmental Group of Experts has encouraged competition authorities to pursue discussions on the intersection of competition law and policy with sustainability and how they can enable markets to work better for sustainable development; and underlined that competition law and policy is a key policy tool with which to “contribute to a more resilient, inclusive and sustainable economy, including by maintaining open, competitive and accessible markets encouraging trade and investment flows and resource mobilization to support developing countries and by reducing poverty”.³²

Cooperation between competition and industrial policies and international collaboration

18. Emerging global challenges, including due to the pandemic, the cross-border expansion of the influence of digital platform companies and the global economic slowdown, require inter-agency collaboration and international governance. UNCTAD has emphasized the importance of collaboration between competition authorities and ministries of industry, as well as with national trade and economic agencies. Discussions at the Intergovernmental Group of Experts have underscored the crucial role of cooperation between such entities and international cooperation, to foster inclusive economic recovery following the pandemic, and addressed ways to improve the productive interaction between competition and industrial policies in the current economic context.³³

(b) International cooperation improvements following adoption of guiding policies and procedures

19. Section F of the Set focuses on international collaboration in addressing restrictive business practices and outlines consultation mechanisms for member States, particularly developing countries, in resolving issues related to anticompetitive conduct, whereby States can request consultations with other States in order to find a mutually acceptable solution, with support from UNCTAD if needed.³⁴ The Eighth United Nations Conference to Review All Aspects of the Set decided to adopt the guiding policies and procedures under section F of the Set, agreed upon at the eighteenth session of the Intergovernmental Group of Experts on Competition Law and Policy.³⁵ The document titled “Guiding Policies and Procedures under Section F of the Set of Multilaterally Agreed Equitable Principles and Rules for the

²⁹ See TD/B/C.I/CLP/57, TD/B/C.I/CLP/74 and <https://unctad.org/meeting/intergovernmental-group-experts-competition-law-and-policy-twentieth-session> (round table on interplay between competition, consumer and data protection policies in the digital era).

³⁰ See <https://www.un.org/en/academic-impact/sustainability>.

³¹ See UNCTAD, 2023a, *Competition and Consumer Protection Policies for Sustainability* (United Nations publication, Geneva) and <https://unctad.org/meeting/ad-hoc-expert-meeting-competition-consumer-protection-and-sustainability>.

³² TD/B/C.I/CLP/77.

³³ See TD/B/C.I/CLP/63, TD/B/C.I/CLP/69, TD/B/C.I/CLP/72 and <https://unctad.org/meeting/intergovernmental-group-experts-competition-law-and-policy-twenty-second-session> (round table on competition policy and poverty reduction).

³⁴ A/RES/35/63, A/C.2/35/6.

³⁵ TD/RBP/CONF.9/9.

Control of Restrictive Business Practices” is aimed at facilitating collaboration among competition authorities, promoting transparency and ensuring effective enforcement against cross-border anticompetitive practices. By establishing structured mechanisms for information exchanges, technical assistance and capacity-building, *Guiding Policies and Procedures* is an important tool in enhancing cooperation to assist less experienced authorities in addressing cross-border anticompetitive practices.

20. Since the adoption of *Guiding Policies and Procedures*, the UNCTAD secretariat, following requests from the authorities, has supported the Competition Commission of South Africa and the Eurasian Economic Commission in investigations of abuses of a dominant position.³⁶ Such requests illustrate some of the challenges related to global anticompetitive practices, namely, that the lack of international agreements and cooperation can result in gaps in cross-border communications. The role of UNCTAD as a facilitator and an intermediary in such exchanges assists authorities in developing countries, bridging gaps with advanced competition authorities and seeking to fully explore all types of collaboration.

21. UNCTAD has worked on enhancing the implementation of *Guiding Policies and Procedures*, including through advocacy activities and several technical assistance and capacity-building activities and within the informal working group on cross-border cartels. UNCTAD has conducted surveys and information updates, to analyse implementation, and has reviewed the appendix to the document, proposing the inclusion of recent international documents on cooperation between competition authorities. The Intergovernmental Group of Experts on Competition Law and Policy, at its twenty-second session, endorsed the revised appendix.³⁷

(c) Informal working group on cross-border cartels

22. The Eighth United Nations Conference to Review All Aspects of the Set decided to establish a working group on cross-border cartels, to highlight best practices and facilitate information exchanges and consultations.³⁸ The informal working group was open to representatives of competition authorities and other relevant stakeholders, such as practitioners and representatives of international organizations and networks, academia and civil society organizations. In 2021–2024, 16 cases were presented and discussed by competition authorities from across the world.³⁹ Delegates at the twenty-first session of the Intergovernmental Group of Experts on Competition Law and Policy welcomed the information exchanges on best practices, to promote cooperation between competition authorities in dealing with cross-border cartel cases and common issues in the fight against bid rigging; discussions were held by the working group on five bid-rigging cases from Armenia, Austria, Egypt, El Salvador and Switzerland.

23. The working group has identified different aspects and challenges related to cross-border cartels and bid rigging, with a focus on developing country markets and challenges, and discussed how to address such challenges and future work on effective sanctions. The working group has had a role in facilitating international cooperation and the exchange of best practices among competition authorities worldwide. In addition, the working group has highlighted jurisdictional issues, such as the collection of evidence located outside a jurisdiction, the proof of violations using indirect evidence and the detection of violations. Participants have also discussed the significance of formal and informal international cooperation arrangements in addressing the practical difficulties faced by competition authorities in investigating and remediating cross-border cartel cases.

³⁶ See UNCTAD, 2020, Report on the implementation of the guiding policies and procedures under section F of the Set, available at <https://unctad.org/meeting/intergovernmental-group-experts-competition-law-and-policy-twentieth-session>.

³⁷ TD/B/C.I/CLP/77.

³⁸ TD/RBP/CONF.9/9.

³⁹ Africa (Egypt, South Africa, Zambia), Asia (Indonesia, Eurasian Economic Commission), Europe (Austria, European Commission), Latin America (Brazil, Chile, Colombia, Peru), North America (United States).

2. Technical cooperation

24. Technical cooperation is one of the three pillars of the work of UNCTAD. UNCTAD delivers a variety of technical cooperation services at both the national and regional levels, targeting a wide range of stakeholders in countries and organizations, including supporting the drafting, adoption, revision and implementation of competition law and policy, enhancing institutional capacity for effective enforcement, promoting competition advocacy and raising awareness of competition policy among competition officials, civil servants from diverse departmental bodies and sectoral regulators, as well as academia, businesses, the judiciary, the media and non-governmental organizations. In 2021–2023, UNCTAD conducted technical cooperation activities in this field, reaching over 2,600 participants from over 150 public, private and academic institutions.

25. At the national level, tailored activities, such as training sessions, advisory services, advocacy initiatives and peer reviews, have been effective in strengthening legal and institutional frameworks. At the regional level, UNCTAD has conducted activities in Africa, the Arab region, Latin America and Southeast Asia, as well as Portuguese-speaking countries in Africa and Timor-Leste. Since 2020, the pandemic has influenced UNCTAD technical cooperation activities, which were aimed at supporting effective competition enforcement responses to supply chain disruptions, ensuring equitable and affordable access to essential goods and services and the growth of digital markets while addressing unfair and fraudulent practices. In response, UNCTAD prioritized remote technical assistance delivery, leveraging digital tools and addressing the urgent concerns of member States.⁴⁰

3. Research and analysis

26. In 2021–2025, UNCTAD continued to conduct research and analysis on competition law and policy, including studies that addressed emerging economic challenges and assessed past achievements, focusing on consequences for developing countries and regional markets. UNCTAD has examined the long-term impact of competition policy initiatives, highlighting their role in shaping global regulatory frameworks, and reviewed progress made in promoting fair competition and assessed how the UNCTAD model law on competition has influenced national and regional policies.⁴¹ In addition, UNCTAD has explored the evolution of regulatory frameworks in response to the growing digital economy, analysing challenges such as market dominance and data-driven competition; addressed how competition policies can effectively respond to contemporary economic challenges; explored the role of competition policy in ensuring that digitalization contributes to inclusive development and various measures with which to promote competition in digital markets; and emphasized the role of competition in achieving environmental and social sustainability goals.⁴² UNCTAD has also analysed the economic impact of the pandemic on microenterprises and small and medium-sized enterprises and discussed policy recommendations.⁴³

27. UNCTAD has provided detailed insights on the unique challenges faced in developing countries and regional markets. UNCTAD has conducted assessments of the competition policy of Belarus, the protocol on competition policy under the African Continental Free Trade Area Agreement and the competition rules and regulations of the Eurasian Economic Union; and focused on the role of economic analysis in strengthening competition enforcement within regional organizations, including in central Africa.⁴⁴

⁴⁰ See TD/B/C.I/CPLP/25–TD/B/C.I/CLP/60, TD/B/C.I/CPLP/31–TD/B/C.I/CLP/65, TD/B/C.I/CPLP/36–TD/B/C.I/CLP/71 and TD/B/C.I/CPLP/41–TD/B/C.I/CLP/76.

⁴¹ UNCTAD, 2024a.

⁴² UNCTAD, 2021, UNCTAD, 2023a, UNCTAD, 2024c, UNCTAD, 2025, *The United Nations Set of Principles and Rules on Competition: Implementation After 40 Years* (United Nations publication, sales No. E.25.II.D.9, Geneva).

⁴³ See <https://unctad.org/publication/covid-19-pandemic-impact-micro-small-and-medium-sized-enterprises>.

⁴⁴ Gachuri E, 2020, African Continental Free Trade Area phase II negotiations: A space for a competition protocol?, Research Paper No. 56, UNCTAD; UNCTAD, 2020, *Assessment of the Eurasian Economic Union Competition Rules and Regulations* (United Nations publication, Geneva);

UNCTAD has also reviewed corporate compliance programmes in Latin America, showcasing best practices for fostering a culture of adherence to competition regulations; highlighted the need for greater international collaboration, to enhance enforcement efforts and address cross-border competition issues; and examined the complexities of applying competition laws beyond national borders, particularly in economies with limited regulatory capacity.⁴⁵

28. Through such research, UNCTAD continues to have a critical role in advancing competition law and policy worldwide, offering guidance to policymakers, regulators and stakeholders in developing countries in order to help foster fair, inclusive and sustainable economic growth.

III. Assessment of 20 years of voluntary peer reviews of competition law and policy

A. Overview

29. Voluntary peer reviews of competition law and policy are conducted under the broader framework of the Set. They are aimed at assessing the comprehensiveness and quality of legal and institutional frameworks for competition and the effectiveness of competition law enforcement in reviewed member States. UNCTAD launched the voluntary peer reviews in 2005, focused on developing countries. Since 2005, 30 countries and one regional economic community have undergone reviews. The Fair Trading Commission of Jamaica and the Monopolies and Prices Commission of Kenya were the first authorities to undergo reviews. In 2024, the Egypt Competition Authority was the latest to volunteer.

30. The evaluation methodology comprises the selection of independent experts to conduct the review based on desk research on the legal and institutional frameworks and decisional practices; and information gathered from all relevant stakeholders through a fact-finding mission, including meetings and interviews with representatives from the Government and sectoral regulators, as well as from academia, businesses, consumer associations the judiciary, the media and non-governmental organizations. The reviewed member State, in consultation with the UNCTAD secretariat, chooses three peer reviewers, generally from more experienced competition authorities but also academia, considering factors such as expertise and experience with the reviewed member State, language and geographical and gender balance. The presentation and discussion of the review report is conducted during a session of the Intergovernmental Group of Experts on Competition Law and Policy or during the United Nations Conference to Review All Aspects of the Set. Follow-up activities include the dissemination of the recommendations, as well as capacity-building and technical assistance from UNCTAD in the reviewed countries. Such follow-up activities are an essential component of the peer reviews.

31. The voluntary peer reviews have been innovative. In 2012, for example, UNCTAD implemented a tripartite peer review of three neighbouring countries, namely, the United Republic of Tanzania, Zimbabwe and Zambia, using a different and more complex methodology whereby the countries did not perform a self-assessment but conducted mutual evaluations among the three States, with each authority analysing the situation in

see <https://unctad.org/publication/economic-analysis-and-competition-policy-framework-regional-project-strengthening>.

⁴⁵ Horna P and Yamamoto A, 2021, International cooperation in competition law enforcement: Challenges for developing countries and best practices, Research Paper No. 2, UNCTAD; Muniz Cipriano AC and Izaguerri Vila A, 2020, International cooperation in consumer protection, Research Paper No. 54, UNCTAD; UNCTAD, 2023b, *Competition Compliance Programmes: The Experience of Latin America* (United Nations publication, sales No. E.23.II.D.32, Geneva); see <https://unctad.org/publication/developing-countries-experience-extraterritoriality-competition-law>.

the other two countries, supplemented by reports from independent experts. In addition, two reviews have been conducted of WAEMU,⁴⁶ the first time alongside Benin and Senegal.

32. Two evaluations conducted in 2014 and 2015 concluded that the voluntary peer reviews had been successful in positively influencing policy and institutional reform.⁴⁷ The evaluation reports led to significant improvements in the preparation of the reviews and subsequent actions, including the dissemination of recommendations and follow-up capacity-building activities. The Eighth United Nations Conference to Review All Aspects of the Set decided to establish a working group on modalities of UNCTAD voluntary peer review exercises. The informal working group held eight meetings, leading to several recommendations on enhancing the procedure for conducting reviews, with clearer criteria in the selection of reviewers and experts and their involvement in the process, to improve the peer reviews by including greater involvement by reviewers and facilitating the implementation of recommendations.⁴⁸ One constraint highlighted was financing, which remains a major barrier to many developing countries. The lack of access to funds affects not only the implementation of peer reviews but also follow-up capacity-building activities.

B. Assessment of selected peer reviewed national competition authorities

33. The voluntary peer reviews serve to assess the effectiveness of competition law and policy implementation in target countries and are also essential exercises for competition authorities wishing to modernize frameworks, raise stakeholder awareness of the importance of competition and obtain the necessary human and financial resources for performance improvement. Many developing countries have incorporated competition laws over the last two decades. As a result, competition authorities in developing countries are relatively young and often face challenges, including limited human and financial resources, as well as the lack of a competition culture in both the public and private sectors.

34. Since 2005, the peer reviews have served as a valuable tool in improving the quality and effectiveness of competition policy enforcement frameworks in member States that have recently introduced competition laws. Notably, the reviews provide visibility to the work of the competition authority, promote greater stakeholder awareness of the law and advocate to executive, legislative and judicial powers the importance of including competition perspectives across legislative and policymaking processes and of the need for appropriate powers and resources. Following the Eighth United Nations Conference to Review All Aspects of the Set, peer reviews were undertaken of Malawi (2021), Bangladesh (2022), Paraguay (2023) and Egypt (2024).⁴⁹

35. The benefits of peer reviews for reviewed competition authorities are addressed in this section, emphasizing the recommendations on improving regulatory frameworks, promoting awareness-raising on the importance of competition and addressing the main challenges in implementing recommendations. The analysis is based on survey responses from four member States and one regional economic organization.⁵⁰

1. Improving legal and institutional frameworks

36. All authorities surveyed agreed that the peer reviews served to improve the national competition system due to positive reactions from the executive and legislative branches to the requested reforms. Notably, authorities that have undergone reviews have reformed

⁴⁶ The member States of WAEMU are Benin, Burkina Faso, Côte d'Ivoire, Guinea-Bissau, Mali, the Niger, Senegal and Togo.

⁴⁷ UNCTAD, 2015a, External Evaluation of UNCTAD Peer Reviews on Competition Policy (United Nations publication, New York and Geneva), UNCTAD, 2015b, UNCTAD Peer Review Mechanism for Competition Law: 10 Years of Existence (United Nations publication, New York and Geneva), available at <https://unctad.org/topic/competition-and-consumer-protection/voluntary-peer-review-of-competition-law-and-policy>.

⁴⁸ See <https://unctad.org/Topic/Competition-and-Consumer-Protection/working-group-on-voluntary-peer-reviews>.

⁴⁹ TD/B/C.I/CLP/59, TD/B/C.I/CLP/64, TD/B/C.I/CLP/70, TD/B/C.I/CLP/75.

⁵⁰ Albania, Egypt, Paraguay, Philippines, WAEMU.

laws and increased powers, to be more effective in their functions (Albania, 2015; Philippines, 2014; WAEMU; 2007 and 2020).⁵¹

37. In Albania, the Competition Authority, an independent institution that reports to the Parliament, annually plans legal acts in accordance with the National Plan for European Integration. This is also in line with requests from bilateral meetings with the European Commission and progress reports of the European Commission.

38. In the Philippines, the Competition Act was signed into law in 2015 and the Competition Commission was formed in 2016. The Commission is an independent, quasi-judicial body with dedicated units for competition enforcement, mergers and acquisitions and communications and knowledge management, among others. Since 2016, the Commission has reviewed 272 mergers and acquisitions, issuing 184 decisions on competition-related transactions and 48 economic market studies evaluating competition across various industries.

39. The WAEMU Commission has, as part of the implementation of peer review recommendations, undertaken actions aimed at improving its performance and that of national competition authorities. As part of the process of revising the legal framework for competition, to ensure greater involvement by member States in the regulation of competition through the sharing of powers between the Commission and States, the following texts have been submitted for adoption: amendments to articles 88, 89, 90 of the WAEMU Treaty; regulation on the arrangements for sharing powers and cooperation between the Commission and the competent authorities of member States in the implementation of WAEMU competition rules; and directive on the establishment of a national competition authority in member States. A regulation on the control of concentrations of companies within WAEMU has been validated by the ministers of commerce and the statutory committee of experts and has been submitted for adoption by the Council of Ministers.

40. The two most recent peer reviews have been of Paraguay (2023) and Egypt (2024).

41. In Paraguay, awareness of competition issues that merit changes in the regulatory system is promoted, generating discussion, including during training activities organized by the competition authority on topics such as leniency programmes. The authority has held meetings with the Ministry of Industry and Commerce and other government agencies and has prepared a draft law on amending and implementing the peer review recommendations, under review by the Ministry of Industry and Trade and the executive legal department.

42. In Egypt, the peer review recommendations are largely achievable in the short and medium terms. However, the implementation of some recommendations requires the expansion of human and financial resources or the amendment of laws, which may be difficult to achieve in a short period. The recommendations highlighted several areas in which improvements were expected to occur, particularly regarding the independence of the competition authority and strengthening its structure, the reform of the legal framework and work on competitive neutrality and market monitoring. Several legislative changes are needed, as follows: expanding the power of the competition authority to sanction anticompetitive practices more effectively; adjusting the amounts of fines and the methodology for calculating penalties; and granting the competition authority the power to impose hybrid settlements.⁵² Such challenges highlight the need for careful planning, adequate resources and cooperation across various stakeholders, to ensure the successful implementation of the recommendations.

2. Promoting awareness-raising activities and establishing greater interaction with public authorities and regulators

43. In terms of awareness-raising, the issuance of guides helps improve the functioning of an authority and procedures.

⁵¹ TD/B/C.I/CLP/31, TD/RBP/CONF.8/8, TD/B/COM.2/CLP/63, TD/RBP/CONF.9/8.

⁵² TD/B/C.I/CLP/75.

44. In Albania, the Competition Authority conducts annual workshops and seminars with many stakeholders, to increase public awareness of a competition culture. A leniency programme has been in place since 2009, yet applications have not been completed. With the assistance of UNCTAD, the Authority has conducted various training courses for judges, to improve the application of competition law and ensure that it is compatible with the jurisprudence of the European Union.

45. In Egypt, the Competition Authority, following the recommendations of the peer review, will conduct activities aimed at enhancing competitive neutrality and market monitoring, to solve structural problems in some sectors.

46. In Paraguay, training activities and efforts to promote a competition culture have continued, according to the schedule of activities of the Competition Commission, which also includes promoting the participation of judges in activities.

47. In the Philippines, the Competition Commission has issued several rules and guidelines to clarify the rights of parties and entities subject to its jurisdiction, including the following: Competition Commission rules of procedure; Competition Commission rules on merger procedures; rules on the leniency programme; merger review guidelines; and guidelines for the *motu proprio* review of mergers and acquisitions in digital markets.⁵³ The Commission has conducted activities in partnership with the Supreme Court, including an orientation session on the newly revised code of ethics for lawyers and the national competition policy, to emphasize the importance of upholding competition principles in the practice of law by government counsels. The Commission recently concluded its first mandatory continuing legal education programme on competition, aimed at enhancing the expertise of Commission lawyers and other government legal professionals in developments in competition law and policy.

48. WAEMU has collaborated with the Institute of Regulation and Competition of the Zurich University of Applied Sciences, Switzerland, to organize a training course on international competition law and compliance programmes for about 100 executives from the Commission, the WAEMU Court of Justice and national stakeholders, including lawyers, economists and executives from competition departments with general and sectoral competence. WAEMU has also conducted awareness-raising activities on competition with stakeholders such as general and sectoral authorities, consumer associations, judges and media representatives. Such capacity-building actions help to establish a substantial body of trained executives within WAEMU, who provide support to the Commission in the investigation of competition cases.

3. Addressing the main challenges in implementing recommendations and future challenges

49. The implementation of peer review recommendations may involve difficulties related to the lack of financial resources and the lack of awareness or a competition culture, as well as inadequate regulations that require political action. In particular, the lack of resources to implement mandates assigned to competition authorities is frequently cited in peer review reports. Related recommendations are taken into consideration by Governments but do not always lead to increased budget allocations for the authorities. Egypt highlights that human and financial resources are limited and that, critically, investment in staffing, training and infrastructure is required, to support implementation efforts. Paraguay has made efforts to amend the competition law in accordance with the recommendations while continuing training sessions and promoting a competition culture, yet a critical challenge is the limited budget and insufficient staff of the authority. WAEMU notes that the situation has improved since the first peer review, yet there remain insufficient human and financial resources to address competition problems, in both the private and the public sectors.

50. The promotion of a competition culture is a ubiquitous recommendation in peer review reports; all recommend that authorities undertake awareness-raising and training activities aimed at the different groups affected by competition law, including academia, consumer associations, the private sector and public administrations, including judges.

⁵³ See <https://phcc.gov.ph/resource-category/aegc-publications>.

In this regard, the authorities surveyed state that they have organized activities aimed at raising awareness of the importance of healthy, effective competition and at training particular groups, as well as contributing to the dissemination of competition law in universities.

51. In Paraguay, there has been an increase in activities undertaken by the Competition Commission to improve the visibility of the institution and promote a competition culture. A national competition day has been instituted and participation in international events and forums has increased. Paraguay has organized, in collaboration with UNCTAD and the Latin American and Caribbean Economic System, annual meetings of the Working Group on Trade and Competition in Latin America and the Caribbean (in 2019 and 2022) and will host the Latin American and Caribbean Competition Forum of the Organisation for Economic Co-operation and Development in 2025.

52. In the Philippines, the peer review emphasized the importance of promoting public awareness of competition law. The Competition Commission has dedicated a substantial portion of its activities to advocacy and outreach, engaging with businesses, stakeholders and the public through campaigns, seminars and consultations. For example, in 2023, the Commission supported a training course for the representatives of 10 State universities, to advance this initiative.⁵⁴ Such activities have helped raise awareness of the importance of competition and its role in the economy. Following the adoption of the Competition Act, the Global Competitiveness Index score of the Philippines rose from 59.800 in 2017 to 62.125 in 2018; in addition, household awareness of the Competition Act increased from 3.18 per cent to 4.10 per cent in 2019 and business awareness of the Competition Commission increased from 21 per cent to 24.75 per cent in 2023.⁵⁵

53. WAEMU states that training activities have significantly improved staff skills, providing significant support to the activities of the Commission in handling competition cases. WAEMU highlights that this improvement has contributed to increasing the number of cases reviewed in recent years, despite the lack of human and financial resources.

4. Improving the peer review process: Suggestions

54. In general, competition authorities that have undergone peer reviews have been satisfied with the recommendations presented in the reports. However, the implementation of the recommendations requires further technical cooperation. During the presentation of the review, UNCTAD presents a technical assistance plan, to carry out the implementation of the recommendations, including a dissemination event in the reviewed country of the recommendations and a programme of activities to be carried out depending on the funds available. UNCTAD assistance may be limited by the lack of available extrabudgetary funds, which is a matter of concern for competition authorities. In their responses, all competition authorities noted that they would welcome more active involvement from UNCTAD in the implementation of the recommendations, to reinforce their relevance and accelerate intervention by public authorities.

55. In Albania, in 2015 and 2016, with the contribution of donors, UNCTAD facilitated the implementation of peer review recommendations through workshops, training courses and awareness programmes for judges, competition authorities, the private sector and universities; and, in 2024 and 2025, with the support of the European Bank of Reconstruction and Development, UNCTAD organized two training courses for over 15 judges and an international forum on competition policies for over 110 participants.⁵⁶ The Competition Commission of Paraguay supports the continued involvement of UNCTAD and has emphasized the need for active participation by UNCTAD in meetings with key government stakeholders due to the legal and regulatory nature of most

⁵⁴ See <https://www.phcc.gov.ph/resource-details/2023-annual-report-off-to-a-fast-start>.

⁵⁵ See <https://www.ceicdata.com/en/indicator/philippines/global-competitiveness-index>.

⁵⁶ See <https://unctad.org/meeting/training-workshop-judicial-enforcement-competition-law-substantives-and-procedural-aspects>, <https://unctad.org/meeting/training-workshop-judicial-enforcement-competition-law-merger-control-and-regulated-sectors> and <https://unctad.org/meeting/international-forum-interface-between-competition-and-consumer-protection-policies>.

amendments. The Philippines Competition Commission welcomes cooperation with UNCTAD, particularly in organizing capacity-building events and engaging consultants, to enhance competition law enforcement. WAEMU suggests that UNCTAD could organize information-sharing missions and periodically evaluate the implementation of recommendations while supporting efforts to promote competition rules among policymakers and businesses.

56. Requests and recommendations from various authorities highlight the increasing need for continued involvement by UNCTAD in capacity-building, legal and regulatory support and policy dissemination through the peer review process. Strengthening cooperation through training, awareness campaigns and high-level meetings is crucial in enhancing competition policy implementation. In future, sustained engagement with Governments, regional bodies and financial institutions is essential in order to ensure the effective enforcement of competition laws and the successful adoption of reforms.

IV. Topics for consideration

57. Delegates at the Ninth United Nations Conference to Review All Aspects of the Set may wish to reflect on possible topics in the area of competition law and policy that UNCTAD should focus on over the next five years. Member States may wish to consider the following in determining possible topics to be addressed at sessions of the Intergovernmental Group of Experts over the next five years:

(a) Synergies between competition and consumer protection. Competition and consumer protection policies are complementary and it is therefore important to continue to seek synergies in their implementation. There is increasing interaction between such policies and some jurisdictions assign the mandates for both areas to a single institution. Accordingly, discussions could focus on how both competition and consumer protection policies may better contribute to open, fairer and more inclusive markets for consumers and businesses.

(b) Impact assessment of competition law and policy in developing countries. Over the past decades, many emerging economies have introduced, revised and implemented competition law frameworks. However, many challenges remain. An impact assessment can help identify concrete benefits achieved and other consequences, including areas requiring reform. Such an assessment could also provide insights on the contribution of competition policies to achieving the Sustainable Development Goals, particularly Goals 8, 9, 10, 12 and 17. Discussions could be held on fostering dynamic, fairer and more inclusive markets in developing countries.

(c) Digitalization. The rapid advancement of digitalization, including the increasing use of algorithms and artificial intelligence, is reshaping markets and presenting significant challenges for competition. Member States, both developed and developing countries, should continue to exchange intelligence and experiences, to address global abusive practices by digital platforms and ecosystems. Discussions could address the identification of best policy options and the enhancement of cooperation, to ensure the effective enforcement of competition law and policy in markets that are global and crucial for economic growth and inclusive sustainable development.

(d) Competition in food markets. The food sector has a critical role in global economies, directly affecting global value chains and impacting farmers, producers, distributors and consumers. Market concentration, geopolitical tensions and climate change challenge the smooth functioning of markets and threaten food security, due to market disruptions and concerns about food availability and affordability. Addressing these issues requires a coordinated approach among competition authorities and commodities experts, to ensure fair market dynamics, opportunities for small farmers and small and medium-sized enterprises and affordable prices for food staples. Member States may wish to continue discussions associating other related areas with the aim of enhancing competition and enhancing consumer welfare in food-related global value chains.