



# 5th. BRICS International Competition Conference

## International Cooperation and Competition Policy

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## UNCTAD's mandate and pillars of work

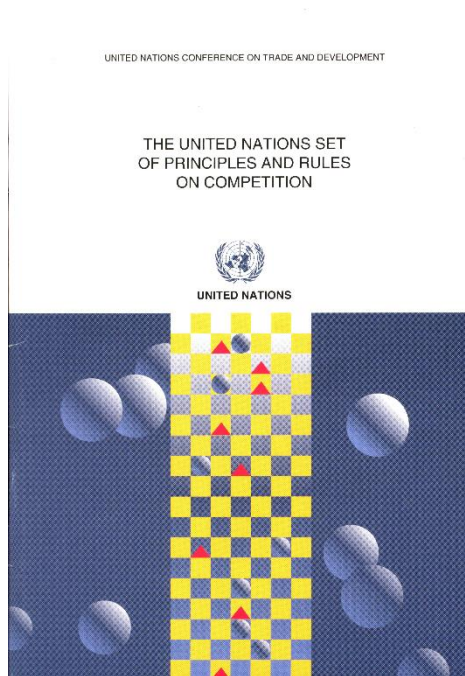
- UN body responsible for dealing with economic and sustainable development issues with a focus on trade, finance, investment and technology - *Prosperity for All*,
- 194 member States;
- *Think, Debate, Deliver* - to assist developing countries in better participating in the global economy
- Focal point for Competition and Consumer Policies within the UN system;
- 3 pillars
  - **Consensus building** - Intergovernmental deliberations
  - **Research and analysis**
  - **Technical Cooperation: Assistance/Capacity building**



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# UN SET ON COMPETITION

*UNITED NATIONS Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices (1980)*



**The only internationally agreed instrument in the field of Competition.**

Scope:

- **Rules** for the control of anticompetitive practices,
- **The development dimension** of competition law and policy,
- **Framework** for international cooperation and exchange of best practices.

**2016 - Celebration of 70 years of work in the UN on Competition Law and Policy**



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## UN SET ON COMPETITION - Section F

### *International Measures* - action should include:

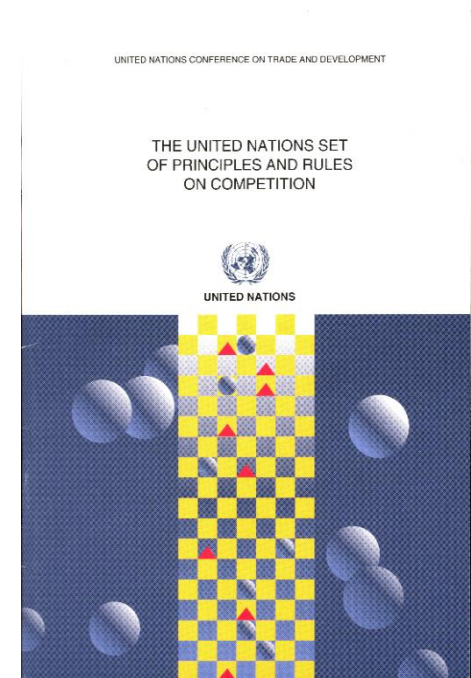
- *1. Work aimed at achieving common approaches in national policies (...)*
- *2. Communication of information on steps and adoption/application of legislation according to the Set (...)*
- *3. Publication by UNCTAD of report on developments in restrictive business practices and legislation adversely affecting international trade (...)*
- *4. Consultations*
- *requests between States seeking mutually acceptable solution;*
- **UNCTAD role**



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# 2017 UNCTAD IGE on Competition Law and Policy

- Following a proposal to further discuss this issue by FAS Russia, a Discussion Group on International Cooperation was created by wide consensus.
- Scope:  
*to pursue the exchanges and the debate on the modalities for facilitating cooperation under Section F of the UN Set of Principles and Rules on Competition.*
- Open to all member States for virtual meetings
- Expected to report on progress to the 2018 IGE meeting.



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# UNCTAD's findings on International Cooperation - Challenges faced by small and young Competition Authorities

- Information protection in domestic law
- Lack of an international definition of confidential information
- Absence of waivers of confidentiality
- Limitations in admissibility of information
- Limitations in implementing leniency programmes at the cross-border level
- Lack of mutual understanding, trust and interaction between competition authorities



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## UNCTAD on enhancing International Cooperation

- ✓ Establish a framework - guidelines/best practices - for cooperation - for a better understanding of laws, methodologies, reasoning; **focus on regional and/other shared goals and interests;**
- ✓ Consider to implement clear safeguards for due process and the **protection of confidential information;**
- ✓ Develop **similar leniency policies** to promote the granting of waivers to leniency applicants;
- ✓ Discuss the possible **recognition of courts' decisions** of other jurisdictions;
- ✓ Explore possibilities for **one-stop shop model** or the appointment of **lead jurisdictions in cross-border cases enforcement;**
- ✓ **Exchange staff** and detach resident advisors and discuss launching **joint investigative teams.**



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## UNCTAD's Discussion Group on International Cooperation

- **39 countries** replied to the first conference-call, all having some geographical representation in each region or sub-region worldwide;
- It was agreed to **gather all relevant information on the topic and countries' experience** through a Survey;
- 7 member States' Competition Authorities are participating in the draft of the Survey, **all regions of the world being represented** - Africa: Algeria & South Africa; Americas: Brazil, Mexico and US (FTC & DOJ); Asia: Philippines; Europe & Eastern Europe: Austria and Russia;
- **BRICS** are well represented and are expected to provide a substantial input to the discussions, taking into account their experience and their leadership of the developing world.





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## UNCTAD's DG on International Cooperation and other ongoing work

- All contributions, proposals and discussions' outcomes will be reported to the 2018 IGE on Competition Law and Policy (11-13 July);
- We encourage the engagement of all member States' Competition Authorities and relevant stakeholders in this work, namely other international organizations (OECD);
- 2017 IGE on Competition Law and Policy agreed conclusions: request to UNCTAD secretariat "to *prepare a compilation of best practices related to the implementation of competition law and policy...* ". With the support of Peru, this project is being developed with a focus in key "*regional good practices*", which can provide updated important information for International Cooperation purposes.



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THANK YOU !

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<http://unctad.org/en/Pages/DITC/CompetitionLaw/Competition-Law-and-Policy.aspx>



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