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**Abstract:** In today's globalized business landscape, the intersection of national laws and international transactions has created challenges for traditional competition laws rooted in territorial boundaries. The rise of anti-competitive practices spanning multiple jurisdictions has highlighted the need for an international dimension in competition policy. Despite the absence of a centralized governing body, businesses operating internationally navigate an informal system shaped by domestic regulations. This paper explores the evolving landscape of competition law, focusing on its primary aims to prevent monopolistic practices, regulate market dominance, curb anti-competitive agreements, and oversee mergers and acquisitions. It also delves into the role of dedicated competition authorities in enforcing these laws across different jurisdictions while upholding core principles of promoting competition, protecting consumer welfare, and fostering economic efficiency. The discussion revolves around the necessity of an enhanced international framework in addressing contemporary challenges posed by cross-border competition issues.

## I. INTRODUCTION

In today's interconnected world, businesses operate within a highly integrated economic landscape, while contending with political, cultural, and legal diversity. National laws reflect significant variations in societal and political values among nations. One such form of

regulation is 'Competition Law' or 'Antitrust Law' in the U.S., which pertains to regulations that encourage or uphold market competition by overseeing anti-competitive practices. However, these modern competition laws have traditionally focused on promoting and sustaining competition within each nation's territorial boundaries. Generally, domestic competition laws do not extend to activities outside these borders unless they yield substantial domestic repercussions.

This geographically limited approach has become problematic in an increasingly globalized era, where transactions span numerous territorial domains. Anti-competitive actions can generate adverse economic consequences across multiple jurisdictions, transcending geographical limits. Thus, while competition law remains rooted in national contexts, the issues pertaining to competition have acquired an international dimension, resulting in a regulatory discord.

Despite the absence of a governing international institution or agreement, we are effectively operating in a realm of international competition policy.<sup>1</sup> Businesses engaged in international operations face an informal system shaped by the interplay of domestic regulations. Rather than debating the necessity of international competition policy, the pertinent question is whether the existing framework surpasses potential alternatives.

Competition law's primary aims encompass preventing monopolistic practices, curbing the misuse of dominant market positions, proscribing anti-competitive agreements, and regulating mergers and acquisitions to preclude the concentration of market power. Furthermore, it involves

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<sup>1</sup> European Commission, < [https://competition-policy.ec.europa.eu/index\\_en](https://competition-policy.ec.europa.eu/index_en)>

overseeing unfair trade practices like deceptive marketing and false advertising.

Typically enforced by dedicated competition authorities or regulatory bodies in each jurisdiction, competition law ensures that such entities possess the authority to scrutinize anti-competitive activities, levy penalties, and advance competition through advocacy and policy initiatives. While the specifics of competition law might vary across nations, the underlying principles remain steadfast—advancing competition, safeguarding consumer welfare, and fostering economic efficiency.<sup>2</sup>

## II. EXISTING INSTITUTIONS IN COMPETITION LAW

The history of global treaties concerning competition law traces back to the early 20th century. Over time, a series of international agreements and institutions have emerged to encourage fair competition and combat anti-competitive behaviors. Here's an overview of key milestones:

- i. **Treaty of Versailles (1919):** Coming after World War I, the Treaty of Versailles featured provisions related to competition. Article 170 of the treaty called for an International Economic Conference to address economic matters, including competition concerns.<sup>3</sup>
- ii. **Havana Charter (1948):** Following World War II, the International Trade Organization (ITO) was proposed under the Bretton Woods system. It aimed to handle trade and economic issues, including competition. However, the ITO wasn't ratified, and the General

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<sup>2</sup> Andrew Guzman, *The Case for International Antitrust* (22 Berkeley J. Int. L. 355, 2004)

<sup>3</sup> Library of Congress, < <https://guides.loc.gov/treaty-of-versailles> >

Agreement on Tariffs and Trade (GATT) was established in 1947, focusing mainly on trade liberalization.<sup>4</sup>

- iii. **UNCTAD (1964):** The United Nations Conference on Trade and Development (UNCTAD) was founded in 1964 as a permanent intergovernmental body. It provided a platform for discussing trade, development, and competition policy, boosting awareness about competition law globally.
- iv. **WTO Agreement (1994):** The creation of the World Trade Organization (WTO) marked a significant step in shaping global competition rules. While not comprehensive, the WTO Agreement included sections on anti-dumping measures, subsidies, and restrictive business practices, setting the groundwork for future competition policy discussions.<sup>5</sup>
- v. **OECD (1960s onwards):** The Organization for Economic Co-operation and Development (OECD) has actively promoted competition policy since the 1960s. In 1995, it adopted the Recommendation on Competition Law and Policy, guiding member nations in formulating effective competition laws. The OECD remains committed to advancing best practices and international collaboration in this field.<sup>6</sup>
- vi. **UN Set (1980):** The United Nations Set, created in 1980, provided guidelines for countries to create and enforce competition laws.

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<sup>4</sup> 'Havana Charter for an International Trade Organization' (1948) The International Law Quarterly, vol. 2, no. 2, 1948, pp. 283–345 < <https://www.jstor.org/stable/763190>> accessed 10 Dec. 2023.

<sup>5</sup> WTO, < [https://www.wto.org/english/tratop\\_e/comp\\_e/comp\\_e.htm](https://www.wto.org/english/tratop_e/comp_e/comp_e.htm)>

<sup>6</sup> OECD, < <https://www.oecd.org/competition/internationalco-operationandcompetition.htm>>

Although not binding, it was an important guide for nations aiming to strengthen their competition systems.<sup>7</sup>

- **Approach of ICN:-**

**The International Competition Network (ICN)**<sup>8</sup> is a global group of competition authorities worldwide. Formed in 2001, its goal is to boost international collaboration in enforcing competition law. The ICN acts as a hub for competition agencies to exchange knowledge, insights, and best practices, ultimately improving the efficiency of global competition enforcement.

Through its collaborative approach, the ICN has played a vital role in advancing competition law and policy on a global scale. It has encouraged alignment among competition systems, advocated for fairness and proper procedures in enforcement, and improved the impact of promoting competition. The ICN's efforts have led to the reinforcement of competition structures in various nations, resulting in more robust and competitive market conditions.

It's worth noting that even though there have been noteworthy advancements in global competition law, there isn't a single worldwide treaty that governs competition policy. The responsibility for enforcing and implementing competition laws primarily lies with individual countries, while international agreements and organizations offer guidance and facilitate cooperation between nations.

### **III. NEED OF GLOBAL TREATY**

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<sup>7</sup> UNCTAD, < <https://unctad.org/topic/competition-and-consumer-protection/the-united-nations-set-of-principles-on-competition#:~:text=The%20UN%20Set%20is%20a,control%20of%20anti%20Dcompetitive%20practices>>

<sup>8</sup> ICN, < <https://www.internationalcompetitionnetwork.org> >

Over the past two decades, competition law and policy have experienced significant changes on both domestic and international fronts. The need for a comprehensive worldwide competition law treaty has arisen as a result of the growing interdependence of the global economy. With nations engaging in international trade and investments on a larger scale, the creation of a system of regulations and benchmarks that encourage fair competition and discourage unjust practices has become a critical need. The ultimate goal of such a global competition law treaty would be to create an organized platform for countries to work together, fostering an environment of equitable competition for businesses while also ensuring the protection of consumer rights.<sup>9</sup>

Throughout history, various regional and bilateral pacts have been forged to address matters related to competition. For instance, the European Union has formulated a robust competition framework through the Treaty on the Functioning of the European Union (TFEU) and accompanying regulations. In a similar vein, the United States enforces competition regulations through statutes like the Sherman Act<sup>10</sup> and the Clayton Act.<sup>11</sup> These regional and national frameworks have effectively curbed anticompetitive conduct within their respective jurisdictions.<sup>12</sup>

Nevertheless, given the globalization of markets and the ascent of multinational corporations, there is a growing acknowledgment of the necessity for a global strategy toward competition law. A worldwide

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<sup>9</sup> Martin D. Taylor, *International Competition Law A New Dimension for the WTO?* 3, (Cambridge University Press 2006)

<sup>10</sup> Sherman Act 1890

<sup>11</sup> Clayton Act 1914

<sup>12</sup> European Union, DMA < [https://digital-markets-act.ec.europa.eu/index\\_en](https://digital-markets-act.ec.europa.eu/index_en)>

competition law treaty would seek to harmonize competition principles across nations, minimizing disparities and ensuring consistent application. It would offer a platform for countries to collaborate on investigating and penalizing transnational anticompetitive practices, such as cartels, the misuse of dominant market positions, and mergers carrying significant global ramifications.

Efforts to establish a comprehensive global treaty on competition law are currently underway. The International Competition Network (ICN), composed of competition authorities from diverse jurisdictions, functions as a platform for sharing insights and driving alignment in competition policies. Furthermore, the United Nations Conference on Trade and Development (UNCTAD) has been actively engaged in this realm, conducting research and fostering productive discussions among its member states. In our contemporary interconnected and globalized world, the formation of an International Alliance becomes imperative. This alliance would serve as a collaborative framework uniting nations to collectively address a spectrum of economic, trade, and competition-related concerns. Understanding the rationale for a global competition law treaty necessitates a scrutiny of existing treaties' shortcomings. This examination not only reveals the gaps that need to be addressed but also highlights the potential challenges that could arise in the context of a new treaty.

- **The EU Competition Treaty has drawbacks:**

The enforcement process becomes complex and slow, leading to uncertainty in legal matters. Interpretations vary among member states, causing inconsistent application of the rules. Differences in national laws result in uneven competition standards. Challenges of the digital

economy remain difficult to address effectively. Individuals have limited means to seek redress for unfair practices.<sup>13</sup>

However, having the treaty is crucial for ensuring fair competition and market integrity. Simplifying decision-making, aligning enforcement, and adapting to digital concerns are essential for strengthening the EU's competition policy.

The OECD, though impactful, faces certain drawbacks. It mainly involves wealthy nations, excluding diverse perspectives of developing and non-member countries. Dominance of major economies influences decisions, sidelining smaller members. The lack of binding authority weakens enforcement, and a market-driven bias overlooks social and environmental factors. Limited representation from civil society impedes diverse viewpoints.

Still, the OECD plays a vital role in economic cooperation and policy exchange. It's making strides by collaborating with non-members and broadening its focus. Addressing these issues is crucial for achieving fairer and more balanced outcomes.<sup>14</sup>

The ICN also has its drawbacks. It lacks binding authority and relies on voluntary compliance. Challenges arise due to differences in legal systems and priorities. Limited global participation creates gaps in cooperation. Resource disparities lead to uneven implementation and

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<sup>13</sup> Umut Aydin & Kenneth P. Thomas, 'The Challenges and Trajectories of EU Competition Policy in the Twenty-first Century' *European Integration* Vol. 34, No. 6, 531–547 <<https://doi.org/10.1080/07036337.2012.707359>> accessed on 03 Aug 2012

<sup>14</sup> Brendan Sweeney, 'International Competition Law And Policy: A Work In Progress' [2009] *MelbJIntLaw* 7, <[https://law.unimelb.edu.au/\\_\\_data/assets/pdf\\_file/0005/1686083/Sweeney.pdf](https://law.unimelb.edu.au/__data/assets/pdf_file/0005/1686083/Sweeney.pdf)>

enforcement. The absence of formal dispute resolution mechanisms can result in conflicts.

Despite these, the ICN fosters global cooperation, but its voluntary nature and diversity hinder consistent competition policy implementation.

The establishment of an International Competition Alliance (ICA) is imperative due to several compelling reasons. In the modern era of globalization, cross-border competition has grown exponentially. An ICA would be instrumental in ensuring a level playing field by preventing anti-competitive practices that could distort markets and adversely impact consumers.

A significant challenge faced by multinational corporations is the variance in competition policies and regulations across different countries. This disparity creates complexities and uncertainties for businesses. The ICA could serve as a platform to harmonize competition policies, standards, and procedures globally. Collaborative efforts fostered by an ICA would facilitate the exchange of critical information, evidence, and best practices among competition authorities. Issues such as platform dominance, data privacy, and market concentration require international collaboration. An ICA would be well-suited to facilitate the development and implementation of effective regulations and guidelines for fostering healthy competition in the digital sector.

Additionally, an ICA would contribute to economic development and growth. A robust competitive environment is conducive to economic progress, and an alliance of this nature would discourage market distortions, spur innovation, and attract investment across borders.

In conclusion, the establishment of an International Competition Alliance is paramount in creating a global framework for cooperation

and coordination in competition policy. By promoting fair competition, harmonizing policies, addressing digital economy challenges, safeguarding consumer welfare, and fostering economic development, the ICA would contribute to a more efficient, transparent, and globally interconnected marketplace.

#### IV. CHALLENGES & DRAWBACKS OF GLOBAL TREATY

Certainly, there are potential drawbacks and challenges associated with the implementation of a global treaty on competition law.<sup>15</sup> These include:

- **Loss of National Autonomy:** Creating a global treaty could encroach upon a nation's sovereignty to set and enforce its own competition laws. Countries might be compelled to adopt competition policies that don't align with their unique economic, social, or legal systems, leading to resistance from nations unwilling to relinquish control.
- **Consensus Challenges:** Obtaining agreement among a diverse array of countries with differing economic interests, legal frameworks, and policy priorities is a complex endeavor. Negotiating the terms of a global treaty can be time-intensive and entail compromises that weaken its effectiveness. Disagreements over key provisions may hinder progress and limit the treaty's impact.
- **Issues with Compliance and Enforcement:** Ensuring adherence to a global treaty presents difficulties. Nations might interpret and execute treaty obligations differently, resulting in disparities in enforcement practices. The absence of a centralized enforcement mechanism could impede the handling of non-compliance. Moreover, enforcing the

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<sup>15</sup> OECD, 'Challenges of International Co-operation in Competition Law Enforcement' (2014) < <https://www.oecd.org/daf/competition/Challenges-Competition-Internat-Coop-2014.pdf>>

treaty against multinational corporations operating across multiple jurisdictions may pose logistical and jurisdictional challenges.

- **Cultural and Economic Variability:** Countries exhibit significant disparities in culture, economy, and legal context. An overarching approach mandated by a global treaty might not adequately accommodate these distinctions. Certain competition practices deemed anticompetitive in one locale could be acceptable or even encouraged in another. Striking the right balance between global alignment and respecting local intricacies can prove challenging.
- **Sluggish Adaptation:** Global treaties can be slow to adapt to swiftly changing market dynamics and emerging anticompetitive behaviors. The protracted process of negotiating and amending a treaty might lag behind rapid technological advancements, global business methods, and evolving market structures. This could curtail the treaty's efficacy in promptly addressing emerging competition-related challenges.
- **Risk of Regulatory Influence:** A global treaty could potentially be vulnerable to manipulation by influential interest groups, possibly resulting in regulatory capture. These entities might mold the treaty's provisions to serve their own interests, undermining the goal of fostering fair competition. Balancing the divergent interests of various stakeholders and ensuring the treaty remains focused on promoting competition and consumer welfare can pose a significant challenge.
- **Enforcement Authority Shortcomings:** Typically, a global treaty lacks a supranational body with direct enforcement powers. Instead, it relies on individual nations to enforce its provisions within their own jurisdictions. This decentralized enforcement approach could lead to inconsistent enforcement outcomes and limit the ability to effectively address cross-border anticompetitive practices.

Although a worldwide agreement regarding competition law has its disadvantages, it's important to recognize that other means of international collaboration, like bilateral and regional deals, along with the efforts of global organizations such as the International Competition Network (ICN), remain valuable in tackling a portion of these issues.

Creating a worldwide agreement on competition law faces a range of substantial challenges. Firstly, the diversity of legal systems and traditions across countries poses a significant hurdle, as harmonizing these differences into a unified framework is complex and could lead to disagreements in interpretation and application of the treaty's provisions.

Secondly, reconciling the varying economic priorities, industrial structures, and levels of development among nations is a formidable task. Striking a balance between the interests of developed and developing countries becomes intricate, as the latter might prioritize economic growth over stringent competition enforcement, potentially leading to resistance or partial compliance with treaty obligations.

Moreover, the difficulty of achieving consensus among a large number of countries with diverse agendas and policies cannot be underestimated. The negotiation process could involve compromises that dilute the treaty's efficacy, especially when contentious issues such as enforcement scope, exemptions, and dispute resolution mechanisms arise.

Enforcement emerges as another significant challenge. Coordinating and overseeing competition law across numerous jurisdictions is intricate, particularly when there are disparities in enforcement capabilities, available resources, and strategic priorities. The added

complexity of regulating multinational corporations that operate across borders requires robust international cooperation.

The dynamic nature of markets, driven by rapid technological advancements, evolving business models, and shifting consumer preferences, presents an ongoing challenge. A globally applicable treaty might struggle to keep up with these changes, potentially rendering its provisions outdated or insufficient in addressing emerging forms of anti-competitive behavior.

Implementing and enforcing a global competition law treaty demand substantial resources, including funding, expertise, and institutional capacity. Many countries, especially those in the developing world, might encounter constraints that hinder full compliance. Supporting these countries in building capacity and overcoming such limitations is crucial but can be a challenging endeavor.

Lastly, devising effective mechanisms for resolving disputes is critical to ensure consistent interpretation and application of the treaty. Constructing a fair and efficient dispute resolution framework capable of handling conflicts between countries with varying interests, legal systems, and levels of development is a complex task in itself.

To tackle these multifaceted challenges, fostering ongoing dialogue, negotiation, and collaboration among participating nations is imperative. Flexibility, assistance in building capacity, and the continual refinement of treaty provisions are likely prerequisites for addressing these challenges and ensuring the treaty's viability in fostering equitable global competition.

## **V. HOW THE GLOBAL TREATY WILL FUNCTION**

Countries like the EU, along with others, have advocated for the alignment or global adoption of competition law. This effort has been prominently discussed within the framework of the WTO. This approach is supported due to several reasons: the WTO's widespread membership allows for a balanced response that considers the interests of both developed and developing nations; the WTO is recognized as the authority for international economic rules linked to trade, a realm closely tied to competition matters; existing WTO Agreements already include certain provisions addressing anti-competitive actions, such as those related to anti-dumping; the WTO's structure involves transparency and monitoring through notification requirements; it encompasses fundamental principles of non-discrimination and transparency; it serves as a platform for ongoing negotiation and consultation where members can raise their competition-related concerns; crucially, the WTO has a well-established dispute resolution mechanism between governments.

In 1996, a WTO Working Group was established to explore matters concerning the interplay between trade and competition policy, including anti-competitive practices. The aim was to identify areas warranting further consideration within the WTO framework. Despite these efforts, the attempt to create a comprehensive multilateral approach to governance through the WTO has not succeeded. As a result, international competition policy has taken a more fragmented trajectory. This divergence is evident in three key areas: policy convergence, technical assistance and capacity-building, and operational coordination. Networks have played a significant role in shaping these developments, albeit in varying forms.

A substantial number of nations have adopted competition laws, indicating notable policy convergence. However, this has primarily

occurred over the past two decades, suggesting that rapid harmonization should not be anticipated in the near term. Many countries face limitations in terms of enforcing competition law due to capacity constraints, an issue that might persist for several years.

It's important to recognize that, despite outward similarities, the practical application of competition laws is unlikely to be uniform. The broad wording of competition principles necessitates their interpretation and application to real-world cases, a process that varies across states based on economic structure and development level. Consequently, the evolution of markets and economic institutions is likely to take diverse paths, similarly affecting competition policy.

Lastly, differing political economies and institutional choices contribute to administrative and procedural distinctions between countries. For instance, the United States places more reliance on private sector enforcement of competition law compared to other nations, while the European Community entrusts a potent regulator. The practice of competition law and policy is anticipated to evolve uniquely in countries like China and India, influenced by their distinct political, social, and judicial frameworks.

- **How will the treaty operate and function?**

The functioning of the treaty would involve a synthesis of legal principles from various competition law systems, including American Competition Law, the EU Competition Treaty's regulatory framework, and India's Leadership Initiative. The blueprint for the proposed International Competition Alliance would take inspiration from the successful ICN (International Competition Network) model, renowned for its extensive member network and well-established cooperation structures.

The United States has a storied history of enforcing competition law, anchored in statutes like the Sherman Act of 1890 and the Clayton Act of 1914, along with subsequent legal precedents.<sup>16</sup> The proposed model draws insights from fundamental principles in American legal doctrine, including:

- i. **Prohibition of Anti-Competitive Agreements:** The envisioned global alliance would incorporate clauses that disallow agreements that unreasonably stifle competition, mirroring the essence of Section 1 of the Sherman Act.<sup>17</sup> This approach would discourage collusion, cartel formations, and price-fixing across international markets.
- ii. **Addressing Dominant Position Abuse:** The model would integrate principles comparable to Section 2 of the Sherman Act<sup>18</sup> to confront anti-competitive behavior by dominant corporations. This includes prohibiting practices like predatory pricing, exclusive dealing, and tying arrangements, all intended to preserve a competitive market environment.
- iii. **Merger Control:** The proposed global alliance would establish comprehensive mechanisms for overseeing mergers, similar to the Hart-Scott-Rodino Act and the guidelines of the Federal Trade Commission. These mechanisms would thoroughly assess mergers and

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<sup>16</sup> Laura Phillips Sawyer, 'US Antitrust Law and Policy in Historical Perspective' (2019) < [https://www.hbs.edu/ris/Publication%20Files/19-110\\_e21447ad-d98a-451f-8ef0-ba42209018e6.pdf](https://www.hbs.edu/ris/Publication%20Files/19-110_e21447ad-d98a-451f-8ef0-ba42209018e6.pdf) >

<sup>17</sup> Sherman Act 1890, s 1

<sup>18</sup> Sherman Act 1890, s 2

acquisitions that could substantially curtail global competition, ensuring that detrimental anti-competitive consolidation is averted.

iv. **Enforcement and Penalties:** Drawing from the U.S. approach, the model would emphasize rigorous enforcement mechanisms and introduce impactful penalties for violations of competition law. This robust stance aims to deter anti-competitive actions and unequivocally convey that such behaviour will face severe repercussions.

- **Learning From Existing Global Partnerships:**

Drawing insights from established global alliances, the proposed model seeks to amalgamate successful elements from initiatives such as the International Competition Network (ICN) and regional endeavours like the European Competition Network (ECN). These existing frameworks offer valuable lessons in fostering cooperation, bolstering institutional capacities, and harmonizing competition policies.

The new global alliance would take cues from these experiences in several key ways. First, it would prioritize the exchange of knowledge and best practices among diverse competition authorities, cultivating an environment of collaboration and enabling the adoption of effective enforcement methodologies. Second, similar to the ICN's approach, the alliance would place significant emphasis on providing technical assistance to competition authorities, particularly those operating in developing economies. By elevating the expertise and capabilities of enforcement agencies, the alliance would contribute to a more consistent and proficient global enforcement landscape.

Moreover, the alliance's strategy would mirror the principles of cooperation and convergence championed by initiatives like the ECN. This would entail fostering meaningful dialogue, conducting joint

investigations, and crafting shared frameworks, all of which contribute to minimizing conflicts and ensuring uniformity in enforcing competition laws across jurisdictions. Finally, recognizing the vital role of advocacy, the alliance would actively engage in outreach efforts aimed at fostering a culture of robust competition and combatting anti-competitive behaviours worldwide. By forging collaborations with international bodies, policymakers, and stakeholders, the alliance would amplify the understanding of the merits of equitable competition.

- **Enhancing Deterrence and Global Consequences:**

To reinforce the deterring impact and discourage anti-competitive actions, the proposed model would implement the ensuing measures:

- i. **Global Penalties:** The alliance would institute a mechanism for imposing significant fines on those found in violation of competition laws. The magnitude of these fines would be commensurate with the degree of harm inflicted and the scale of the market, thereby ensuring a compelling deterrent influence.
- ii. **Leniency Initiatives:** Echoing the success of leniency programs observed in various jurisdictions, including the United States, the alliance would offer incentives to companies that voluntarily disclose their involvement in anti-competitive behaviour. In return, these entities would benefit from reduced penalties. This approach would not only promote collaboration but also unearth concealed cartels, bolstering enforcement endeavours.
- iii. **Cross-Border Jurisdiction:** The alliance would bolster its authority in dealing with cross-border issues, granting competition authorities the

power to scrutinize and penalize anti-competitive activities spanning multiple jurisdictions. This proactive approach would curb jurisdictional manoeuvring and guarantee comprehensive enforcement.

- iv. **Collaborative Legal Endeavours:** The model would lay down mechanisms to facilitate legal cooperation and the mutual acceptance of judgments. This facet would streamline the process of executing penalties imposed by competition authorities, thereby reinforcing the far-reaching implications of deterrence on a global scale.

## **VI. HOW CAN INDIA PLAY A KEY ROLE IN MAKING THE GLOBAL COMPETITION LAW TREATY A REALITY?**

The rationale behind establishing the Competition Act in India<sup>19</sup> was to support local businesses and safeguard them against foreign entities. In contrast to the prior Monopolies and Restrictive Trade Practices Act (MRTP) of 1969<sup>20</sup>, which restricted entities from acquiring dominant positions, the Competition Act not only benefits consumers but also fosters a free market economy. Today, India's economy ranks as the world's 5th largest, and the country is at the forefront of entrepreneurship and exports. India's role extends beyond production; it's evolving into a superpower with its own alliances. Amid recent global disputes, India has emerged as a welfare state and is well-positioned to spearhead discussions on a Global Treaty on Competition Law. This initiative is vital as global treaties don't materialize out of thin air; they require a catalyst. Past efforts by various organizations, notably the World Trade Organization, hold significance in

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<sup>19</sup> The Competition Act 2002

<sup>20</sup> Monopolies and Restrictive Trade Act 1969

understanding India's capacity to initiate discussions. Moreover, India's enhanced global stature, including its presidency of the G-20 group in 2022-2023, provides a fitting platform for commencing these talks. As G-20 president, India represents both member and non-member states, while also maintaining influential relationships with entities such as the QUAD GROUP and African nations. Leveraging its engagement and contributions, India can exert a considerable influence on implementing a comprehensive global competition law treaty. By drawing on its experience, expertise, and regional influence, India can play a pivotal role in shaping an effective global framework that advances equitable competition and consumer welfare on a global scale.

To set the wheels in motion for a global competition law treaty, India can adopt the following strategies:

- i. **Diplomatic Endeavours:** India can engage in diplomatic endeavours to build consensus among nations regarding the necessity of a global competition law treaty. This involves bilateral and multilateral negotiations, spotlighting the advantages of such a treaty and highlighting India's dedication to fairness in competition and consumer welfare.
- ii. **Suggest the Notion on International Platforms:** India can introduce the concept of a global competition law treaty in international platforms like the United Nations, World Trade Organization (WTO), and the Organization for Economic Co-operation and Development (OECD). By broaching the topic and initiating dialogues, India can encourage other countries to recognize the significance of such a treaty and garner backing for its formulation.

- iii. **Forge Alliances with Kindred Nations:** India can collaborate with nations that share its vision for a global competition law treaty. By creating partnerships and alliances, India's voice can be magnified, advocating for the treaty collectively. Joint declarations, initiatives, and coordinated actions can amass momentum and enlist support from a broader spectrum of nations.
- iv. **Research and In-depth Study:** India can invest in research and comprehensive analysis to cultivate a profound understanding of the global landscape of competition law. Identifying sectors where a global treaty could wield the greatest influence becomes crucial. Initiating studies, commissioning research papers, and hosting expert discussions can construct evidence-based arguments for the treaty's necessity, while also providing insights into its potential structure and provisions.
- v. **Global Seminars and Workshops:** India can take the lead in organizing international seminars and workshops devoted to discussing the need for a global competition law treaty. These forums would bring together competition authorities, policymakers, experts, and stakeholders from around the globe. This convergence would facilitate idea exchange, knowledge sharing, and deliberation on the challenges and benefits linked to a global treaty.
- i. **Pilot Projects and Exemplary Approaches:** Initiating pilot projects and developing model practices can serve as exemplars for other nations. By implementing innovative, effective competition enforcement practices, India can showcase the positive outcomes of a

robust competition framework. Sharing these successes with other countries can help build momentum for a global treaty and encourage them to adopt similar practices.

- vi. **Enhancing Regional Collaboration:** India can foster regional cooperation in competition law and employ regional platforms to lay the foundation for a global treaty. By engaging neighbouring nations and regional organizations, India can work towards harmonizing competition policies and establishing shared principles and standards. Regional endeavors can serve as stepping stones towards broader international cooperation and eventually, the formulation of a global treaty.
- vii. **Active Involvement in International Organizations:** India can actively participate in international organizations focused on competition law, such as the International Competition Network (ICN), the United Nations Conference on Trade and Development (UNCTAD), and the World Trade Organization (WTO). Contributing to discussions, engaging in their activities, and sharing India's perspectives can shape the discourse around a global treaty and garner backing from these influential bodies.

Through proactive measures like these, India can initiate and catalyse the process of developing a global treaty on competition law, encouraging international collaboration, and advancing the cause of equitable competition practices on a global scale.

India's role in enacting a global competition law treaty is poised to be impactful through the following contributions:

- i. **Championing Treaty Advocacy:** India can proactively champion the formulation and implementation of a global competition law treaty. Employing diplomatic channels, it can encourage international participation and endorse the treaty's value. By underlining the treaty's advantages and stressing the significance of global collaboration in combating anti-competitive practices, India can foster consensus among nations.
  
- ii. **Sharing Expertise and Insights:** India boasts the established Competition Commission of India (CCI), bringing with it experience in competition law enforcement. India can share its successful practices, experiences, and invaluable lessons with other countries. This knowledge exchange holds potential to shape potent enforcement mechanisms and foster the harmonization of worldwide competition policies.
  
- iii. **Offering Technical Aid and Capacity Enhancement:** India can extend technical aid and capacity-building support, particularly to developing nations, to facilitate the implementation of competition law and the establishment of robust competition bodies. This support could encompass training initiatives, workshops, and the sharing of expertise, all designed to elevate the enforcement capabilities of competition authorities across the globe.
  
- iv. **Collaborating with Global Entities:** India's active collaboration with international organizations like the International Competition Network (ICN), the United Nations Conference on Trade and Development (UNCTAD), and the World Trade Organization (WTO) can

significantly influence the evolution of global competition law principles and standards. Through participation, discussions, and the sharing of perspectives, India can leave a mark on this domain.

- v. **Strengthening Regional Unity:** India's role in cultivating regional cooperation on competition law, involving neighbouring nations and regional bodies, is essential. Collective initiatives such as joint investigations, the exchange of information, and capacity-building programs within the South Asian context can contribute to a harmonized approach to competition enforcement and pave the way for the global treaty's realization.
- vi. **Guiding Treaty Negotiations:** India's active engagement in the negotiation phase of the global competition law treaty is vital. By contributing its insights and expertise, India can influence the treaty's clauses, ensuring they remain impartial, equitable, and considerate of varying country needs. India's role in the negotiations can help bridge disparities and foster agreement among participating countries.
- vii. **Nurturing Discourse and Cooperation:** India can foster dialogue and collaboration among competition authorities and stakeholders from diverse nations. Through the organization of seminars, conferences, and platforms, India can create spaces for discussions on global competition law matters. These initiatives would encourage knowledge exchange, endorse best practices, and reinforce cooperation, playing a pivotal role in the global treaty's implementation.

## **VII. CONCLUSION**

Undeniably, a Global Treaty on Competition Law is imperative in our interconnected world. This alliance, inspired by American legal principles and existing global collaborations, can boost enforcement and deter anti-competitive actions. By amalgamating effective elements from various jurisdictions, it can foster cooperation, alignment, and send a resolute global message against unfair practices. The idea of an International Competition Alliance or global treaty is compelling, considering the far-reaching impact of anti-competitive actions in today's economy. Such a treaty would balance policies, protect consumer interests, and create a transparent global marketplace. While regional and national frameworks like the EU and the US have reined in anti-competitive practices within their territories, they fall short in dealing with cross-border issues and digital complexities.

An internationally cohesive competition law treaty would provide a standardized platform for investigating and penalizing such practices across borders, ensuring uniform enforcement. Additionally, in the digital realm, it could facilitate information exchange, optimal practices, and specialized knowledge among nations, thus effectively governing competition in digital markets.

Initiatives are underway via platforms like the ICN and UNCTAD, while entities like the WTO touch upon competition matters. The ongoing efforts highlight the significance of this pursuit. However, forming a treaty demands continuous dialogue, cooperation, flexibility, and capacity-building.

In summary, a Global Treaty on Competition Law is crucial for fostering fair competition, preventing anti-competitive actions, and upholding consumer welfare in our interconnected global economy. Strides have been made, but the journey requires persistent

collaboration to ensure a balanced playing field for businesses worldwide and a just global economic landscape.