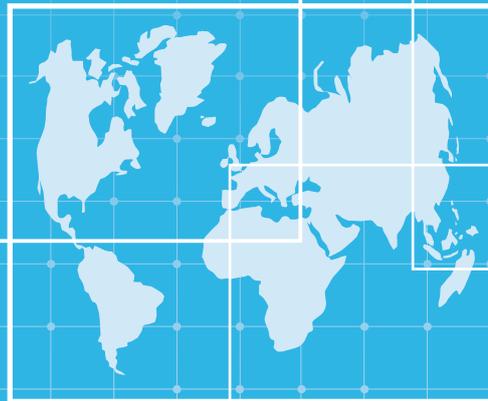




VOLUNTARY PEER REVIEW OF COMPETITION LAW AND POLICY:

ARGENTINA

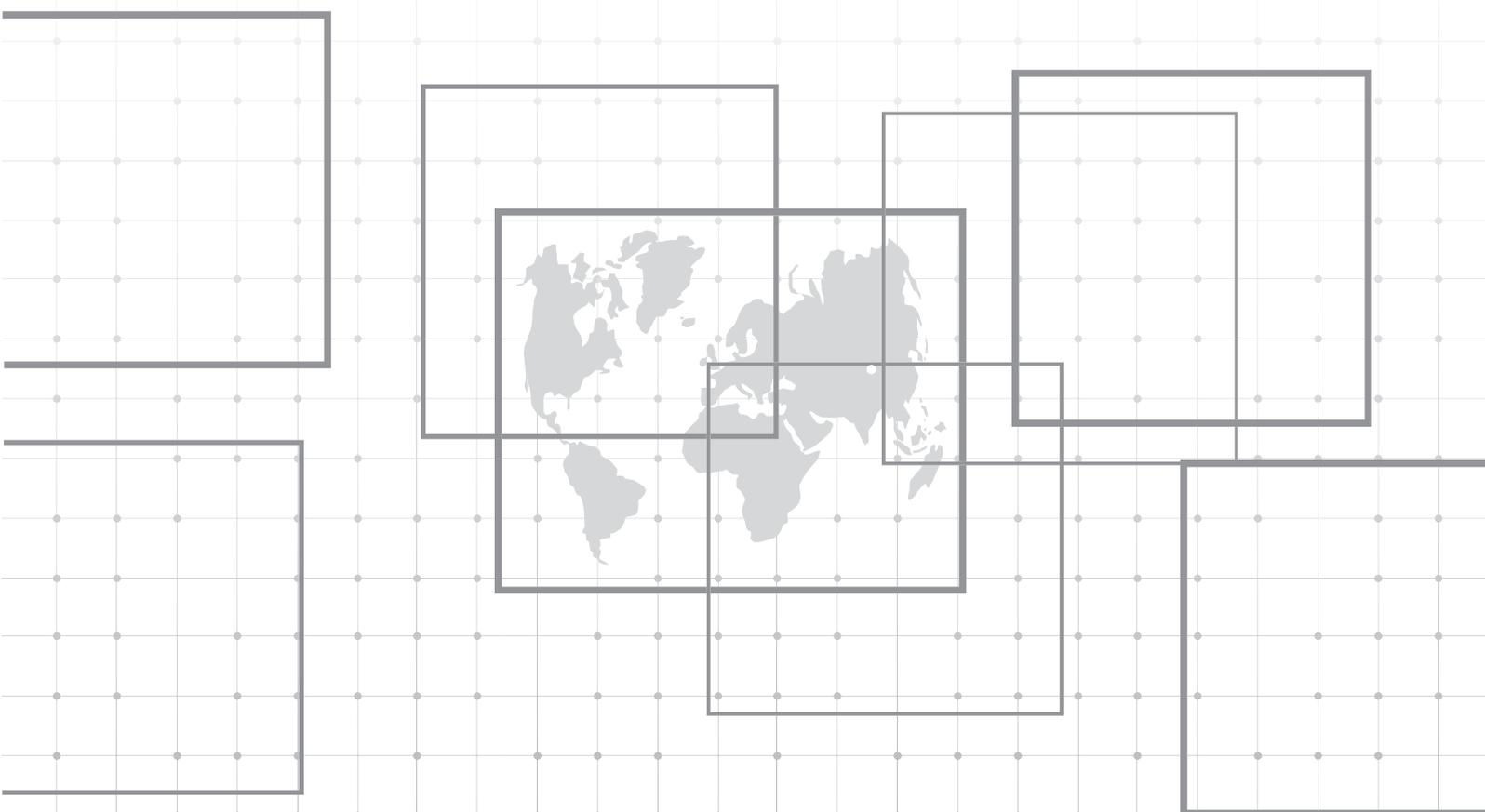




VOLUNTARY PEER REVIEW OF COMPETITION

LAW AND POLICY:

ARGENTINA



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This report has been prepared for UNCTAD by Luis Berenguer Fuster, lawyer and member of the Advisory Group of Experts for the programme on Competition and Consumer Protection in Latin America (COMPAL). Juan Luis Crucelegui, Arnau Izaguerri and Valentina Rivas were responsible for the substantive support for and review of the report.

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NOTE

UNCTAD is the coordination centre for all issues relating to competition policy within the United Nations Secretariat. The goal of UNCTAD is to promote an understanding of the nature of competition law and policy and its contribution to the development and creation of a favourable environment for the efficient functioning of markets. The work of UNCTAD takes the form of intergovernmental discussions, training activities, policy advice and research and analysis on the relationship between policy and the development of competition.

The voluntary peer review of competition law and policy organised by UNCTAD is part of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices (the "United Nations Set of Principles and Rules on Competition") agreed multilaterally and approved by the General Assembly in 1980. Among other things, this Set is designed to help developing countries to adopt and enforce effective competition defence laws and policies which are adapted to their development needs and their economic situation.

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1. CONTEXT AND BACKGROUND

1.1 Economic context of Argentina

Lying in the extreme south of the continent of America, Argentina is the eighth biggest country in the world and the second biggest in Latin America in terms of surface area, with 2.8 million km². Furthermore, with a population of 43 million, it is the third most populous country in Latin America, with the majority of its population located in Buenos Aires.

Despite the succession of economic problems with which it has been beset over the years, Argentina continues to play an important role in the world economy, in particular through its agricultural production. This is primarily based on the production of cereals, citrus fruit, tea and fruit products such as the grape, representing approximately 10.5% of the country's gross national product (GNP). Being a country with abundant natural resources in agriculture and energy, Argentina stands out for its food production, in addition to being the fourth largest oil producer and the third gas producer in Latin America. For its part, the industrial sector, which employs almost a quarter of the working population, features industrial food preparation, milling, the automotive sector, the textile sector, and chemical, petrochemical and metallurgical activities. Finally, the tertiary sector is primarily based on the development of *software*, *call centres*, nuclear energy and tourism. The contribution made by the latter two sectors to Argentine GDP is in the region of 30% and 60% respectively.¹

It should also be noted that with a GDP of over 550,000 million dollars, Argentina is one of the

It should be stressed that competition law has been in place from a relatively early stage in the political and economic development of Argentina. Free competition in the markets and open competition policies are the factors that create the most appropriate setting in which companies can achieve their standards of competitiveness, which undoubtedly affects the economy of a country and, in any event, consumers who seek to take free decisions without the intervention of any forces other than market-specific forces, and with adequate information on the price and quality of the products offered.

Thus, it would appear that the influence of the United States of America occasioned a very early concern that a competition policy has a place on the Argentine political scene, - on paper at least - but certainly well before other countries, such as the European countries, were to legislate on the matter.

The foregoing notwithstanding, in recent years there has been a suspicion of political manipulation of competition policy, and therefore a current imperative need exists to strengthen the independence of the competition authorities in order to restore the credibility of its actions.

The incumbent Government of Argentina has demonstrated great interest in bolstering competition policy, introducing positive changes and adopting initiatives accordingly, such as the appointment of a new president and four commissioners to the National Commission for the Defence of Competition (hereinafter referred to as the "CNDC" (Comisión Nacional de Defensa de la Competencia) or the "Commission") and the start of a legislative process that is expected to culminate in the adoption of a new Defence of Competition Act (hereinafter referred to as the

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