



**ICN Steering Group Meeting
November 16, 2011**

From 8:00 to 9:15 am (Ottawa time)

Attendees:

- Australian Competition and Consumer Commission
- Autorità Garante della Concorrenza e del Mercato
- Autorité de la concurrence
- Barbados Fair Trading Commission
- Brazilian Administrative Council for Economic Defense
- Bundeskartellamt
- Competition Bureau Canada
- European Commission DG Competition (EC DGCOMP)
- Japan Fair Trade Commission
- Korea Fair Trade Commission
- Mexico Federal Competition Commission
- Netherlands Competition Authority
- Polish Office of Competition and Consumer Protection (UOKiK)
- Russian Federal Antimonopoly Service
- South African Competition Commission
- Turkish Competition Authority
- United Kingdom Office of Fair Trading
- United States Department of Justice
- United States Federal Trade Commission (US FTC)
- Tribunal de Defensa de la Libre Competencia (TDLC)

Apologies:

- Brazilian Secretariat for Economic Monitoring
- Brazilian Secretariat of Economic Law of Ministry of Justice

Draft Minutes

1. Approval of Draft Agenda and Previous Minutes

The meeting agenda was approved.

SG members were asked to send any comments on the draft minutes of the October 19 SG meeting, or the draft revised minutes of the June 29 or September 28 calls, to the ICN Secretariat (ICN.Secretariat@cb-bc.gc.ca) by November 23, 2011.

2. Steering Group Substantive Topics

The Chair reminded SG members that the eventual outputs from the three substantive projects are high-level ‘issues papers’ to be disseminated to the ICN membership ahead of the 2012 Annual Conference. The papers should:

- focus on identifying questions and framing issues rather than providing detailed answers;
- make recommendations for future ICN work; and
- identify which working group(s) should take each recommendation forward. Working group(s) will decide how and when to do this in consultation with their members and in view of their long-term work plans.

Working with courts and judges

The leaders of the SG project on working with courts and judges (TDLC and UOKiK) presented an expanded concept paper. The paper divided issues into two groups: 1) tasks that can be performed by ICN members, without the participation of the judiciary; and 2) tasks that require interaction with the judiciary. Project leaders proposed that at least two items from the first group be carried out immediately, namely:

- map out the different institutional frameworks/settings that exist in ICN member jurisdictions to assess how this affects the relationship between NCAs and the judiciary; and
- gather baseline data about how NCAs actually interact with judges.

Project leaders proposed that a questionnaire be issued to SG members (plus TDLC) to commence work on these items. A draft questionnaire was appended to the concept paper for discussion.

The floor was opened for discussion and SG members raised the following points:

- As an alternative to collecting data on institutional frameworks, the project might instead focus on identifying a manageable number of practical and common issues arising in competition agencies’ work with courts/judges.
- One SG member suggested developing an international database of cases that judges could consult. Other members cautioned against extensive information gathering until we know what problems ICN should be trying to address and whether the information gathered will be useful.

- The project should not assume the existence of problems with the judiciary (or that problems are necessarily common).
- There may be value in organizing training programs for judges. Equally, agencies should recognize that there may be improvements they can make themselves so as to work better with judges.

The Chair suggested that project leaders engage with SG members to identify shared issues that could usefully be addressed by ICN, and to return to the discussion with a clearer sense of what the shared issues are in December.

Investigative Process

The leaders of the project on investigative process (US FTC and EC DG COMP) briefly presented a discussion document circulated to members in advance of the call, and opened the floor. The following points were raised:

- SG members agreed on the proposed scope and possible outputs from the project. A SG member suggested that a set of “principles” might be developed as a form of practical guidance about good practice in investigative process.
- Project leaders should consult with the AEWG to see whether and how recommendations could be taken forward within that group.
- In terms of sources of input for the issues paper, it was agreed that project leaders should take account of OECD work and also consult with Working Group co-chairs.
- There was discussion on when NGAs should be consulted. It was agreed that that a full and formal engagement of the broad NGA community should occur after the 2012 Annual Conference. Nevertheless, SG members regularly engage in “soft”/informal dialogue with their domestic NGAs and there is no reason why this experience should not feed into the issues paper.

3. AIN/AISUP

The JFTC asked members to approve the updated ICN Work Products Catalogue and AISUP flyer. The documents were approved subject to minor comments from a SG member to be discussed offline.

4. New ICN membership application

SG members approved the Fair Competition Tribunal of Tanzania as a new ICN member.

The KFTC reported that, with the approval of this new member, the ICN now has 123 members from 108 jurisdictions.

5. Curriculum Project

The US FTC provided an update on the status of the ICN Curriculum Project. There are five modules being developed this year on the following topics: (1) competitive effects, (2) unilateral conduct, (3) leniency, (4) merger analysis, and (5) agency effectiveness. Each module's production team includes a combination of a leading academic and/or practitioner working with agency officials. Modules will consist of a mix of lecture, slides, demonstrations, and quizzes. The modules will be coordinated with the relevant working groups and draw on ICN work product.

6. Other business

There was no other business.

7. Future Meetings of the Steering Group

- Wednesday, December 14, 2011 (conference call)
- Wednesday, January 18, 2012 (conference call)
- Wednesday, February 15, 2012 (on the margins of the OECD)
- Wednesday, March 14, 2012 (conference call)
- Monday, March 26, 2012 (conference call)
- Wednesday, April 4, 2012 (conference call, if necessary)