



**ICN Steering Group Meeting
February 15, 2012**

From 8:15 to 9:30 am (Ottawa time)

Attendees:

- Australian Competition and Consumer Commission
- Autorità Garante della Concorrenza e del Mercato
- Autorité de la concurrence
- Brazilian Administrative Council for Economic Defense (CADE)
- Brazilian Secretariat for Economic Monitoring
- Brazilian Secretariat of Economic Law of Ministry of Justice
- Bundeskartellamt
- Competition Bureau Canada
- European Commission DG Competition
- Japan Fair Trade Commission (JFTC)
- Korea Fair Trade Commission
- Mexico Federal Competition Commission
- Netherlands Competition Authority
- Polish Office of Competition and Consumer Protection (UOKiK)
- Russian Federal Antimonopoly Service
- 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:

- Barbados Fair Trading Commission
- South African Competition Commission

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 January 25, 2012, SG call to the ICN Secretariat (ICN.Secretariat@cb-bc.gc.ca) by February 22, 2012.

2. ICN-OECD Liaison

The ICN-OECD Liaison provided an update to SG members. The following points were raised:

- The OECD Secretariat recently circulated draft work plans for the Competition Committee's planned strategic projects on International Cooperation and Evaluating Impact.
- In commenting on these projects, the ICN-OECD Liaison has flagged ICN's own work in these areas (e.g., the SG project on "enforcement cooperation" and the Advocacy WG's stocktaking exercise on evaluation of competition interventions) with a view to avoiding unnecessary duplication of work and realising synergies, where possible.
- OECD representatives are now on ICN WG distribution lists and are joining relevant conference calls.

3. Working with courts/judges and Investigative Process

Working with courts/judges

Project leaders (UOKiK and TDLC) presented a draft high-level issues paper for discussion. The paper built on the SG discussion in December as well as follow-up conference calls and contributions from various SG members. The following are the salient points of the discussion:

- SG members supported the high-level issues and possible actions presented in the paper, as well as the focus on things that agencies can do to improve work with courts/judges.
- It was noted that there is some overlap between the first two issues identified in the paper: "Challenges and lessons learned in presenting agency decisions and/or pleadings" and "Economic analysis – presenting economic evidence to the judiciary." For example, it is possible that tips/tricks for drafting decisions could include tips for presenting economic evidence. It was also suggested that input from judges would be useful when considering these issues.
- On the issue of where within ICN the recommendations could be taken forward:
 - SG members supported UOKiK leading a Special Project on working with courts/judges for the 2013 Annual Conference, if they were willing to do so.
 - It was suggested that work on fine calculation could possibly be discussed by the Cartel WG, separate from courts/judges project.
 - It was noted that the Agency Effectiveness WG would be taking forward projects on Investigative Process in the near-term. As a result, the Advocacy WG might be better placed to take the courts/judges work forward. It was suggested that project leaders consult the Advocacy WG co-chairs to solicit their views.

Investigative Process

Project leaders (US FTC and EC DG Comp) presented a final issues paper and proposed mandate for SG approval. Participants stressed that jurisdictions have different legal rules (e.g., with respect to confidentiality and legal privilege) that may prevent them from using certain investigational tools or procedures. It was also suggested that future work should consider OECD work in this area. The paper was approved for distribution.

3. 2012 Annual Conference

CADE provided an update on the planning of the 2012 Annual Conference on behalf of BCPS and ACPC. On the issue of funding for social events, CADE reported that they had received full funding for the conference welcome reception on 17 April and partial funding for the conference dinner on 19 April, and that their sponsor was approved by the Brazilian Ethics Commission.

CADE sought SG guidance on whether they could charge a fee for the conference dinner, and if so, whether a discount could be offered for government officials and academics to encourage broad participation, along the lines offered by the ABA for their spring conference dinner. Members did not oppose these suggestions.

4. Other business

Update from JFTC on Merger Cooperation Framework

JFTC informed SG members that they presented their proposal for a cooperative framework for merger review to the members of the ICN's Merger WG on January 19. The JFTC is incorporating feedback received from members on the draft proposal, and plans to circulate a revised version for Merger WG approval in due course.

2012 Advocacy Workshop

The Autorité de la Concurrence announced that the Advocacy WG would be holding a workshop in Paris from October 26-27, 2012, on the margins of the October OECD meetings.

Working Group chair rotation

The Chair reminded SG members of the WG governance changes implemented in 2011 and the process for co-chair rotation. The Chair stressed the importance of ensuring that the rotation system works well and that governance is refreshed.

5. Future Meetings of the Steering Group

- Tuesday, March 13, 2012 (conference call)

Draft for publication

- Changed from March 14 in light of conflicts with the International Forum on EU Competition Law in Brussels.
- Tuesday, March 27, 2012 (on the margins of Agency Heads workshop in Washington, DC. A room with a conference line will be provided.)
- Wednesday, April 4, 2012 (conference call)