



**International
Competition
Network**

**Summary of ICN Work Product
2013-2014**

**Presented at the
13th Annual Conference of the ICN**

**Marrakech, Morocco
April 22-25, 2014**

Table of Contents

Section I: Working Groups

- Advocacy Working Group 3
- Agency Effectiveness Working Group 5
- Cartel Working Group 8
- Merger Working Group 11
- Unilateral Conduct Working Group 13

Section II: Steering Group Initiatives

- Advocacy and Implementation 15
- Outreach 17
- NGA Liaison 18

Section III: Operational Working Groups

- Operational Framework Working Group 20
- Membership Working Group 21

- Appendix: Overview of 2013-2014 Working Group Achievements 22**

Section I: Working Groups

Advocacy Working Group

The mission of the Advocacy Working Group ([AWG](#)) is to improve the effectiveness of ICN members' advocacy activities in advancing the adoption of competition principles in government and promoting the development of a competition culture within society through the development of practical tools and guidance, and the facilitation of experience sharing among ICN member agencies. During the 2013-2014 ICN year, the French *Autorité de la Concurrence*, the Competition Commission of Mauritius and the Portuguese Competition Authority were the co-chairs of the AWG.

The AWG has been engaged in the following main projects:

- the Benefits Project;
- the Competition Assessment Project;
- the Competition Culture Project;
- the Working with Courts and Judges Project; and
- hosting of the second Advocacy Workshop.

Benefits Project

The AWG project on Explaining the Benefits of Competition (Benefits Project) seeks to provide ICN members with knowledge of, and strategies and arguments for explaining the benefits of competition in support of their competition advocacy efforts with governmental and non-governmental stakeholders.

In 2013-2014, the Benefits Project has further advanced the first chapter of a practical document on “Explaining the Benefits of Competition” dedicated to government and legislators, which will be presented at the 13th Annual Conference in Marrakech.

Competition Assessment Project

Competition assessment is a key tool in promoting a competition-friendly legal environment and a decisive factor in building a strong competition culture.

The Project has consisted in the drafting of Recommended Practices (RPs) on competition assessment, which follows the progression of an assessment from the basic definition, to setting the enabling environment, to selecting a policy for

assessment, to conducting the assessment, to promoting the assessment. The RPs will be approved in view of the 13th Annual Conference in Marrakech.

Competition Culture Project

Competition Culture is a broad term, referring principally to a set of institutions that determine individual and/or group behaviour and attitudes, in the sphere of market competition. It interacts with and is influenced by other economic and social institutions and priorities.

In 2013-2014, a survey was conducted to gather members' experiences in the promotion of competition culture, and to produce a report that will seek to: (i) define competition culture, (ii) determine how its constituent parts interact, and (iii) explore the role of relevant stakeholders. A draft report on the findings of this survey will be presented at the 13th Annual conference in Marrakech.

Working with Courts and Judges Project

The Working with Courts and Judges Project concentrates on the issues connected with collaboration between competition agencies and the judiciary. It seeks to identify how this cooperation could be strengthened, thus promoting effective competition enforcement, as it is crucial in ensuring a coherent implementation of competition policy. Two teleseminars were conducted in 2013-2014 on the following topics: (i) drafting competition decisions through the prism of court review, and (ii) presenting economic evidence in court. Aside from being a platform for substantial debate, these teleseminars served as an opportunity to better adjust the scope of the Project to the ICN members' current needs. Their outcomes will be further discussed at the 13th ICN Annual Conference in Marrakech.

2013 Advocacy Workshop

The second Advocacy Workshop was held in Rome from December 12 until 13, 2013. The theme of the Workshop, and that of the first plenary session, was "Advocacy as a driver for change", and it sought to explore how advocacy strategies, approaches and tools used by competition authorities can play a crucial role in promoting the benefits of competition, fostering the introduction of pro-competitive reforms and enhancing liberalisation processes, especially in times of economic crisis.

Besides breakout sessions dedicated to the advancement of the ongoing AWG projects, the Workshop was also an opportune time for participants to discuss their experiences on the theme of "Advocacy as a driver for change". There were also a series of sessions on the manifold current challenges facing advocacy, as well as a plenary panel on what the ICN has to offer as a resource centre for advocacy.

Agency Effectiveness Working Group

The mission of the Agency Effectiveness Working Group ([AEWG](#)) is to identify key elements of a well-functioning competition agency and develop best practices for agency strategy, planning, operations, and investigative tools and procedures. The AEWG's work examines a variety of factors that affect how competition agencies achieve their objectives in an efficient and effective way. For the 2013-14 ICN year, the Mexican Federal Economic Competition Commission, Norwegian Competition Authority, and United States Federal Trade Commission (US FTC) co-chaired the AEWG.

The AEWG has three ongoing initiatives: the Investigative Process Project, the Curriculum Project, and the Competition Agency Practice Manual.

Investigative Process Project

In 2012, the AEWG began a multi-year project on competition agencies' investigative processes. The Investigative Process Project is co-led by the US FTC and the European Commission's Directorate General for Competition (EC DG Comp). The Project provides a forum for members to discuss how they conduct investigations, with a view to improving the effectiveness of agency processes and decision-making. The Project addresses both the enforcement tools and procedures available to and used by competition agencies within their legal frameworks. The Project's mandate calls for the group to gather information and share experiences regarding agencies' investigational procedures, and based on this work, consider developing ICN guidance or recommendations.

The Project produced two reports in 2013 covering enforcement tools and agency transparency practices. In 2013-14, the Project conducted a survey of member agency practices related to confidentiality. The Project produced a report that provides a comprehensive overview of the range of agencies' practices with respect to the protection of confidential information during their investigations, highlighting common practices.

Washington D.C. Agency Effectiveness Roundtable

On March 25, 2014 the ICN held a Roundtable on Investigative Process in Washington, D.C., hosted by the US FTC and the United States Department of Justice, Antitrust Division (US DOJ). 115 agency and private sector participants from 35 jurisdictions attended the Roundtable. The Roundtable covered the transparency of agencies' investigations, opportunities for parties to engage with the agency, and protection of confidential information. The Roundtable featured sessions that used a sample investigative timeline to frame the discussion of investigative practices that

promote fair and informed enforcement actions by facilitating effective engagement and interaction between agencies, parties, and third parties.

ICN Curriculum Project

The mission of the Curriculum Project is to create a comprehensive curriculum of training materials to serve as a virtual university on competition law and practice for competition agency officials. The project engages the skills and talents of ICN members and NGAs, particularly academics, to provide a valuable new resource to build capacity and to strengthen competition policy and enforcement. Training modules, consisting of video lectures and accompanying materials from a diverse group of international academics and practitioners, provide an on-line educational center for competition authorities and others in the competition community from around the world. The modules promote ICN work products and also incorporate ICN members' experiences. The Curriculum Project has released eleven modules on the [ICN's website](#): The Origins and Aims of Competition Policy; Major Characteristics of Competition Policy; Market Definition; Market Power; Competitive Effects; Leniency; Predatory Pricing; Handling Merger Investigations; Competition Advocacy; Challenges Facing New Competition Agencies; and Planning and Conducting Investigations.

In 2013-14, the Curriculum Project advanced in three ways: 1) the production of two new comprehensive modules, 2) increasing the usability of the Project, and 3) experimenting with a new format for shorter, single-topic modules created by NGA academics. For 2014, the Project added comprehensive modules on Exclusive Dealing and an Overview of Anti-Cartel Enforcement, both drawing upon existing ICN work products using both member and NGA contributors. The Project made great strides in expanding the usability and accessibility of its current offerings by: 1) creating module-specific web pages; 2) making available English transcripts for the modules; 3) posting Spanish translations for several of the transcripts (and one French); 4) offering the modules in 3 formats: online viewing, a downloadable version, and links to YouTube versions; and 5) adding links to relevant ICN work product for more in-depth learning. In 2014, the Project also developed a new shorter format model for modules produced by academic NGAs. The modules address specific, narrower topics that complement the comprehensive ICN-developed modules. The topics for the initial short form modules include Resale Price Maintenance, Territorial Exclusivity, Market Inquiries, Assessing Dominance, and Conflicts of Interest and Confidentiality. The Project has also added a library of "other links" to publicly available instructional videos on competition enforcement.

Competition Agency Practice Manual

The Competition Agency Practice Manual is a collection of chapters addressing significant institutional tasks that competition agencies face, such as strategic

planning and human resources. The principle that underlies the Agency Practice Manual is that how an agency organizes its operations can fundamentally affect the quality of its substantive work. Previously, the AEWG produced chapters on strategic planning and effective project delivery. In 2013, the WG developed draft chapters on knowledge management (KM) and human resources (HR) management. The KM chapter examines the various ways in which competition agencies manage institutional knowledge. The HR management chapter focuses on an area of paramount importance to the success of any competition agency – the quality and effectiveness of its people. Both chapters were informed by member surveys and incorporate illustrative practices from many jurisdictions. During 2013-14, the chapters were “road tested” via teleseminars and requests for comment. New comments and contributions from several member agencies were added to the drafts and the now final chapters on KM and HR now become part of the Manual.

Cartel Working Group

The ICN Cartel Working Group ([CWG](#)) brings together antitrust enforcers to address the challenges of anti-cartel enforcement, enhancing the ability to eliminate both domestic and international cartels. The Working Group aims to reduce obstacles that antitrust agencies face in deterring and detecting cartels through the examination of important legal and policy topics and the exchange of effective investigative techniques. For the 2013-14 ICN year, the CWG was co-chaired by the US DOJ, the German Bundeskartellamt and the Japan Fair Trade Commission (JFTC).

The CWG consists of two subgroups:

- *Subgroup 1 (SG1): Legal Framework* was co-chaired by the European Commission and the Colombian Superintendency of Industry and Commerce in 2013-14. It addresses legal and conceptual challenges of anti-cartel enforcement. The focus of the subgroup is examining policy-level issues of the institutional and investigative framework for the detection and punishment of hard-core cartel conduct.
- *Subgroup 2 (SG2): Enforcement Techniques* was co-chaired by the Australian Competition and Consumer Commission (ACCC) and the Canadian Competition Bureau (CCB) in 2013-14. It aims to improve the effectiveness of anti-cartel enforcement by identifying and sharing specific investigative techniques and advancing the education and information sharing agenda of the CWG.

2013-2014 Summary of Work

SG1: Legal Framework

Leniency waiver templates and explanatory note

The work on the common leniency waiver templates and explanatory note was coordinated by the SG1 co-chairs. It was carried out by a drafting team, based on the discussions that took place at the 2013 Cartel Workshop and the feedback received by member agencies and Non-Governmental Advisers (NGAs) thereafter.

The Leniency waiver templates are expected to be of great use for both competition agencies and leniency applicants in international cartel investigations. They aim to enable more effective cooperation from both the competition agencies' and leniency applicants' perspective, leading to better coordination of investigatory measures and potentially expediting the review and decision making process. The explanatory note provides certain guidance as to the use and usefulness of the waivers.

Discussion Call Series

The call series format permits cartel enforcers to exchange experiences, share ideas, and learn about specific enforcement and policy efforts in other jurisdictions.

Over the past working year, SG1 held two series of substantive discussion calls on a) the type of conduct that shall be investigated as a cartel, and b) on settlements. Altogether five calls were organised including an “Asia-Pacific friendly” timed call. Participants in the calls were representatives from member agencies, the Organisation for Economic Co-operation and Development (OECD), as well as NGAs. In the framework of the type of conduct that shall be investigated as cartel discussion calls, agencies and NGAs shared and discussed their experiences on dealing with information exchange cases, particularities of atypical cartel behaviour, hub-and-spoke cartels and bid rigging schemes. The discussion call on atypical cartels attracted a particular interest from the membership, as more than 90 people attended the discussion. As to the settlement discussion calls, presentations focused on the way the settlement instrument functions in different jurisdictions, the challenges encountered in practice by agencies and private practitioners and the improvements that could be introduced.

The call discussion series was well received and attracted significant CWG participation. The calls averaged more than 50 participants from nearly 20 jurisdictions and welcomed NGAs from different jurisdictions.

SG2: Enforcement Techniques

Update to Anti-Cartel Enforcement Manual Chapter on Drafting and Implementing an Effective Leniency Program

During 2013-2014, SG2 updated an existing Anti-Cartel Enforcement Manual chapter on Drafting and Implementing an Effective Leniency Program, which was written in 2009. The chapter compiles best practices for the drafting and implementation of a leniency program and was updated to ensure that it reflects the CWG’s views on best practices in this area. The drafting team was comprised of three ICN member agencies and two NGAs: the ACCC; the Korea Fair Trade Commission; the Turkish Competition Authority; and two professors from Korea University Law School.

Update to Anti-Cartel Enforcement Manual Chapter on Digital Evidence Gathering

During 2013-2014, SG 2 updated a second Anti-Cartel Enforcement Manual chapter on Digital Evidence Gathering, which was previously updated in 2009. The chapter compiles best practices for the gathering of digital evidence and was updated to ensure that it reflects the CWG’s current views on best practices in this area. The

drafting team was comprised of three ICN member agencies: the EC DG Comp; the Netherlands Authority for Consumers and Markets; and CCB.

Update to Anti-Cartel Enforcement Templates

During 2013-2014, SG2 continued the process of updating the Anti-Cartel Enforcement Templates, which provide public access to information about ICN members' anti-cartel enforcement regimes. The templates cover a range of topics, including the process for filing a complaint, decision-making, sanctioning cartel conduct, investigative tools, leniency, rights of defendants and confidentiality. Templates can be found on the [ICN website](#).

2013 Cartel Workshop

The Competition Commission of South Africa hosted the 2013 Cartel Workshop in Cape Town, South Africa from October 16 to 18, 2013. The theme of the 2013 Workshop was "Tackling Road Blocks to Effective Cartel Enforcement." Nearly 200 participants from approximately 50 jurisdictions joined the workshop, including about 30 NGAs and 170 agency representatives. During the three-day Workshop, discussions were focused on effective strategies to tackle road blocks to effective cartel enforcement. The Workshop built on the foundations of global cartel enforcement by highlighting previous Cartel Working Group work products, including the Anti-Cartel Enforcement Manual. During the Workshop sessions, participants discussed topics including barriers to effective information sharing; alternative means of cartel detections (outside of leniency); case prioritization; challenges with digital evidence gathering; coping with lack of funding and resources; and difficulties in obtaining political support for competition regulation. The Workshop also addressed issues related to international cooperation in the context of cartel investigations, with a focus on the ICN's International Enforcement Cooperation Project.

Merger Working Group

The mission of the ICN Merger Working Group ([MWG](#)) is to promote the adoption of best practices in the design and operation of merger review regimes to: (i) enhance the effectiveness of each jurisdiction's merger review processes; (ii) facilitate procedural and substantive convergence; and (iii) reduce the public and private time and cost of multi-jurisdictional merger reviews. For the 2013-2014 ICN year, the Competition Commission of India, the EC DG Comp and the Italian Competition Authority co-chaired the MWG.

2013-2014 Summary of Work

Teleseminar Series on International Cooperation in Merger Cases

The MWG organized a series of teleseminars, where agencies and NGAs (in particular, lawyers representing the businesses' point of view) shared their experiences of cooperation based on actual cases, and addressed current obstacles and good practices. The teleseminars are part of the MWG project on international cooperation whose ultimate objective is to establish an advisory framework for interagency cooperation by developing a guidance work product (in the form of guidelines, RPs or other work product) and building upon existing work products, the findings of the 2013 OECD and ICN reports and the practical experiences of the ICN MWG membership shared during the teleseminars. The topics of the teleseminars were:

- [Cooperation in Mergers: Alignment of proceedings, October 2013](#);
- [Cooperation in Mergers: Investigations, November 2013](#);
- [Cooperation in Mergers: Assessment & Remedies, January 2014](#).

The MWG drafted an Interim Report which provides an overview of the main activities under this Project, with a focus on the take-away points from the above-mentioned experience-sharing teleseminar series.

Work to Promote Familiarity, Use, and Implementation of MWG Work Product

In 2013-2014, the MWG organized several activities to promote the use familiarity of recent work-products, including the Recommended Practices. In December 2013, the MWG held a teleseminar to promote the Updated Chapter 4 of the ICN Investigative Techniques Handbook for Merger Review on "[The Role of Economics and Economic Evidence in Merger Analysis](#)", released at the annual conference in Warsaw.

In February and March 2014, the MWG held two teleseminar series to promote the familiarity of the [ICN Recommended Practices on Merger Notification and Procedures](#) and the [ICN Recommended Practices on Merger Analysis](#). In order to expand member and NGA engagement with the MWG, these two teleseminars were

held in other languages, namely in [Spanish](#) and French, and in different time zones. During these teleseminars, the [Spanish](#) and French translations of the RPs in Merger Analysis were presented, thus making all the ICN recommendations related to mergers available in English, French and Spanish.

The MWG released an updated version of the [Merger Notification and Procedure Template](#). The updated Template includes a new section on substantive analysis, expands the section on confidential information and, in general, it seeks any guidance/practice that may provide insights/information on agency merger policy that may not be available in the commercial guides. In the following years, member agencies will be asked to fill in the template and upload it on a dedicated [MWG page](#).

Finally, the MWG also continued to update and improve the MWG's page on the ICN website, including adding materials from 2013-2014 MWG teleseminars and new work-products such as the Updated Chapter 4 and the translated versions of the Recommended Practices on Merger Analysis.

Self-assessment Tools

The MWG continued its efforts to assess the level of use and implementation of the MWG's work product, in particular both sets of RPs, by using the RP self-assessment tools. In April 2014, the MWG held a teleseminar presenting results of self-assessment undertaken by some volunteering agencies and inviting participants to share their experiences when carrying out the revision process and using ICN standards to advocate or target their reforms.

Framework for Merger Review Cooperation

In 2012, a [Framework for Merger Review Cooperation](#) among interested member agencies was established. The Framework provides contact details of agency liaison officers and facilitates information exchange among agency case teams. The JFTC administers the Framework. As of March 2014, 57 competition authorities have joined this Framework. To assess the level of use of the Framework, a short survey was carried out in March 2014 by JFTC.

Unilateral Conduct Working Group

The Unilateral Conduct Working Group ([UCWG](#)) was established at the fifth annual ICN conference in May 2006. Its primary objectives are to examine the challenges involved in analyzing unilateral conduct of dominant firms and firms with substantial market power, facilitate greater understanding of the issues involved in analyzing unilateral conduct, and promote convergence and sound enforcement of laws governing unilateral conduct. For the 2013-14 ICN year, the Swedish Competition Authority, the Turkish Competition Authority and United Kingdom Competition and Markets Authority co-chaired the UCWG.

2013-2014 Summary of Work

Recommended Practices on Predatory Pricing

During the last year the Working Group developed RPs on Predatory Pricing. Based on the group's prior work and member experience, including the ICN Report on Predatory Pricing from 2008 and the Workbook Chapter on Predatory Pricing Analysis from 2012, the RPs set out recommendations for the assessment of predatory pricing in the context of unilateral conduct rules, including recommendations on a general framework for analysis, price-cost tests, assessment of harm to competition and justifications and defences.

2013 Unilateral Conduct Workshop

Building on the successes of the March 2009 workshop in Washington, D.C. on implementing the RPs and evaluating unilateral conduct, the workshop in December 2010 in Brussels, and the regional workshop on Exclusive Dealing in Singapore in 2012, the Working Group organised a further regional workshop in Stockholm, Sweden from September 17 to 18 2013 on the topic of Exclusive Dealing. Using a hypothetical case scenario, roundtable discussions, and small group breakout sessions, the workshop encouraged active participation and the exchange of ideas and practical experiences among delegates. Materials and webcasts from the workshops are posted on the [ICN website](#).

Webinars

The Working Group also held three successful webinars. The first dealt with unilateral conduct by state-owned enterprises, the second with the assessment of loyalty rebates and discounts, and the third with commitments in unilateral conduct cases. Recordings of the webinars are posted on the [ICN website](#).

Discussion series on recent unilateral conduct cases

In connection with the Working Group's monthly Member & NGA conference calls, a number of member agencies presented on recent unilateral conduct cases in their jurisdictions. The purpose of the presentations was to promote greater convergence and increase understanding regarding differences in unilateral conduct standards.

Section II: Steering Group Initiatives

Advocacy and Implementation

This Steering Group (SG) project aims to promote and advocate for the use of ICN work product by competition authorities throughout the world.

2013-2014 Summary of Work

Engaging the Advocacy and Implementation Network (AIN)

The JFTC has engaged the activities of the AIN based on the updated role as follows. With respect to introducing the new/younger agencies to the activities of the ICN, the JFTC decided to review the ways of disseminating the AIN introductory kit (the revised ICN Work Products Catalogue and AISUP Flyer) to new member agencies. Regarding the activities of collecting information and taking advantage of other capacity building opportunities, the AIN collected information on practical technical assistance programs from OECD and United Nations Conference Trade and Development (UNCTAD) and encouraged speakers from ICN member agencies to refer to ICN work products.

Futhermore, the JFTC and AIN members also updated and reorganized the ICN Work Products Catalogue which is used for identifying work products relevant to the needs of recipient agencies. To make it much easier for all users, especially younger agencies to refer, work products promoted for implementation in 2013-2014 ICN year by each Working Group are marked with a star in the catalogue. The JFTC distributed USB memory sticks including the electronic data of ICN Work Products to various ICN and other relevant events. It is available on the [ICN website](#).

Promoting AIN and AIN Support Program (AISUP)

The JFTC, as the AIN Chair, contributed to an optional breakout session on the ICN introduction by making a brief report on the outline of the AIN and the implementation of AISUP during the 12th Annual Conference in Warsaw. Also, the JFTC made a brief presentation on the activities of AIN including AISUP at the technical assistance program for developing countries held in Japan in September 2013 and on the teleseminar held by Merger Working Group in April 2014. In addition, the JFTC disseminated [AISUP Flyer](#) together with the ICN Work Products Catalogue at various fora.

Managing the AISUP

The technical assistance program through AISUP has been implemented to recipient agencies from India, Kazakhstan, Kyrgyzstan, Moldova, Mongolia, Tanzania, and

Zambia by supporting agencies from the following jurisdictions: France, Germany, Italy, Mexico, Portugal, and Russia with the cooperation of other agencies.

Building awareness of ICN work products

The AIN promotes ICN work products by taking advantage of opportunities at various events. As an example, the JFTC made a presentation on the relevant work products in the session on role of international cooperation at the 3rd Association of South East Asian Nations Competition Conference held in Singapore from July 4 to 5, 2013.

Outreach

Chair's Outreach Initiatives

The Chair introduced a few mechanisms to improve communication with members and NGAs, including: a *Chair's Update* that provides a summary of current ICN work and projects, ICN town hall teleseminars; “intro to ICN” teleconferences; and an ICN information session on the margins of the UNCTAD annual meeting.

After taking over the Chair's position from Eduardo Pérez Motta in September 2013 Mr. Andreas Mundt continued these good initiatives and offered support to other ICN members also conducting outreach efforts. Moreover, the Chair began an outreach initiative in the direction of the media. He gave interviews and contributed to various articles to raise the awareness of ICN's work, thereby making the work of the ICN available to a wider audience.

ICN Blog

In November 2009, the ICN launched an online ICN Blog & Bulletin Board. The ICN Blog serves as a virtual bulletin board for updates and highlights about ICN events, ICN work, member agencies, and the international competition community at large. The ICN Blog's audience has grown substantially, with 15000-20000 visits each month during 2013-2014. Typical postings include notices of ICN teleseminars, ICN newsletters, workshop and conference updates, and policy and enforcement news from member jurisdictions. The US FTC manages the ICN Blog at www.icnblog.org.

NGA Liaison

The NGA Liaison helps better engage NGAs from diverse backgrounds and geographic distribution to participate more actively in the ICN, so that the network can benefit from a wide spectrum of views and interests.

2013-2014 Summary of Work

Initiatives in support of NGA Engagement

Building on the NGA Toolkit, produced in the year 2011-2012 and addressed to members and NGAs on how NGAs can be more active, the Welcome Track was launched and approved in the year 2012-2013, again under the leadership of Vice Chair and NGA Liaison Bruno Lasserre.

With the view to foster not only NGA engagement, but also member engagement, especially new members and less or non active members, the Welcome Track is intended to members to encourage them to be more active. Available on the ICN website, the Welcome Track is organized like a checklist to guide interested members through important phases of the ICN. It includes the eight following steps:

- Step 1 - Applying for membership,
- Step 2 - Becoming a member,
- Step 3 - Getting the assistance of “a welcoming guide”,
- Step 4 - Getting familiar with the ICN through calls for new members,
- Step 5 - Getting involved in one or more Working Groups,
- Step 6 - Recruiting NGAs,
- Step 7 - Interacting in person with other members and NGAs, and
- Step 8 - Having rendez-vous calls with your “welcoming guide”,

Breakout session on NGA engagement at ICN Annual Conferences

The 10th ICN Annual Conference in The Hague was the first to include a dedicated breakout session on NGAs. A draft of the NGA Toolkit was discussed during the session. The NGA Engagement breakout session at the 11th ICN Annual Conference in Rio was about building an effective partnership between NGAs and agencies and sharing experience in the context of different jurisdictions. The NGA Engagement breakout session at the 12th ICN Annual Conference in Warsaw included a presentation of the “Academic Hubs Project” led by Mr. Bill Kovacic, as well as a panel discussion on the interaction between competition authorities and the private sector in relation to the design and implementation of competition laws in various jurisdictions. The “Academic Hubs Project”, which originated from the discussion held at the Rio’s NGA Engagement breakout session, seeks to foster cooperation

between academics and the ICN by mapping out all academic hubs specialized in competition law and policy in the world. The results of this Project will be presented at the NGA Engagement breakout session of the 13th ICN Annual Conference in Marrakech, which will also organize a discussion on how to build and develop constructive relationships between NGAs and competition agencies. A high level panel of NGAs who are former enforcers will share their experiences.

Section III: Operational Working Groups

Operational Framework Working Group

The Operational Framework Working Group ([OFWG](#)) was established at the first ICN Annual Conference in Naples, Italy in September 2002. The mission of the OFWG is to provide recommendations on operational and governance issues of the ICN to the SG. In 2013-2014, the Brazilian Administrative Council for Economic Defense, Federal Antimonopoly Service of the Russian Federation and the Italian Competition Authority chaired the OFWG.

2013-2014 Summary of Work

In 2013-2014, the OFWG started a discussion on several issues raised at the SG meeting of April 10, 2013 during which the Secretariat reported on applications for SG membership for the 2013 – 2015 term and the process for chair selection. The issues raised at the SG meeting concerned the governance structure of ICN, in particular the size and composition of the SG and the role of the ex-officio members. The OFWG co-chairs prepared a paper which was used as a basis for discussion among the OFWG members in two conference calls, whose focus was mainly on two issues: whether more should be done to attract new applicants to the SG, and how the role and the terms of ex-officio SG members could be reconciled with those of the elected SG members. Given the complexity of these issues, the OFWG will continue the discussion after the annual conference in Marrakech, that is, during the 2014-2015 ICN year.

Membership Working Group

The Membership Working Group, co-chaired by the Korea Fair Trade Commission and the Comision Nacional de los Mercados y la Competencia of Spain, was established at the first ICN Annual Conference in September 2002. Its main purpose is to accept applications for ICN membership from competition agencies around the world, examine them under the criteria for membership set out in the Operational Framework of the ICN and refer the case to the SG for the members' review and consensus.

Since the 2013 ICN Annual Conference, the Membership Working Group has reviewed applications for entry to the ICN and the SG approved the following new ICN members:

- Algeria Competition Council of Algeria
- Comisión Nacional de Defensa de la Competencia - Pro-Competencia (Dominican Republic)¹
- Competition Commission of Hong Kong
- Council of Competition Protection of the Kingdom of Saudi Arabia

The new and successive members noted above help make the total number of the ICN membership mark 129² agencies from 115³ jurisdictions as of 16 April 2014.

¹ This agency will remain in this document only if approved by the SG at the Apr 16 meeting.

² This number is based on the approval of this agency at the April 16 SG meeting.

³ *Ibid.*

Appendix: Overview of 2013 – 2014 ICN Working Group Achievements

Advocacy WG	<ul style="list-style-type: none"> ▪ The Competition Benefits Project: chapter on practical guidance, on explaining the benefits of competition to government. ▪ The Competition Culture Project: developing framework and guidance (interim report on survey) ▪ The Competition Assessment Project: Recommended Practices on competition assessment ▪ Working with Courts and Judges (teleseminar)
Agency Effectiveness WG	<ul style="list-style-type: none"> ▪ Investigative Process project: Stocktaking report on Competition Agency Confidentiality Practices. ▪ Curriculum project (modules on Exclusive Dealing and Introduction to Cartel Enforcement). ▪ Competition Agency Practice Manual: An evaluation exercise on Effective Knowledge Management and Human Resources (final chapters for each topic) ▪ Four Teleseminars and webinars promoting existing and ongoing work ▪ AEWG Roundtable on Investigative Process held in Washington on 25 March 2014
Cartel WG	<p>Sub Group 1</p> <ul style="list-style-type: none"> ▪ Leniency waiver template ▪ Discussion call series on type of conduct to be investigated ▪ Discussion call series on settlement instrument <p>Sub Group 2</p> <ul style="list-style-type: none"> ▪ Annual ICN Cartel Workshop hosted by the South African Competition Commission, Cape Town ,October 2013 ▪ Update of Anti-Cartel Enforcement Manual on Drafting and Implementing an Effective Leniency Programme ▪ Update of Anti-Cartel Enforcement Manual on Digital Evidence Gathering ▪ Anti-Cartel Enforcement Template Update ▪ Information Sharing Mechanisms Charts
Merger WG	<ul style="list-style-type: none"> ▪ Interim Report on the state of play of “International Merger Enforcement Cooperation”. ▪ 3 teleseminars held on the issue of International Merger

	<p>Enforcement Cooperation (alignment of proceedings; investigations; assessment and remedies)</p> <ul style="list-style-type: none"> ▪ Assessment of the level of use and implementation of MWG products by using RP self- assessment tools. ▪ Work to promote the familiarity, use and implementation of MWG work product: (i) teleseminar to promote the implementation and use of the Chapter on “Economic Analysis in Merger Review”; (ii) teleseminars to promote use of RP on merger notification and procedures and RP on merger analysis; (iii) updated version of the merger notification and procedure template; ▪ Framework for Merger Review Cooperation (Survey on use and continued administration)
Unilateral Conduct WG	<ul style="list-style-type: none"> ▪ Recommended Practices on Predatory Pricing ▪ Workshop in Stockholm (September 2013) on Exclusive Dealing ▪ 3 Webinars on (i) Unilateral Conduct by State Owned Enterprises; (ii) Assessment of Loyalty Rebates and Discounts; (iii) Commitments in Unilateral Conduct cases. ▪ Discussion on recent Unilateral Conduct cases (in the context of regular Member and NGA calls)
AIN	<ul style="list-style-type: none"> ▪ Activities to engage the Advocacy and Implementation Network ("AIN")(reaching out to younger agencies; taking stock of technical assistance activities; updating catalogue of work products) ▪ Activities to promote the AIN and the AIN Support Programme (AISUP) ▪ Building awareness of ICN work products
Operational Framework WG	<ul style="list-style-type: none"> ▪ Discussion at SG request concerning (i) applications for ICN membership and (ii) process for chair selection ▪ Discussion paper and conference calls covering governance issues: (i) size and composition of SG; (ii) role of ex officio SG members compared with elected SG members
Membership Working Group	<ul style="list-style-type: none"> ▪ This year, four⁴ new member agencies joined (competition authorities from Algeria, Dominican Republic, Hong Kong and Saudi Arabia)

⁴ *Ibid.*