

Cartel Working Group

2021-24 - Working Group structure and three-year plan

MISSION

The mandate of the [Cartel Working Group \(CWG\)](#) is to address the challenges of anti-cartel enforcement, including the prevention, detection, investigation and punishment of cartel conduct. At the heart of antitrust enforcement is the battle against hard core cartels directed at price fixing, bid rigging, market allocation and output restriction.

ORGANISATION

The CWG is co-chaired by the Italian Competition Authority (AGCM), the Federal Anti-Monopoly Service of Russia (FAS) and the Fiscalía Nacional Económica (FNE) of Chile.

It consists of two sub-groups:

- Subgroup 1: Legal Framework ('SG1'), which addresses policy-level issues of hardcore cartel conduct and is co-chaired by the Hungarian Competition Authority (GVH) and the Turkish Competition Authority (TCA). Japan Fair Trade Commission (JFTC) and Hong Kong Competition Commission (HKCC) are project leader for the organization of the Asian-Pacific friendly webinars.
- Subgroup 2: Enforcement Techniques ('SG2'), which focuses on the organization of the yearly Workshop, is co-chaired by the Netherlands Authority for Consumers and FNE.

There are currently 69 member agencies in the CWG ranging from large authorities with significant experience in cartel enforcement to smaller or younger agencies with limited experience and differing resources at their disposal. In addition, NGAs from 39 jurisdictions participate in the work of the CWG.

LONG TERM GOALS

The CWG will strive to achieve the following goals:

1. boosting competition authorities' ability to detect, investigate and punish cartel conducts, including in a digital environment;
2. fostering convergence by sharing expertise among competition authorities and NGAs and identifying good practices in different areas of anti-cartel enforcement;

3. improving the ability to engage in international enforcement cooperation;
4. supporting inclusiveness by encouraging new members to join the CWG, assisting newer agencies, as well as enhancing the involvement of NGAs; and,
5. ensuring that existing CWG work products are updated and promoted in order to facilitate their implementation by ICN members and NGAs.

In planning its work for the three years (2021-2024), the CWG will consider international cooperation as one of its strategic goals.

2021 – 2024 STRATEGIC PLANS

Strategic Goal on International Cooperation

Improving effective enforcement cooperation between competition authorities has been a priority for the ICN for many years.

On 21 January 2021, the ICN and the OECD published their first [Joint Report on International Enforcement Co-operation](#). The Report outlines key aspects of the current state of international enforcement co-operation between competition authorities. The Report also proposes future areas of focus and development for consideration by competition authorities, the ICN, the OECD and other interested parties to address the challenges identified. To progress in the areas identified in the Report, the Steering Group established a Special Project Group on International Cooperation.

The importance of this topic also emerged from the results of the ICN Third Decade Survey among the ICN members: 76% of respondents think that the ICN should pursue more work product devoted to tools that facilitate agency enforcement cooperation. The top examples listed by respondents of the types of work products that would be helpful included, among others:

- create more enforcement cooperation work product;
- address cooperation at workshops and ICN events;
- update existing cooperation tools (e.g., model waivers);
- use hypotheticals or case studies/examples of good cooperation for discussion.

During 2021-2024, the CWG will consider to pursue one or more of the following works:

1. Updating existing work products:
 - a) The [Anti-Cartel Enforcement Template](#): ensuring that as many as possible templates are updated/completed and posted on the ICN website.
 - b) [Leniency Waiver Template](#) (last update: 2014); and/or
 - c) [Charts Summarising Information Sharing Mechanisms](#) (last update: 2012); and/or

- d) Chapter on [International Cooperation and Information Sharing](#) (2013) of the Anti-cartel Manual (in light of the findings of the ICN/OECD Joint Report, and the findings of the *ICN Member Survey on Trends and Developments in Anti-Cartel Enforcement in the Second Decade of the ICN (2011-2020)*, see Project 1 of [2020-2021 Workplan](#).
2. Creating new work products: hypothetical case studies on international cooperation on cartel enforcement to be discussed at workshops and for training purposes.
3. Disseminating and promoting the use of existing work products: continuing the activities under Project 1 of the 2021-2022 annual plan (see below).

Depending on possible needs arising from the work carried out, the CWG will liaise with the Special Project Group on International Cooperation.

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Annual Plan

2021 – 2022 Projects

Pursuant to the working group structure and the three-year strategic goals outlined above, the Cartel Working Group will work on the following projects during the 2021-2022 ICN year:

Project 1. Dissemination, Implementation & Outreach

Project 2: Cartel Webinar Series

Project 3: 2022 Cartel Workshop

Project 4: Horizontal Cooperation and Crisis Cartels at time of Covid-19

Project 1 - Dissemination, Implementation & Outreach

The CWG will make efforts to encourage more ICN members to join the CWG and increase the level of participation from members and NGAs within the CWG. It will improve the accessibility of CWG updates and work product, including the consideration of the following: keeping the CWG page on the ICN website up-to-date, including with respect to the ICN calendar of (CWG) events; uploading webinar materials and recordings; translating CWG work products.

The CWG will identify key existing work products to be updated, disseminated and promoted within its members. In particular, during 2021-2022, the CWG will concentrate its efforts on the following work products:

- The [Anti-Cartel Enforcement Template](#): the CWG co-chairs will develop a plan for promoting this transparency tool among its members and ensuring that it is regularly updated and accessible on the ICN website.
- The [Guidance on Enhancing Cross-Border Leniency Cooperation](#): the CWG will disseminate the use of this work product in one of the Cartel Webinar Series (Project 2) and in a breakout session of the 2021 Cartel Workshop in Portugal and the 2022 edition (Project 3).
- The revised Chapters 3, 4 and 5 of the [ICN Anti-Cartel Enforcement](#), approved at the 2021 annual conference: this work-product, together with the scoping paper [The Impact of Digitalization in Cartel Enforcement \(Big](#)

[data & Cartels](#)), will be promoted in the context of a webinar dedicated on agencies' deployment of various digital tools or solutions to boost their investigative capacity.

Contact details: the CWG co-chairs

Project 2: Cartel Webinar Series

During 2021-2022, the CWG will organise a series of webinars, also in Asian-Pacific friendly time zones, on topics of interest for the ICN members and NGAs, based on the insights from the *ICN Member Survey on Trends and Developments in Anti-Cartel Enforcement in the Second Decade of the ICN (2011-2020)* and results of the Third Decade Project. In particular, the CWG envisage the following webinars:

1. Webinar on “Implementing Effective Leniency Programs: Lessons Learnt and Challenges Ahead”, including the topic on cooperation in leniency cases.
2. Webinar on “A Trustbuster Toolbox for Managing Complex Cartel Cases”, to provide tips and guidance on handling complex investigations also with the help of digital tools
3. Webinar on “Crisis cartels at times of Covid-19” (see project 4);
4. Webinar on “Criminalization of Cartel and Bid-rigging Cases: How to Ensure Effective Enforcement”.

Contact details: Turkey and Hungary (Sub-group 1 co-chairs)

Contact details for Asian-Pacific friendly webinars: Japan FTC and Hong Kong CC.

Project 3: 2022 Cartel Workshop

Depending on the evolution of the pandemic, the CWG will organize the 2022 Annual Cartel Workshop in Auckland, New Zealand in cooperation with the host agency.

Contact details: Chile's FNE and Netherlands ACM (Sub-group 2 co-chairs)

Project 4: Horizontal Cooperation and Crisis Cartels at time of Covid-19

The objective of the project, started in 2020, is to share experience and discuss the main challenges and pressures that competition agencies face when assessing crisis



cartels and horizontal coordination in the context of Covid-19 pandemic (see Project 2 of the [2020-2021 workplan](#)). In view of the annual conference 2021, the CWG is currently finalising a written document collecting and highlighting the main features of competition authorities' statements and guidance on cooperation aimed at tackling shortage and other disruptions in the supply chains during the Covid-19 emergency. In 2021-2022, this document will be further enriched with a section on crisis cartels: the CWG will collect relevant past work of the ICN and other organizations, relevant case law in addressing policy and enforcement issues raised by crisis cartels in order to promote such work to the CWG, and in drawing lessons learnt from the past.

Contact details: Italy's AGCM, FAS Russia and US DOJ