

## **International Competition Network**

### **Seoul Conference**

#### **Capacity Building and Policy Implementation Working Group – Introductory remarks**

My task is to briefly introduce this session in which the work of the Capacity Building and Policy Implementation Working Group will be presented to the conference.

You will recall that the report of this Working Group to the 2003 Merida conference comprised two broad elements. The first focused on identifying capacities that required strengthening. The second focused on implementation challenges. You will see that the Working Group has maintained this dual focus and it has begun to delve more deeply into some of the themes and issues raised in the Merida report.

There are then effectively six reports that the Working Group will present to the plenary and which are already contained in the conference documents. Three of these are concerned with aspects of technical assistance. The remaining three – one of which has already been presented at yesterday's Seoul Forum – deal with key aspects of policy implementation which essentially examine strategies and approaches designed to strengthen the enforcement of competition policy and law in the transition and developing economies.

This in fact is probably an accurate, if somewhat cumbersome, description of the pre-occupations of the CBPI working group – it is concerned with strategies and approaches designed to strengthen the enforcement of competition policy and law in developing and transition economies, which include identifying appropriate technical assistance from the mature jurisdictions of the developed world to their younger and less well resourced counterparts in the developing and transition economies.

A characteristic feature of the ICN from day one has been its inclusiveness manifest in its strong commitment to include in its ranks competition authorities from the developing and transition economies. This is also reflected in the concrete workings of the network. The mere existence of this working group is clear evidence of the ICN's commitment to its developing and transition economy members. The amount of effort that the large mature agencies have put into this working group and into other initiatives – for example, fundraising – is further evidence of the importance that the ICN attaches to its developing and transition economy membership.

You will understand that I do not demean these efforts when I insist that they are the product not of charity but of self-interest, enlightened self-interest. In fact this knowledge serves to re-assure me of the sustainability of this direction and these initiatives.

The interest that we all have in effective competition law and policy in developing and transition economies is not difficult to discern. After all, we know why we are here. It's partly because we have seen what has happened in some very large and important developing and transition economies where the pace of liberalisation has drastically outstripped the introduction of rules and institutions designed to support effectively functioning markets. It's partly because we know that with the rapid pace of liberalisation of international trade and investment, we have new geographic and even product markets which are potentially susceptible to the same distortions that are found in national markets but which are, at best, only very imperfectly susceptible to the oversight of national authorities. It's because we know that if we do not start thinking of ways of confronting these new realities, not only will we not catch the international price fixers, but we will ultimately be complicit in slowing down international flows of trade and investment, an outcome which serves no-one's interests.

The consequences of a failure to grasp these realities and to confront these problems are most graphically illustrated by the outcome of the Cancun trade talks. Here we saw that the developing countries have developed the power to dispose of, to halt, initiatives that are not to their liking. With the development of new blocs such as that between India, Brazil and South Africa we will begin to appreciate that this ability on the part of developing countries to **dispose** is rapidly being elevated into a positive capacity to **propose**, to lead. In short, after the inevitable, but thankfully brief, period of recrimination and frustration, we are seeing the positive outcome of the Cancun episode for international trade relations.

But we in the international competition arena can learn from developments in the trade arena. We don't have to reinvent the wheel. We don't have to first go through failure in order to be persuaded of the importance to listen to, to include, developing countries in our deliberations and decisions. We can pre-empt this by ensuring it at the outset.

This is why I think that it's important that we go beyond the positive initiatives that the ICN has already put in place. We need to think of mechanisms for strengthening the level of developing country participation in the structures of the ICN, in the control structures such as the Steering Group and this conference and in each of the working groups.

One suggestion is to re-think the virtual character of our organisation, or, what is the same thing, to work out how the secretariat function is going to be performed going forward. This is of particular significance for developing countries because, in my view, the key role of the secretariat of any organisation is in facilitating and strengthening the engagement of the membership with the organisation, particularly with that part of the membership who, for whatever reason, are less able or willing to engage fully. We are all highly indebted to our Canadian colleagues for the selfless, not to mention highly competent, role that they have played in this regard. But this clearly cannot continue ad nauseum. Maybe the answer doesn't lie in a full-time secretariat with all that implies – but we need to think about these kind of seemingly tedious organisational issues. If not, I fear that we may well not be able to broaden and deepen the scope of membership engagement with the ICN to the inevitable detriment of the developing country component of that membership. And to the ultimate detriment of the objectives of the ICN.

Another suggestion is to start thinking of ways to broaden the participation of NGAs in the ICN. While I am full of praise for the role of members of the private bar in the merger related work of the ICN, we have to acknowledge – as I am sure they would – that their interests and capacities do not encapsulate all of the concerns of an organisation like the ICN. We need to complement this by deepening our engagement and co-ordination with development-oriented groupings like the World Bank, UNCTAD, the WTO and the OECD's Global Forum. We need to reach out to international consumer groupings like Consumers' International and others. By reflecting more deeply on our internal operations and on our external relations we will make a reality of our commitment to inclusiveness, particularly to the inclusion of developing countries.

We should, indeed, not shy away from constant evaluation of the contribution of this working group. While I think that the CBPI working group has firmly placed development on the ICN agenda, we should be alert to the danger of ghetto-ising developing country issues in a single working group, while the mainstream, core work of the ICN – for example, the merger and cartel work – proceeds without meaningful developing country participation. That would, in my estimation contribute to the marginalisation of developing countries in ICN work with all the potential consequences outlined above. I think that a recent proposal made to the SG by Ireland to twin developing and developed country co-chairs across all the working groups merits serious attention. It's pleasing to see that this is, for the most part, the approach that is being followed even in the absence of formal adoption – the vast majority of working groups and sub-groups will be co-chaired by developed country and developing and transition economy representatives. However, formal adoption of this approach may send the right signal – in our country, certainly,

while, in our efforts to counter the on-going consequences of past discrimination, we have shied away from excessive regulatory oversight, we are also acutely aware that reliance on goodwill alone is insufficient and naïve.

In conclusion it remains for me to thank our EU and Mexican colleagues for their sterling role in co-ordinating the work of the CBPI working group over the past year and all of those developing and developed countries that have devoted their energies and resources to the tasks of the working group. I hope that the good work on developing country continues. In particular, I hope that when we meet in Bonn next year that you will see this reflected in the particular contributions of developing and transition economies across the various working groups of the ICN.

Thank you.