

出國報告（出國類別：出席國際會議）

出席國際競爭網絡（ICN）2012 年第 11 屆年會及相關會議報告

服務機關：公平交易委員會

姓名職稱：委員 孫立群

視察 杜幸峰

視察 林馨文

派赴國家：巴西里約熱內盧

出國期間：101 年 4 月 13 日至 4 月 23 日

報告日期：101 年 5 月 16 日

出席 2012 年國際競爭網絡 (ICN) 第 11 屆年會及相關會議報告

壹、目的：參加 2012 年 ICN 第 11 屆年會及相關會議

一、會議時間：2011 年 4 月 16-20 日

二、地點：巴西里約熱內盧(Rio de Janeiro, Brazil)

三、出席會議名稱：

1、4 月 16 日：國際商業總會 (ICC) 圓桌會議

2、4 月 17 日：ICN 會前競爭與發展論壇 (IDRC Pre-ICN Forum on Competition and Development)。

3、4 月 17-20 日：「ICN 第 11 屆年會(The 11th Annual Conference)」。

四、ICN 年會出席代表：計有來自美洲、歐洲、非洲、亞洲 (含我國) 等 123 國 600 多位代表。

貳、會議情形

一、4 月 16 日為 ICC 圓桌會議：本年度會議主題為「競爭執法與遵循：機關與事業間之對話 (ICC Roundtable on Competition Enforcement and Compliance: A dialogue between agencies and business)」。由 ICC 競爭委員會代理主席 Paul Lugard 致詞後，安排兩場座談，主題及內容如次：

(一) 第 1 場：南美洲競爭主管機關執法優先議題及企業反應 (Enforcement priorities for South-American competition agencies and business responses to these priorities)：

1、本場次主講人為巴西經濟防衛行政委員會(CADE)代理主席 Olavo Chinaglia，內容在介紹巴西競爭法令於 2011 年 11 月 30 日修正後之最新發展狀況，包括：

(1)調整機關架構：巴西原先之主管機關架構有三，其一為財政部，負責結合案件之審查及倡議業務；其二為司法部，負責個案調查；其三為獨立機關 CADE，負責關於結合及其他所有反競爭行為之行政裁決。而修法後，結合案件之審查及個案調查均改由 CADE 全盤負責，另財政部負責倡議業務。

(2)巴西結合審核係採行事前管制制度：巴西亦採雙門檻制，分別為巴西幣(REAL) 4 億元及 3 千萬元(約合新臺幣 70 億元及 5 億元)，

審查期間為 240 天，可再延長 60 或 90 天。

(3)擴充機關人員及設備：增加約 200 名員額，負責市場研究及經濟分析業務。

(4)另有一些程序及文件要求上之修正；新、舊法過渡期間為 6 個月。
預計本年 5 月底開始運作

2. 本場次評論人計有 4 位，其評論內容如下：

(1)OECD 競爭處國際關係組組長 Hilary Jennings 指出，經驗影響判斷，因此一國競爭法的立法及執法期間長短很重要，例如很多國家都耗費大量行政資源在不重要的結合案件上，因此申報制度的設計及運作很重要；另外像是經濟分析及高科技調查手段也是近年重要的議題，如果缺乏會影響有效執法。

(2)德國巴斯夫公司南美分公司法務處處長 Andre Gustavo de Oliveira 介紹該公司在南美洲的遵法規章，該公司在南美洲計有 4000 多名員工，自 2002 年起即開始施行遵法計畫，其重點在於教育訓練，2011 年單是在巴西之部分，實體訓練人數即有 367 人、電子課程訓練人數 3127 人。另該公司尚採取發行內部刊物、要求員工簽署遵法合約等方式推行其遵法規章。

(3)聖保羅大學經濟學教授 Elizabeth Farina 表示，巴西市場特色為規模巨大而且開放，與其他南美洲國家不同。1962 年開始有競爭法、1994 年開始注重結合管制及卡特爾，下一步會加強垂直交易限制之部分。其另提及，由於個別業者之遵法規章均為機密，因此學者難以對此領域進行研究。

(二) 第 2 場：企業增進遵法之策略 (Company strategies to improve antitrust compliance)：由美國 Baker Botts 律師事務所合夥人 Mr. Chuck Webb 主持。

1. 本場主要由美商奇異公司(General Electric)介紹該公司之遵法規章（內容為機密），該公司 2011 年總收入約 1470 億美元，其中美國地區約 700 億、歐洲地區約 290 億、亞洲地區約 230 億，全球據點超過 150 個，員工約 30 萬人，總共約有 1,300 個人員負責遵法規章業務，其中並有很多為專責人員。奇異公司對員工均強調培養遵

法信念，要求簽署遵法承諾文件，遵法為員工之義務，如違反有罰則，員工有疑問時可找經理、法律顧問甚至負責人洽談；該公司十分重視預防(prevention)、偵側(detection)、回報(response)。

2. 主持人對奇異公司提問：美國的寬恕政策適用對象亦包括員工個人，如果員工申請寬恕，會被怎樣？奇異公司答：會被開除，因為參加這麼嚴重的違法行為竟然沒有上報公司。Paul Lugard 表示，企業的遵法規章目前幾乎是必備的，尤其世界各國幾乎均有競爭法、競爭主管機關、寬恕政策等等，非常重視卡特爾的查處，因此如何真正及有效在企業內部建立遵法制度是很重要的，而主管機關也應視企業遵法制度之深淺程度，適時給予獎賞（reward，主要指處罰之減免）。Elizabeth Farina 亦表示，如果有一個完善體制的建立，應該可在公司或集團內部漸漸散布遵法的觀念。
3. 參加人提問：多國之競爭法主管機關人員如南非、匈牙利、土耳其等，均對於因遵法規章而對企業給予獎賞之說法提出質疑，包括：守法不是企業的義務嗎？何以因企業訂定內部遵法規章就減輕處罰？且這樣很可能造成企業只是拿遵法規章來換取減免、甚至教育企業及其人員如何隱匿及消滅證據。又，同樣是反托拉斯法的領域，何以單獨就卡特爾之部分有此種措施？
4. 對於上述質疑，歐盟競爭總署處長 (Director for Policy and Strategy at the Competition Directorate General of the European Commission) Carles Esteva-Mosso 回應表示，以機關之角度，當然是要鼓勵及教育企業守法，雖然不可能 100% 消弭違法，但如果因此而消滅 10% 之違法行為，有何不好？建立基層員工守法文化，才能落實在企業整體，且如企業有建立遵法制度之誠意，也不宜因一個員工不守法就對企業高度苛責。以企業角度而言，應該是希望絕對不要觸法、而不是刻意去違法然後換取減免；因此不認為基於遵法規章而給與獎賞，會有這麼大的疑慮，這只是執法手段之一，且主管機關可藉由與企業間的對談或會議來保持監督。
5. 美國 FTC 國際卡特爾處副處長 Elizabeth Kraus 亦表示，此乃透過遵法文化之建立而避免違法，FTC 對於企業遵法規章之主要審視因

素大致有：制度之建立、維持、專責人員狀況；年度訓練、內部教育情形；以白話方式為資訊傳播、內部網路資源建立；外部網路是否設有公眾反映意見管道；年度回報狀況等。

二、第 2 天（4 月 17 日）

4 月 17 日為 ICN 會前研討會，由國際發展研究中心 (The International Development Research Center, IDRC) 舉辦，主題為「政府是市場參與者還是市場力量的捐客」(The State as a Market Player or a Market-Power Broker?)，內容係在探討競爭法在國營事業經營行為之適用：

(一) 第 1 場：ownership networks and the small worlds

1. 主講人為巴西教育研究中心 Sergio G. Lazzarini，介紹巴西獨特的國營事業及關係企業集團結構，利用垂直及水平關係立體圖示說明巴西政府在鋼鐵業、電信業、電業等多項產業之持股及參與經營狀態，以及近年來持股變動及民營化之狀況，包括外資比例大幅增加；股權分散；集團內形成小世界、集團與集團間亦有投資連結關係等。目前此等集團企業之主要股東角色大別有四類，分別為政府、銀行、外資、退休基金。有人用納許均衡(Nash Equilibrium)來解釋這種現象，說明因單一企業個別經營難以得到所有東西，所以要藉集團間之連結關係來達到集中資源、分散風險之目的。
2. 與談學者則指出主講人所述為巴西的經濟體特色，並表示政府領導及影響經濟的力量不可小覷，且會受到選舉影響，認為政府的介入可以達到公共政策目的，造福國內經濟及國家整體之競爭力。2001 起巴西競爭法主管機關有開始注意國營事業之問題，但是尚未發現重大疑慮，不過仍有一些結合方面的問題，未來仍須持續注意。

(二) 第 2 場：State-owned companies, state-related firms, and the challenges to competition，由墨西哥、中國大陸、智利、巴基斯坦等國介紹各該國內之國營企業狀況

1. 墨西哥：由墨西哥聯邦競爭委員會主任委員 Mr. Eduardo Pérez Motta 介紹該國的國營事業獨占狀況及競爭法執法情形。該國 2011 年修法後，行政罰鍰提高到年營業額 10%、且就惡質卡特爾行為訂有 3 至 10 年之刑期規定。國營事業之行為一樣要經過競爭法的檢視，檢視

重點在於對於關鍵設施(essential facilities)開放使用狀況、市場參進障礙、產業主管機關之價格管制、結合管制、效率增進等。該國先前並曾處罰過國營石油事業對加油站要求獨家交易之案例。

2. 中國大陸：主講人香港大學學者 Thomas Chang 表示，在中國大陸政府介入產業經營的狀況甚為普遍，凡是想得到的重要產業大多均有國營事業參與經營，惟近年亦開始調整，訂定 12 年計畫，預定在 2030 年之前將國營事業產出占整體產業之產出比例，由原本之平均 27% 降低為 10%。該國國營事業涉及競爭法之議題，主要為結合、掠奪性訂價、價格擠壓、拒絕交易等；且須重新思考政府參與產業經營之必要性，因是否能創造最大利益或有疑問。
3. 智利：主講人智利國家經濟檢察署官員 Mr. Felipe Irraráz 表示，該國對產業活動規範秉持四大原則，即經濟活動自由、政府輔助地位、經濟機會平等、依法行政原則等。法律對國營事業並無歧視或賦予特權，目前為止該國國營事業（主要為銀行、郵政、礦業）並未涉及重大競爭議題，實務上曾有之案例為民間業者主張國營事業差別待遇、或招標條件不公。惟如同時涉及其他主管機關之職權時，競爭法主管機關不能逕將國營事業起訴，而只能以行政指令之方式處理，2012 年並訂有相關處理原則以資適用。
4. 巴基斯坦：巴基斯坦競爭委員會委員 Mr. Joseph Wilson 表示，該國國營事業係依特別法律設立，基於社會經濟之考量，原可享有部分特權，1970 年關於獨占規範之法律，即明文排除國營事業之適用。惟 2010 年之競爭法則將國營事業一併納入規範，以促進經濟效率，蓋國營事業易發生無效率之狀況，而無效率又會產生漣漪效應(ripple effect)而再衍生出其他下游或相關產業的無效率現象。實證亦顯示，國營航空事業人事成本不合理過高，惟亦因此而引發國營事業員工抗拒競爭法介入之紛爭。

(三) 第 3 場：State-related firms, economic opportunities, and corruption

1. 本場先由前澳洲競爭及消費者委員會主任委員，現任澳紐文官學院院長 Mr. Allan Fels 帶出國營事業之特色，即通常有市場力量、且早期多被特別法保護而免於競爭法規範。而競爭法對於國營事業相關

問題，可採取之解決手段有：開放市場、促進國內競爭、民營化及事業重組等；但無論如何，最終雖多能夠使國營事業經營行為較為透明化，但獲利率與民營事業比起來還是較低。又，外資問題在各國均為關注焦點，原因不外乎涉及國家安全、市場競爭、本國經濟及社會發展等。

2. 之後印尼、土耳其、摩洛哥等國家則介紹其競爭法對於促進國營事業改革之成效，各國均表示競爭法是對抗國營事業效率低落及腐敗 (corruption) 的有效武器，其中印尼並表示 2011 年競爭法主管機關 KPPU 接到與國營事業相關之通報案件中有 83% 都與招標案有關。

(四) 第 4 場：State action, competition and merger control

1. 本場首先由紐約大學法學院教授 Ms. Eleanor M. Fox 以 UNCTAD 成員之身分，介紹 UNCTAD 之組織、成員、研究方式及研究對象，並說明 UNCTAD 有對國營事業與競爭法之關係作一研究調查，舉出部分調查問卷問項及調查結果。Fox 教授表示，政府可以是問題的解決者、但也可以是問題的製造者，而政府確實需要一點空間去追求公共利益，如何在競爭法及其他公共政策目的之間去找到一條適當的界線，是重要但困難的課題。
2. 南非競爭委員會則說明，該國競爭法對於國營事業問題介入規範之主要目的，是在於開放市場並提供更多選擇。並以結合議題為中心，說明南非在此方面之實務案例。
3. 巴西則表示，大多數人認為國營事業應該不像私人企業一般，對競爭對手那麼有積極侵略性，但事實並不然，因國營事業背後可能有比追求利潤更強之目標。另並舉一巴西油氣業者案例，說明由於天然氣業者之固定成本高、邊際成本低，液化石油氣業者則反之，因此在天然氣業者已經佈有管線之地區，液化石油氣業者是沒有競爭力的，在此情形下，該二種業者間是否有競爭關係存在，值得討論。

(五) 第 5 場：Future of Pre-ICN Forum and role of IDRC: reflecting on the external evaluation 2006-2011 由 IDRC 及聖保羅大學經濟學教授 Elizabeth Farina 等人就今日之報告內容做總結，並對未來 IDRC 之任務為期許。

三、第3天至第5天(4月18日至4月20日):4月18日開始為正式之ICN年會,共計3天,進行方式為:除安排貴賓致詞及專題演講外,主要係依ICN工作小組之工作目標及內容,安排多場各為時120分鐘之專題研討,每場次先邀請數位來賓就主題進行45至60分鐘之大會座談,引出研討重點後,再以不同之子題分為6組,由與會人員自由選擇感興趣之子題,參加為時60至75分鐘之分組討論(Breakout sessions),分組討論亦由不同主持人主持及來賓與談,並開放參加者提問及交流。各場重點內容及本會人員所參與之分組討論過程如下:

4月18日

(一) 第1場:開幕致詞演講

由本次年會籌備委員會主席(同時亦為CADE代理主席)Olavo Chinaglia主持,邀請ICN主席John Fingleton、歐盟執委會副主席Joaquin Almunia、南非競爭委員會委員Shan Ramburuth進行演講。演講內容重點略為:介紹ICN過去10年之成果(如交流競爭法執法經驗並提出具體匯聚報告、協助倡議、推動有效國際合作等)、ICN組織近年之演變(如各工作小組組長輪替狀況、使用更有效之溝通工具、透明度提高等)。

(二) 第2場:倡議(Advocacy)

1. 大會座談:由葡萄牙競爭局局長Manuel Sebastiao主持,與談來賓有印度競爭委員會主委Ashok Chawla、荷蘭競爭局局長Chris Fonteijn、以色列反托拉斯局主秘David Gilo、法國競爭委員會主任委員Bruno Lasserre、巴西經濟監控秘書處秘書Antonio Henrique Silveira等。座談以主持人提出詼諧問題、與談人提出看法之方式進行,問題包括:「遵法規章是法律專家的生財工具?」、「競爭法主管機關無法證明違法時,就以發表市場研究成果來代替?」、「良好的倡議會造成主管機關變成多餘的?」、「對競爭法主管機關來說,不好的壓力也是一種好壓力?」等。座談意見指出,企業必須尋找一套適合自己的遵法規章,而競爭法主管機關需提供企業訂定遵法規章之誘因,例如給予獎賞。
2. 分組討論:計有「向政府機關說明競爭之益處」、「向業界說明競爭

之益處」、「向媒體說明競爭之益處」、「向一般公眾說明競爭之益處」、「市場研究之角色」、「遵法之角色」等主題。本會孫委員立群擔任第 2 小組「向業界說明競爭之益處」之主持人，與談人有巴西經濟防衛行政委員會代理主席 Olavo Chinaglia、羅馬尼亞競爭會議副主席 Valentin Mircea、韓國公平交易委員會主秘 Joong-weon Jeong、律師 Grant Murray 及 Cani Fernandez 等。主持人請與談來賓各自基於公部門及業界代表之角色，表達相關看法：

- (1) 律師據其多年與企業界接觸之經驗，提出具體看法與建議。Grant Murray 提出如何找出有效向企業說明競爭益處之方法、如何站在業者之角度與其溝通，例如製作（寬恕政策）宣導影片是一可採之方法；從企業的角度來看，遵法計畫是避免觸法受罰的方法之一，除了建立遵法規章之外、亦必須有效維護該制度；並對主管機關提出具體建言，包括：應以積極可見的行動去鼓勵及要求事業實行遵法計畫、不能只靠對外發布網站資料或研究報告之方式、必須實地去了解業界狀況、聆聽外界包括企業及社會之看法 (go out to business on the ground; get message out of the society)。Cani Fernandez 則提出必須讓企業瞭解到法律環境的變遷及不遵法的風險，如可能面對刑事訴追、股東或客戶之求償訴訟、商業信譽(reputation)之損失等，須使企業的心態從原先之忽略競爭法規範改為有策略性的遵法(from ignorance to strategy)，且遵法規章之決策者及制度維持者均很重要；並舉獨占行為為例，向主管機關建言表示明確的處理原則、持續的執法以及與經濟學家的合作，均有必要。
- (2) 公部門代表除提出各國實務執法經驗及規範發展狀況以外，共通意見則包括：企業本來就該知道應該以競爭求生存，而且競爭與守法本來就是企業的義務，但競爭倡議仍然是很重要的，主管機關應該協助業者遵法。對於年輕無經驗的執法機關來說，要實地瞭解業界狀況並進行雙方對話，其實不是一件容易的事；相對而言，執法紀錄（比如處分案件）是一個有力的方式，對企業來說也能清楚明瞭執法機關之態度。而遵法規章對企業來說是一個無

法拒絕的誘惑，實務經驗顯示大多數企業訂定遵法規章純粹是爲了獲得罰鍰減免。

(3)主持人亦分享我國經驗表示，本會每年均有百件以上之倡議行動，其中並有直接對高階經理人進行教育之課程，但如何讓企業產生真正的遵法意識，而不是把每一宗案件當成個案、認爲只要有人被處罰或起訴判刑就是終結，並非易事。

(4)最終進行意見交流，其中較有歧見之議題爲對於訂立遵法規章之企業給予獎賞是否適當，公部門之意見傾向認爲應避免給予獎賞，理由有：遵法本來就是企業之義務、避免影響寬恕政策之實行等；但律師則指出，既然寬恕政策都可對於確定已經違法的事業給予全額減免，則相較之下，對於訂立遵法規章之企業僅給予小額減免，並不爲過。

(三) 第 3 場：機關成效 (Agency Effectiveness)

1. 大會座談：由 Europa Instituut of Utrecht University 教授 Annetje Ottow 主持，與談來賓有喬治華盛頓大學教授 William Kovacic、墨西哥聯邦競爭委員會主委 Eduardo Perez Motta、聖保羅大學經濟學教授 Elizabeth Farina、土耳其競爭局副局長 Metin Toprak、肯亞競爭局代理局長 Francis Kariuki 等。座談亦以主持人提出問題、與談人提出看法之方式進行，問題包括：「預算限制對調查程序及人力資源政策之影響」、「知識管理及評估」、「預算削減時推動成效計劃之重要性」等。與談人之意見大致有：機關必須找出執法焦點 (what and where to focus)；時時保持效率，才能面對突如其來的預算削減問題；機關除了埋首於業務之外，也要注意對外搜尋專業人士及專業知識；對機關員工進行教育訓練，亦可委託機關外部人 (outsider) 來進行，但須注意一定要找有實務經驗的訓練者，避免純學者。
2. 分組討論：計有「機關內部經驗有效傳承之祕訣」、「人力資源管理」、「知識管理」、「有效決定 (機關首長層級會議)」...等主題。其中第 5 小組之主題爲「知識管理」，由土耳其競爭局代理協調主任 Ali Demiroz 主持，與談人有歐盟競爭總署 Miek VAN DER WEE、William Kovacic、南非競爭委員會委員 Shan Ramburuth 等人：

(1)歐盟競爭總署表示，知識可分為內隱知識 (tacit knowledge; practical, know-how)及外顯知識 (explicit knowledge; academic, know-what)，另亦可分為個別知識 (individual knowledge)及集合知識 (collective knowledge)，而知識管理之目的就是將這些知識集合、整理、解讀，並有效的傳承給機關員工：

- i. 強調「知識」與「資訊」不同，例如單純的將資料放在網站上，只是「資訊」，必須進一步分類、歸納並設定便於使用者檢索利用之路徑等等，才能將資訊轉化為知識。另知識傳承亦可藉由員工間之交流來達成，例如新進人員、資深人員甚至離職人員間，可舉辦交流研討活動；另在實際案件處理時，亦可搭配資深、資淺員工以 team work 之方式進行。
- ii. 競爭總署表示，其面對人員流動率高、資淺員工眾多之狀況，而雖然資訊很多，但原先沒有集中整合、儲存並整理，難以有效訓練新進員工，之後經過內部網頁之重新設計建置，以有效整合辦案知識。競爭總署當場並展示其新設計之內部網頁，網頁建置依案件類型、行為類型等設有層層路徑，各不同類型之下，列有相關法規、處理原則、認定標準、實務案例、常見課題、宣導資料、文獻等等，可透過直接瀏覽、全文檢索及進階檢索功能等方式利用，便於內部員工學習及知識經驗傳承。

(2)Kovacic 表示：

- i. 可分三種方式來達到知識傳承，第一為資料庫建置，此為必須的，不能只靠個別前、後手的傳承跟人的記憶，以免浪費資料蒐尋時間，而且資料庫之建置也有利於外部人之研究；第二為對新進及資淺人員，必須及早建立基礎教育，比如處理原則及常見問題的灌輸；第三為較深度且可能需時較久之傳承方法，比如師徒關係之建立、研究競賽等。
- ii. 資料庫的建置需要內部人員共同貢獻，才能有效變成轉化成「知識」而非單純之「資訊」，因此機關內部單位間的分工合作很重要，需消除本位主義。又此等資料庫建置後，其資料之「保密」亦很重要，因萬一外流，反而有害於機關有效執法，

因此適度篩選資料也有必要。

iii. 機關年長時，可能很難拋掉過去的包袱而採取新見解、新作法；但過去的經驗其實也是知識基礎跟借鏡。

(3)南非表示，機關一方面須積極招攬優秀人才，另一方面亦須對員工之適任性進行檢視、開除不適任之員工。

(四) 第 4 場：執委會 (steering group)

1. 大會座談：由英國公平交易局執行長 John Fingleton 主持，與談來賓有美國 DOJ 國際特別顧問 Rachel Brandenburger、歐盟競爭總署 Alexander Italianer、波蘭競爭及消費者保護局局長等。座談內容主要在介紹執行委員會之成員，以及 ICN 與其他國際組織如 OECD 間之合作互動關係等，並介紹將以 2 年時間推動之 3 項特別研究企劃：

(1) 「國際執法合作(International Enforcement Cooperation)」：如何在卡特爾、結合及單方行為執法上推動競爭法主管機關間之合作。ICN 已於 2011 年 3 月在美國華府召開第 1 屆執法合作會議，對如何推動合作有深入之討論。日本將於結合工作小組中提出「結合執法合作架構」提案。本項計畫將由卡特爾工作小組 (Cartel Working Group) 負責。

(2) 「調查程序(Investigation Procedure)」：調查程序在各國如何執行，主要著眼於 (a) 工具：如何運用調查之權力，(b) 程序：包含 5 項因素透明度及可預測度、不同角色的不同觀點、內部查核及平衡、檢舉與機密、機密與基本權利。本企劃將由機關成效工作小組(Agency Effectiveness Working Group)負責。

(3) 「與法院及法官之共事(Working with Courts and Judges)」：如何以最有效方式呈現經濟證據。本企劃將由倡議工作小組 (Advocacy Working Group) 負責。

2. 分組討論：計有「國際執法合作」、「調查程序」、「與法院及法官之共事」等主題，其中第 6 小組之主題為「與法院及法官之共事」，由波蘭競爭及消費者保護局副處長 Aleksandra Maczynska 主持，與談人有捷克競爭局副局長 Michael Petr、義大利競爭局主秘 Roberto Chieppa 等：

- (1)捷克設有 2 個專業法庭、各 1 個法官，審理競爭法之案件。捷克表示在法庭上表現出機關已經作好全力配合法官之準備及積極心態，是很重要的；電子證據及罰鍰準則為機關之有力訴訟工具；另機關平日辦理研討會等相關會議時，亦可考慮邀請法官參與。惟義大利看法略有不同，表示據實務經驗，一般法官大多不喜歡利用電子證據，而較傾向找專家學者為口頭解說。
- (2)本場以意見交流時間占大多數，多國代表發言交換在法庭上常見之狀況、曾遇到之困難及建議可利用之解決方法，例如：
- i. 大多數之法官不喜歡經濟證據、也未必想深入了解競爭法。
 - ii. 大多數法官均愛詢問機關如何裁量決定行政罰鍰。
 - iii. 同樣是競爭法案件，但刑事訴訟、民事訴訟、行政訴訟中之關切重點會不同。
 - iv. 如可及早判斷出法官的人格類型（例如傾向傳統或開放）及案件的難易程度，而配合調整進行訴訟之方式，將有所助益。
 - v. 如難以跟法官直接對話，可以考慮平時即多發表相關之文章。

4月19日

(一) 第 1 場：特別企劃 – 和解 (settlements in the areas of cartel, mergers and unilateral conduct)

本場由 CADE 代理主席 Olavo Chinaglia 主持，邀請美國 FTC 委員 Edith Ramirez、巴西經濟防衛部委員 Ricardo Ruiz、歐盟競爭總署 Eric van Ginderachter 等人分別就單方行為、結合及卡特爾領域之和解進行演講。演講指出，和解的內容必須是可執行、有履行可能的事項，故必須讓事業有相當的時間去履行和解內容，比如調整交易條件（單方行為案件）、資產分割時可附加較有價值之資產以吸引買家（即「皇冠珠寶」條款(crown jewel provisions)，結合案件）等；又，事業愈早提出和解方案，談判空間愈大（卡特爾案件尤然）。其中巴西並舉出一實際和解案例：該國設有空瓶回收系統多年，某酒商設計與市面上酒瓶規格不同的瓶子，造成下游業者無法利用現有回收系統回收、成本提高，故提出申訴以致該酒商被處罰，酒商不服提起救濟，主張沒有義務配合現存回收系統設計酒瓶、且此等處分妨礙創新；CADE 認為

這確實涉及創新問題，但是空瓶回收政策及下游業者成本也是需考量之點，判斷需時較久，故最後採和解之方式處理，酒商同意停止生產新款式酒瓶。

(二) 第 2 場：結合 (merger)

1. 大會座談：由美國司法部反托拉斯署代理署長 Ms. Sharis Pozen 主持，與談人有日本公平交易委員會主委竹島一彥、歐盟競爭總署 Mr. Kai-Uwe Kuhn、加拿大競爭局局長 Ms. Melanie L. Aitken、義大利競爭委員會主任委員 Mr. Giovanni Pitruzzella、英國公平交易局局長 Mr. Philip Collins、印度競爭委員會主任委員 Mr. Ashok Chawla 等。其中日本以介紹其先前提出之結合審核合作架構(Framework for Merger Review Cooperation)為主軸（註：曾於本年 3 月 15 日之 ICN 結合工作小組電話會議中進行初步討論），表示該計劃係對所有 ICN 會員開放，日本公平會會建立聯繫列表，希望未來能逐步實踐會員國家間之合作；印度則介紹該國近期之產業自由化及主管機關推動競爭文化之情形，並引發多人對該國實務狀況提問。
2. 分組討論：計有「結合審查熱門話題」及「和解」等主題，其中第 2 小組之主題為結合審查熱門話題，由美國司法部反托拉斯署 Lynda Marshall 擔任主持人，本會杜視察幸峰、巴基斯坦競爭委員會委員 Joseph Wilson，比利時 Juergen Schindler 律師及新加坡 Daren Shioh 律師擔任與談人，主要討論結合之最新發展與修法。杜視察提出執委會所提之「國際執法合作」及日本所提之「結合審查合作架構」概念及未來跨國結合審查合作之重要。Wilson 則提出「效率 (efficiency)」在結合審查中之重要，Schindler 及 Shioh 2 位律師則分別介紹歐盟及東協對結合審查之規範及修法。
3. 另第 5 小組之主題為「和解」，由 CADE 委員 Alessandro Octaviani 主持，英國公平交易局處長 Sheldon Mills 等人與談：
 - i. CADE 表示巴西之結合案件數量持續上升，其中達成和解案件數量則時高時低，並介紹和解內容型態及其比例，67.92% 為行爲性、11.32% 為結構性、9.43% 兩者兼有。在和解階段，並不允許第三人正式參加，須至達成和解後，和解內容才會對外

公開，第三人也不能提出異議或救濟；只有極少數情形，爲了進行市場測試（market test），可能會詢問第三人意見。

- ii. 英國則介紹其 Phase I 審查程序，該國對結合案件採實質減損競爭(SLC)之審查標準，企業可在公平交易局作成決定前提出矯正措施之和解提議，進行協商並待公平交易局正式核准。英國亦表示協商階段同係保密，甚至對有核准權者亦爲保密，核准決定作成者僅於最終階段對完成協商之和解內容進行客觀審查、並決定是否同意。
- iii. 意見交流時，有人建議主管機關在和解階段應增加聆聽公眾意見之作法，但亦有律師提醒主管機關若詢問第三人意見，必須確實瞭解該等意見背後之真正原因爲何、是否與競爭而非競爭者本身之利益有關。英國對此表示，第三人確實可能有提出具體有效意見之能力，但讓其參與和解未必合適、毋寧考慮事後允許第三人提起救濟；又即使詢問第三人意見，也會避免詢問競爭者的意見。

(三) 第 3 場：單方行爲 (unilateral conduct)

1. 大會座談：由美國 FTC 顧問 Ms. Cynthia Lagdameo 主持，與談來賓有南非競爭委員會 Mr. Simon Roberts、智利競爭局 Mr. Felipe Irarrazabal、瑞典競爭局 Mr. Dan Sjoblom 等。座談主題爲掠奪性訂價，南非競爭委員會舉一具體案例討論如何認定獨占事業之成本、定價是否過低、應區分低價行爲係傷害競爭或傷害競爭者等，並表示掠奪性訂價行爲之判斷，並不是只要計算出成本及價格數據即可解決之簡單問題，而且認定違法後，應採何等矯正措施以修復市場，又爲另一問題。其他與談人則紛就南非所述內容表達贊同或不同意見，爭論熱烈。
2. 分組討論：計有「掠奪性訂價試驗之挑戰」、「單方行爲規範目的及執法優先考量」、「和解」等主題，其中第 4 小組之主題爲「單方行爲規範目的與執法優先考量」，由歐盟競爭總署 Luc Peepcorn 及紐約大學法學院教授 Eleanor M. Fox 共同主持，與談人有羅馬尼亞競爭會議副主席 Valentin Mireea 及學者 Mats Bergman：

(1)本小組進行方式為發送一張問題列表給參與者，由主持人對問題發表看法並與參與者進行意見互動，問題計有「大家是否同意單方行為之規範係在保護有效之競爭？」「大家是否同意此等規範須同時兼採形式及效果（當然違法及合理原則）之評估方式，但形式評估必須是經驗證明一定會造成某種效果時始可採用？」「大家是否同意計算消費者福利是一件幾乎不可能的事，因此效果評估重點可能會放在其他競爭者與市場優勢地位者之抗衡能力？」及衍生問項等。主持人及與談人均表示，單方行為之效果評估為一必須進行、但絕對困難之過程，需經過經濟與法律之檢驗、且需探討該等行為之表面目的及終極目的。

(2)意見交流時，則出現對於單方行為之判斷要不要予以類型化之爭論，且亦有業者質疑形式評估可能過於僵化。另巴西一律師提出尖銳問題：「雖然美國跟歐盟都說要考慮消費者福利，但例如微軟跟 Trinko 案等，兩邊實務結論大不相同，是否表示因為涉及本國國民之保護，故國際間對何謂消費者福利並不可能有一致看法？」此提問引發在場之美國 DOJ 及歐盟競爭總署人員各自捍衛其實務決定之立場，最後 Fox 教授總結表示：也許在所有工作小組中，單方行為之主題是最難整合的一個，但大家應有一共識，即此等規範係在保護競爭、而非保護競爭者。

4月20日

(一) 第 1 場：卡特爾(cartel)

1. 大會座談：由歐盟競總署 Cecilio Madero 致詞，美國 DOJ 副檢察長 Scott Hammond 主持，與談來賓有德國聯邦卡特爾署署長 Andreas Mundt、日本公平交易委員會官房審議官南部利之、南非競爭委員會委員 Shan Ramburuth、西班牙國際競爭委員會副處長 Jordi Fornells 等。主題為圍標(bid-rigging)，主持人及與談人對圍標及政府採購之課題表示之看法大略有：預算執行壓力是影響採購行為之重要因素；對於採購人員之教育很重要、訂定有威嚇力之罰則亦很重要；不可否認的，有時政府採購會考慮競爭以外之因素，例如促進建設或地區發展等；在圍標案件中，提供事業認罪之誘因及和解機會，

可節省行政調查及處理成本。

2. 分組討論：計有「圍標案件執法經驗與挑戰」、「與採購機關之合作」、「寬恕政策與和解之關係」、「卡特爾案件和解相關問題」、「國際競爭議題與年輕之競爭法機關」等主題，其中第 1 小組之主題為「圍標案件執法經驗與挑戰」，由巴西經濟法律部處長 Ms. Fernanda Garcia Machado 擔任主持人，本會孫委員立群、荷蘭競爭委員會資深國際顧問 Ms. Siún O'Keeffe、土耳其競爭局專家 Ms. Burcu Can 及 Arnold & Porter 律師事務所合夥人 Mr. Luc Gyselen 擔任與談人，孫委員介紹本會處理圍標之做法、與檢調及公共工程委員會之分工，並介紹本會處理高雄捷運案案例。
3. 另第 4 小組之主題為「寬恕政策與和解之關係」，由歐盟競爭總署處長 Eric Van Ginderachter 主持，與談人有加拿大競爭局委員 John Pecman、法國競爭局 Liza Bellulo、巴西律師 Caio Mario da Silva Pereira Neto 及美國律師 Gary Spratling 等：
 - i. 加拿大介紹該國制度，表示其寬恕政策係為刑事寬恕，競爭法主管機關扮演之角色則是向檢察官提供意見。至於在和解方面，該國經驗亦僅有 1 年，尚在摸索跟建立程序中。加拿大認為寬恕政策本質上也是和解之一種。
 - ii. 法國指出寬恕政策與和解之區別主要有：第一，寬恕政策僅適用於卡特爾案件，和解制度則包括所有類型之案件；第二，只要有人申請寬恕，主管機關就一定要開始相關程序並為准駁，至於和解則主管機關有選擇是否進行和解協商程序之權利；第三，在效果方面，寬恕較為優惠；第四，寬恕制度之要求較為嚴格，故在行政成本之節省方面不如和解；第五，在卡特爾案件，若其中一人獲得寬恕，則會影響主管機關與其他人和解之意願。
 - iii. 巴西律師表示和解是不可避免的趨勢，未成立之和解案件比例很低，但很難建立一套通用處理程序；想達成和解的事業，其優勢一定不如寬恕或認罪協商。又該國對於卡特爾之罰則不夠重、調查手段亦不足，造成寬恕制度成效不彰；雖然有附加寬

恕制度，但迄今無實際案例。

- iv. 美國律師表示該國對於卡特爾案件係課以刑責，故寬恕制度亦為刑事寬恕，且在實務上，90%以上的被起訴者都尋求和解(認罪協商)，此亦有助於法院對其他未認罪者之判決速度。律師並指出，事業當然是看哪種選擇能獲得之利益較大，因此同一案件，會因各國之制度不同，而影響到事業在各國選擇應對的手段。

(二) 第 2 場：閉幕式，包括

1. 各工作小組總結：各工作小組由不同人代表，倡議小組為俄羅斯反壟斷局顧問 Vladimir Kachalin、機關成效小組為墨西哥競爭委員會處長 Heidi Sada、卡特爾小組為日本公平交易委員會官房審議官南部利之、結合小組為義大利競爭局委員 Salvatore Rebecchini、單方行為小組為瑞典競爭局處長 Karin Lunning，分別總和分享這幾天內不同分組討論時之交流心得。
2. 閉幕致詞：由本次年會籌備委員會主席 Olavo Chinaglia 及 ICN 執委會主席 John Fingleton 致詞。Fingleton 致詞時表示，他因為英國公平交易局及競爭委員會二機關合併關係，已辭去公平交易局執行長之職務，故亦將辭去 ICN 執委會主席一職，未來 ICN 執委會將由墨西哥聯邦競爭委員會主任委員 Mr. Eduardo Pérez Motta 擔任，他感謝所有 ICN 成員與他過去 3 年多的共事與合作。F 氏之發言獲得全場起立鼓掌致意。新任執委會主席 Motta 亦發表他對 ICN 未來工作之預定方向及計畫。
3. 2013 年 ICN 年會預定由波蘭主辦，波蘭競爭及消費者保護局局長致詞並播放影片簡介，歡迎各國代表來年造訪華沙。

四、結論、建議與心得

- (一) 遵法規章為目前各國陸續推動之制度，以有效倡議企業守法，並節省競爭法主管機關行政成本；惟對於訂立遵法規章之企業給予獎賞是否適當，仍有相當歧異之看法。
- (二) 機關內部之知識資料庫建立極為重要，必須將單純之過往案例資料轉化為便於利用之知識，以作為經驗傳承之工具，且助於較快訓練新進人員

上手。

- (三) 如何在法庭上對法官說明案件之經濟分析、或在平時即藉發表文章等管道讓法官瞭解競爭法規範立場，為各國競爭法主管機關之共通課題。
- (四) 單方行為之判斷，其行為效果評估為不可避免之過程，在各國實務上均為困難之課題。
- (五) 除了在卡特爾案件領域普遍採行寬恕政策外，於其他案件領域，各國競爭法主管機關似有適度採行和解制度以節省行政成本之趨勢。惟自具體意見交流過程可知，主管機關需指派權責足夠之人員與業者進行協商談判，以確認和解內容，且僅能個案判斷，難以建立制式之程序及認定標準；又若判斷不當，亦有可能縱容嚴重違法行為、或扼制不違法之行為，反造成對市場競爭不利之效果（例如巴西之酒瓶案例）。
- (六) 未來國際執法合作將日趨重要，如何加強與各國執法機關聯繫與合作，尤其是在卡特爾執法及跨國結合案件之審理，本會應審慎規劃，以面對該課題。
- (七) ICN 未來電話會議次數將越來越頻繁，議題亦更深入。本會各處應指定專人就各專題參與討論，以加強我國在 ICN 之參與，更應就各議題提出本會之意見，以爭取各工作小組 Co-Chair 之機會。

附件表：

- 一、ICC 圓桌會議議程、參加人及報告人資料
- 二、IDRC 會議議程及簡介
- 三、ICN 年會議程



ICC Roundtable on Competition Enforcement and Compliance

A dialogue between agencies and business

Organized in conjunction with the ICN annual conference

Monday 16 April 2012, 14h-18h

Venue: Royal Tulip Hotel, conference room Jade, Avenida Aquarela do Brasil, 75 ; São Conrado – Rio de Janeiro – RJ 22610-010

14:00-14:25 **Introductory addresses**

- Professor Theophilo de Azeredo Santos, *Chair of ICC Brazil*
- Paul Lugard, *Acting Chair of the ICC Commission on Competition*

Keynote speaker

- Olavo Chinaglia, *Interim President, CADE (invited)*

14:25-15:55 **Panel 1: Enforcement priorities for South-American competition agencies and business responses to these priorities**

Moderator: Barbara Rosenberg, *Partner, Barbosa, Müssnich & Arago*

Commentators:

- Olavo Chinaglia, *Interim President, CADE*
- Hilary Jennings, *Head of Global Relations, DAF, Competition Division, OECD*
- Pedro Mariani, *General Counsel, AB InBev, Brazil*
- Elizabeth Farina, *Professor at the Department of Economics, University of Sao Paulo*

15:55-16:15 **** Break ****

16:15-17:45 **Panel 2: Company strategies to improve antitrust compliance**

Moderator: James F. Rill, *Senior Counsel, Baker Botts, LLP*

Commentators:

- Carles Esteva Mosso, *Director for Policy and Strategy at the Competition Directorate General of the European Commission*
- Elizabeth Kraus, *Deputy Director for International Antitrust, US Federal Trade Commission (invited)*
- Kaarli Echhorn, *Senior Counsel, European Competition Law & Government Relations, General Electric, Belgium (invited)*
- Anne Riley, *Associate General Counsel, Shell International*
- Paul Lugard, *Former Head of Antitrust Philips and Assistant Professor of Law at Tillburg Institute of Law and Economics (TILEC)*

17:45-18:00 **Closing address**

- Michael D. Blechman, *Vice-Chair of the ICC Commission on Competition*

18:00-20:00 **** Cocktail Party ****

Programme



International Chamber of Commerce
The world business organization

Policy and Business Practices





Monday 16 April 2012

14:00 – 18:00

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Conference room Jade

Competition Enforcement and Compliance

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List of participants

COUNTRY	NAME
BELGIUM	<ul style="list-style-type: none"> ▪ Kaarli EICHHORN, Senior Counsel, General Electric, Brussels
BRAZIL	<ul style="list-style-type: none"> ▪ Laura AFFONSO, <i>Gerente Societário, JBS, São Paulo</i> ▪ Maria Cecilia ANDRADE, <i>Partner, Mattos Muriel Kestener Advogados, São Paulo</i> ▪ Nadia ANDREOTTI TÜCHUMANTEL, <i>Lawyer, Volkswagen do Brasil, São Bernardo de Campo</i> ▪ Patricia Agra ARAUJO, <i>Lawyer, Lobo & de Rizzo Advogados, São Paulo</i> ▪ Pietro ARIBONI, <i>Senior Partner, Advocacia Pietro Ariboni, São Paulo</i> ▪ Onofre ARRUDA SAPMAIO, <i>Senior Partner, O. C. Arruda Sampaio Sociedade de Advogados, São Paulo</i> ▪ Francisco de ASSIS E SILVA, <i>Diretor de Relações Institucionais, JBS, São Paulo</i> ▪ Vicente BAGNOLI, <i>Ph.D. Professor of Law, Mackenzie Law School, São Paulo</i> ▪ Giovanna BAKAJ REZENDE OLIVEIRA, <i>Intern at Ministry of Justice, Brasília</i> ▪ Fabricio BANDEIRA, <i>Lawyer, Ulhôa Canto, Rezende e Guerra Advogados, Rio de Janeiro</i> ▪ Olavo CHINAGLIA, Interim President, Chairman of the Competition and Antitrust Council (CADE) ▪ Flavia CHIQUITO DOS SANTOS, <i>Associate, Sonia Marques Döbler Advogados, São Paulo</i> ▪ Juliana Oliveira DOMINGUES, <i>Head of Competition, LO Baptista, São Paulo</i> ▪ Maria DONATI, <i>Associate, Lobo & Ibeas Advogados, Rio de Janeiro</i> ▪ Elizabeth FARINA, Professor at the Department of Economics, University of São Paulo ▪ Ligia FERREIRA M. ROCHA, <i>Associate Attorney, Advocacia Pietro Ariboni, São Paulo</i> ▪ Gustavo FLAUSINO COELHO, <i>Associate, Tauil & Chequer Advogados associado a Mayer Brown LLP, Rio de Janeiro</i> ▪ Eduardo GABAN, <i>Partner, Machado Associados, São Paulo</i> ▪ Mauro GRINBERG, <i>Partner, Grinberg, Cordovil e Barros Advogados, São Paulo</i> ▪ Rogério Luiz GUIDUGLI VARGA, <i>Manager, Volkswagen do Brasil, São Bernardo de Campo</i> ▪ André GUSTAVO DE OLIVEIRA, Legal Director, South-America, BASF ▪ Vitor JORGE, <i>Attorney, Veirano Advogados, Rio de Janeiro</i>

	<ul style="list-style-type: none"> ▪ Rafael LIMA, <i>Partner, Dannemann, Siemsen, Bigler & Ipanema Moreira, Rio de Janeiro</i> ▪ Pedro MARIANI, General Counsel, AB InBEV ▪ Sonia Maria MARQUES DÖBLER, <i>Founder Partner, Sonia Marques Döbler Advogados, São Paulo</i> ▪ Ubiratan MATTOS, <i>Senior Partner, Mattos Muriel Kestener Advogados, São Paulo</i> ▪ Alberto MONTEIRO, <i>Attorney, Veirano Advogados, Rio de Janeiro</i> ▪ Oliver NEVES, <i>Attorney, Souza, Cescon, Barriou e Flesch Advogados, São Paulo</i> ▪ Renata RESEGUE, <i>Legal Manager, Elavadores Atlas Schindler SA, São Paulo</i> ▪ Silvio Costa RODRIGUES NETO, <i>Head of Legal-Brazil, Shell Brasil Petróleo Ltda, Rio de Janeiro</i> ▪ Barbara ROSENBERG, Partner, Barbosa Mussnich & Aragao, Rio de Janeiro ▪ Guilherme SAMPAIO, <i>Lawyer, BHP Billiton Metais S.A., Rio de Janeiro</i> ▪ Bruno SANTOS, <i>Lawyer, Machado Associados, São Paulo</i> ▪ Alexandre TADEU SEGUIM, <i>Diretor Jurídico, JBS, São Paulo</i> ▪ Paulo, WERNECK, <i>Consultant, Rio de Janeiro</i>
CANADA	<ul style="list-style-type: none"> ▪ Brian FACEY, <i>Co-Chair, Competition, Antitrust & Foreign Investment Group, Blake, Cassels & Graydon LLP, Toronto</i>
ECUADOR	<ul style="list-style-type: none"> ▪ Xavier ANDRADE, <i>Partner, Andrade Veloz, Quito</i>
FINLAND	<ul style="list-style-type: none"> ▪ Jaana BOËLIUS, <i>Senior Research Officer, Finnish Competition Authority, Helsinki</i> ▪ Jukka LEHTONEN, <i>Senior Adviser, Confederation of Finnish Industries, Helsinki</i>
FRANCE	<ul style="list-style-type: none"> ▪ Philippe RINCAZAUX, <i>Partner, Orrick Rambaud Martel, Paris</i>
GAMBIA	<ul style="list-style-type: none"> ▪ Amadou CESSAY, <i>Executive Secretary, Gambia Competition Commission, Banjul</i>
HUNGARY	<ul style="list-style-type: none"> ▪ Miklós JUHÁSZ, <i>President, Hungarian Competition Authority, Budapest</i> ▪ József SÁRAI, <i>Head of Section, International Section, Hungarian Competition Authority, Budapest</i>
ITALY	<ul style="list-style-type: none"> ▪ Salvatore REBECCHINI, <i>Commissioner, Italian Competition Authority, Rome</i> ▪ Alessandra TONAZZI, <i>Senior Official, International Affairs, Italian Competition Authority, Rome</i>
JAPAN	<ul style="list-style-type: none"> ▪ Toshiko IGARASHI, <i>Deputy Director, International Affairs Division, Japan Fair Trade Commission, Tokyo</i> ▪ Shingo KASAHARA, <i>Deputy Director, General Affairs Division, Japan Fair Trade Commission, Economic Affairs Bureau, Tokyo</i> ▪ Hiroshi NAKAZATO, <i>Senior Planning Officer, International Affairs Division, Japan Fair Trade Commission, Tokyo</i> ▪ Toshiyuki NAMBU, <i>Deputy Secretary General for International Affairs, Japan Fair Trade Commission, Tokyo</i> ▪ Kazuhiko TAKESHIMA, <i>Chairman, Japan Fair Trade Commission, Tokyo</i>
KOREA	<ul style="list-style-type: none"> ▪ Youngjin JUNG, <i>Partner, Kim & Chang, Seoul</i>
NETHERLANDS	<ul style="list-style-type: none"> ▪ Paul LUGARD, Former Head of Antitrust Philips and Assistant Professor of Law at Tilburg Institute of Law and Economics (TILEC)
NORWAY	<ul style="list-style-type: none"> ▪ Svern GAULEN, <i>Senior Adviser, Norwegian Competition Authority, Bergen</i>

	<ul style="list-style-type: none"> ▪ Kjell Jostein, SUNNEVAG, <i>Director External Relations, Norwegian Competition Authority, Bergen</i>
SPAIN	<ul style="list-style-type: none"> ▪ Rafael COLOMA OJEDA, <i>Head, International Affairs Unit, Comisión Nacional de la Competencia, Madrid</i>
TAIWAN	<ul style="list-style-type: none"> ▪ Hsin-Wen LIN, <i>Inspector, Taiwan Fair Trade Commission, Taipei</i> ▪ Lih-Chyun SUN, <i>Commissioner, Taiwan Fair Trade Commission, Taipei</i> ▪ Hsing-Feng TU, <i>Inspector, Taiwan Fair Trade Commission, Taipei</i>
TURKEY	<ul style="list-style-type: none"> ▪ Gönenc GURKAYNAK, <i>Partner, ELIG Attorneys-at-Law, Istanbul</i> ▪ Fevzi M TOKSOY, <i>Managing Partner, ACTECON, Istanbul</i>
UNITED KINGDOM	<ul style="list-style-type: none"> ▪ Ethel FONSECA, <i>Senior Associate, RBB Economics, London</i> ▪ Adrian MAJUMDAR, <i>Partner, RBB Economics, London</i> ▪ Philip MARSDEN, <i>Professor, College of Europe, Bruges and British Institute, London</i>
UNITED STATES	<ul style="list-style-type: none"> ▪ Alden ABBOTT, <i>Deputy Director, Federal Trade Commission, Washington</i> ▪ Charlene FLICK, <i>Director, IP & Competition Law, United States Council For International Business (USCIB), New York</i> ▪ Elizabeth KRAUS, Deputy Director for International Antitrust, US Federal Trade Commission, Washington ▪ Reuben MILLER, <i>D.C. Bureau Chief, Deal Reporter of the Financial Times Group, Washington</i> ▪ James F. RILL, Vice-Chair, ICC Task Force on the ICN, Senior Counsel, Baker Botts LLP, Washington ▪ John TALADAY, <i>Partner, Baker Botts LLP, Washington</i> ▪ Charles WEBB, <i>Partner, Baker Botts LLP, Washington</i>
EUROPEAN UNION	<ul style="list-style-type: none"> ▪ Alexander ITALIANER, <i>Director General, EU Directorate General for Competition, Brussels</i> ▪ Carles ESTEVA-MOSSO, Director, Competition Policy and Strategy, EU Directorate General for Competition, Brussels
OECD	<ul style="list-style-type: none"> ▪ Antonio CAPOBIANCO, <i>Senior Competition Law Expert, Paris</i> ▪ Hilary JENNINGS, <i>Head of Global Relations, DAF, Competition Division, Paris</i>
ICC	<ul style="list-style-type: none"> ▪ Caroline INTHAVISAY, Policy Manager, ICC Commission on Competition, ICC International Secretariat, Paris ▪ Gizele REGINATO, Executive Secretary, ICC Brazil, Rio de Janeiro



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Organized in conjunction with the ICN Annual Conference

Olavo Chinaglia is currently acting chairman of the Brazilian Administrative Council for Economic Defense- CADE. Having acted as an antitrust and corporate lawyer for ten years, he was appointed a commissioner at CADE, where he is currently exercising his second two-year mandate. He is a member of the Editorial Council at a magazine focusing on Competition law. Olavo obtained a Bachelor of Law (LLB) from the University of Sao Paulo, an LL.M., specializing in corporate law from the Magistrates' School from the Sao Paulo State Court, and a Ph.D degree in Commercial Law from the University of Sao Paulo.

Kaarli Harry Eichhorn is Senior Counsel – European Competition Law & Government Relations at General Electric Company (GE). As GE's European competition counsel, Kaarli serves all GE's financial services and industrial businesses on a wide variety of competition law matters involving mergers and acquisitions, distribution, R&D activities, and compliance issues, in Europe and globally. He is also a member of GE's EU Government Relations team. Prior to joining GE in 2008, Kaarli was a Swedish Advokat (a member of the Swedish Bar) and an attorney with Clifford Chance LLP, where he practiced European competition law and advised on EU law and regulatory matters. Kaarli is a regular speaker at conferences and has published numerous articles on EU law as well as co-authored a textbook on competition law. Kaarli chairs the AmCham EU Legal Affairs Task Force and is vice-chair of its Competition Committee. He is a Member of the Board of European Justice Forum. Kaarli is a non-governmental advisor to DG Competition of the European Commission. In 2012, Kaarli was awarded the European Counsel Award in the category "Competition – Individual of the Year" (Association of Corporate Counsel Europe and the International Law Office).

Elizabeth Farina is Full Professor at the University of Sao Paulo, Brazil, and the Head of the Department of Economics. She was the President of the Brazilian Competition Council (Cade) from 2004 to 2008. While in CADE she participated on the ICN Steering Group and OECD meetings. In 2009, she was responsible for the report of the peer review of Indonesia Competition Commission (KPPU) for UNCTAD. She has published articles and book chapters on competition matters. In 2010 she worked as Resource Person at IDRC Competition Research Training Workshop on competition and development, held in Cairo, Egypt. She teaches Industrial Organization at the Graduate Program in Economics at the University of Sao Paulo and has advised theses and dissertations on Antitrust Economics, Regulation. She has worked as a consultant in Antitrust Economics matters and companies' strategies.

Hilary Jennings joined the OECD in October 2008 as Head of the Global Relations programme within the Competition Division. She leads the team responsible for designing, implementing and managing the OECD's capacity building activities in the area of competition law and policy. Prior to joining the OECD, Hilary worked as EU/International Government Relations Manager at HSBC and for five years as Head of International at the United Kingdom's Office of Fair Trading. She also held posts as: European policy adviser to the EEF, the UK-based manufacturers' organisation; Research Fellow at the British Institute of International and Comparative Law; and Head of Research for a public affairs agency in London.

Elizabeth Kraus is Deputy Director for International Antitrust of the U.S. Federal Trade Commission's Office of International Affairs. She leads the team that coordinates the FTC's international antitrust policy, bilateral cooperation and case coordination work, and represents the Federal Trade Commission in multilateral fora, actively participating in the International Competition Network and the OECD Competition Committee. Kraus previously served as Counsel to the Director of the FTC's Bureau of Competition and, prior to that, as Counsel for Multilateral Affairs for the Bureau's International Antitrust Division, where she represented the FTC in a number of international fora related to competition policy and law enforcement. Prior to joining the FTC in 2002, Kraus practiced EU competition law in the Brussels office of Weil, Gotshal & Manges LLP, focusing on merger-related work in the telecommunication and Internet technology fields. She is a Council

Member of the American Bar Association's Section of Antitrust Law, and contributes to a range of ABA publications and programming.

Paul Lugard is currently an Assistant Professor at TILEC (Tilburg Law and Economics Center) at Tilburg University, the Netherlands. Formerly, between 2005 and 2011, he has been a Senior Vice President and the Head of Antitrust for Royal Philips Electronics. Before joining the Corporate Legal Department of Philips in 1994, Paul worked in private practice. Since 1995 Paul has been involved in BUSINESSEUROPE activities in the field of competition policy. He has been a Vice Chair of the ICC Competition Commission since 2006 and recently became the Acting Chair of the Commission. Paul is also a Vice Chair of the Competition Committee of the Business and Industry Advisory Committee (BIAC) to the OECD since 2007. He is the president of the board of the Dutch Association for Competition Law and a member of the editorial board of *Markt & Mededinging*, the leading Dutch magazine on competition law, regularly speaks at major conferences on competition law and policy, and publishes in competition law journals. Recent article topics include intellectual property licensing and patent pools, non-horizontal mergers, exclusive dealing, resale price maintenance, the ICN, the 2011 EU competition rules for the assessment of horizontal agreements and the treatment of minority shareholdings under antitrust law. Since 2005 Paul has participated in ICN meetings as an ICN non-governmental advisor (NGA) for the Dutch competition agency (NMa) and the EC Commission. He is the editor of "The International Competition Network at Ten, Origins, Accomplishments and Aspirations," which was published in 2011.

Pedro Mariani serves as Member of the Executive Board and General Counsel of Companhia de Bebidas das Americas AmBev. He joined the Company in 2004. He holds a degree in Law from Pontificia Universidade Catolica do Rio de Janeiro and a Master of Legal Letters degree from the London School of Economics.

Carles Esteva Mosso is Director for Policy and Strategy at the Competition Directorate General of the European Commission. He is in charge of the development of policy, strategy and legislative instruments in the fields of antitrust, mergers and state aids. His responsibilities also include the coordination of the European Competition Network and the international dimension of competition policy. He previously held a number of management positions in DG Competition. He was Head of the Private Enforcement Unit, which was mainly in charge of developing initiatives to facilitate the compensation of damages deriving from the infringement of competition law rules. Before he had been Head of the Merger Control Unit in charge of the investigation and assessment of mergers in telecoms, media and IT related industries and Head of Unit for Merger Control Policy and Scrutiny. Between 1999 and 2004, Carles Esteva was a Member of the Cabinet of the European Commissioner for Competition Policy Mario Monti. He advised the Commissioner on the enforcement of merger control, antitrust and cartel policy. He was also the Cabinet Member in charge of the process of modernisation and reform of antitrust and merger rules. Since 1994, he had worked in several areas within DG Competition, including the Merger Task Force and the antitrust unit in charge of the financial sector. Prior to joining the European Commission, Carles Esteva worked in legal private practice. He has published several articles (the most recent being "Non-horizontal mergers: a European perspective"; *Fordham International Law Journal*, May 2008).

André Gustavo de Oliveira graduated in Law in 1995, post-graduate degree in business law and specialist in contracts. Responsible for legal, tax and insurance of the BASF Group in South America since July 2006. Among his various tasks comprise the Compliance Committee of the BASF Group in South America. In addition to participating as a speaker for numerous events focusing mainly on corporate law, also participates in various compliance groups and has authored several articles and in particular the chapter on Compliance of the book "Corporate Advocacy" edited by the *Revistas dos Tribunais* in 2011.

James F. Rill is actively engaged in the representation of firms involved in merger and unilateral conduct activities before U.S. and foreign antitrust agencies. Rill has served as Assistant Attorney General in charge of the U.S. Department of Justice's Antitrust Division and also as Chairman of the ABA's Section of Antitrust Law. During his tenure as Assistant Attorney General, he negotiated the U.S.-European Union Antitrust Cooperation Agreement of 1991 and issued the first joint FTC and DOJ Horizontal Merger Guidelines in 1992. In 1997, Mr. Rill was appointed by Attorney General Janet Reno and Assistant Attorney General Joel Klein as Co-Chair of the Justice Department's International Competition Policy Advisory Committee, with a mandate to recommend future international antitrust policy initiatives. The recommendations in the Committee's report, issued February 2000, are being pursued in the U.S. and overseas. Foremost among these recommendations was the proposal to create a global competition forum that would serve as a mechanism for government competition authorities throughout the world to meet and confer on antitrust issues. This recommendation was background for what became the International Competition Network. Mr. Rill was Chairman of the BIAC representation to the OECD Competition

Committee from 2005-2007 and Vice-Chairman from 1993-2005. He currently serves on the ABA Section of Antitrust Law International Task Force and is Vice-Chairman of the Competition Committee of the United States Council for International Business. Mr. Rill has recently been honored by the Global Competition Review and the ABA Section of Antitrust Law with their Lifetime Achievement Awards.

Barbara Rosenberg is a partner at Barbosa, Müssnich & Aragão, a full-service Brazilian firm, where she heads the competition and antitrust practice and also has significant experience in regulated sectors (with focus on pharmaceutical), as well as in trade-related issues. Rosenberg was the head of the antitrust department at the Ministry of Justice, where she also held the role of deputy secretary at the Secretariat of Economic Law (SDE), having devoted large efforts in re-engineering Brazil's competition regime between 2003 and 2005. Prior to that, Rosenberg was a partner at another Brazilian prestigious firm, was a foreign associate at Cleary, Gottlieb, Steen & Hamilton, and also acted at the intellectual property division secretariat of the World Trade Organization (WTO). Rosenberg is the vice chair of the Brazilian Committee on Competition and Intellectual Property of the International Chamber of Commerce (ICC); an Officer at the Brazilian Institute of Competition, Consumer and International Trade (IBRAC); a member to the International Task Force of the Antitrust Section of the American Bar Association (ITF-AA); a member of the Leniency Working Group of the International Bar Association; a non-governmental adviser to the International Competition Network; and a Member of the Competition Committee of the Brazilian Bar Association, São Paulo branch (OAB/SP). Ms. Rosenberg and BMA's practice have been continuously recognized by Chambers Latin America (being ranked in the first Band in 2012), GCR 100, PLC Which Lawyer, Best Lawyers among other well known publications. Rosenberg has been awarded the 2011 "Lawyer of the Year - Under 40 Award" granted by Global Competition Review and she was also nominated among the "40 under 40" worldwide competition lawyers by Global Competition Review in 2009.



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2012 Pre-ICN Forum on Competition and Development

The State as a Market Player or a Market-Power Broker?

Rio de Janeiro, April 17 2012

DRAFT PROGRAM: February 12

Opening

Representative, International Development Research Center (IDRC)

Representative, Brazilian Council for Economic Defense (CADE)

Elizabeth M. M. Q. Farina, University of Sao Paulo, Brazil

After more than 30 years of privatization movements, starting by developed countries and followed by most developing countries, one should expect a low level of influence of the State on the market mechanisms. Even so, if we consider the “ownership networks” in countries such as Brazil, this is not the case. The State may act as a minority shareholder, adding fuel to the influence of traditional State monopolies or quasi monopolies. More importantly, a growing wave of State capitalism has been reported. In a recent issue, *The Economist* states that “*State capitalism is on the march, overflowing with cash and emboldened by the crisis in the West. State companies make up 80% of the value of the stock market in China, 62% in Russia and 38% in Brazil. They accounted for one-third of the emerging world’s foreign direct investment between 2003 and 2010 and an even higher proportion of its most spectacular acquisitions, as well as a growing proportion of the very largest firms*”¹.

The State playing the role of a business entity often raises difficult issues for competition authorities. Not only state-controlled firms, but also state minority shareholdings in private companies may result in challenges to the functioning of the market mechanisms and to the antitrust policies designed to protect it. This subject is of high relevance to developing countries and young jurisdictions. For no other reason, the strategies of state-controlled companies on markets where private firms are also engaged have been under scrutiny of the competition authorities in developing countries.

¹ Special report: state capitalism.

This Forum provides a unique opportunity for authorities, practitioners and academic experts to document the incidence and assess the antitrust impacts of direct state involvement in the business world.

Keynote address:
Ownership networks and the small worlds

Sergio G. Lazzarini, Insper Institute of Education and Research, Brazil

Ownership networks – whereby ties between economic agents are defined by common ownership of one or several companies – have been studied by Professor Lazzarini. According to him, ownership networks are characterized as "small worlds": while there are groups of owners extensively connected with one another, there are some few central actors that help connect different groups. Due to their strategic position in the network, such central actors – chiefly, pension funds and the government – are able to exploit acquisition opportunities resulting from the restructuring of the economy. As a general result, ownership networks involving the State may have significant consequences to market competition. More importantly, in the specific case of Brazil, contributions to electoral campaigns have reinforced the ownership network effects bringing evidence that not only state-owned companies, but also state-related firms may raise competition concerns.

The subject of the State as a market agent, in combination with ownership networks and the small worlds can be unfolded to address issues relevant to competition policy in developing countries as will be presented in the Panels that compose the Forum.

Panel I:
State-owned companies, state-related firms, and the challenges to competition

This panel will discuss the interplay between state-owned and state related enterprises and the challenges that are placed to competition. How do state enterprises impact the enforcement of antitrust policy? What are the main challenges to antitrust authorities? Is it possible to achieve a balance?

Eduardo Pérez Motta, Federal Competition Commission, Mexico - **CONFIRMED**

Thomas Cheng, University of Hong Kong, China – **CONFIRMED**

Felipe Irrazabal, Fiscalía Nacional Económica (FNE), Chile - **CONFIRMED**

Panel II:

Corruption, economic opportunities, and competition

The existence and operation of companies related to the state can create economic opportunities and, simultaneously, the possibility of corruption. For instance, political campaigns contributions from private companies can be a seed of “economic favours”. This panel examines the broad relationship between these themes. What are the main forms of influence on the proper conduct of economic activities?. How does the fight against corruption can be associated with the antitrust policy? How do different countries have dealt with this issue?

David Lewis, Corruption Watch, South Africa- **to be CONFIRMED**

Kurnia Sya'ranie, Indonesia Competition Authority – KPPU (Indonesia) **CONFIRMED**

Uğur Emek (Turkey) **CONFIRMED**

John Githongo, Inuka Kenya Trust, Kenya – **to be CONFIRMED**

Panel III:

Merger control in Small Worlds

This panel addresses the intricate interplay among merger control, ownership networks, and state’s minority shareholdings. A state’s partial ownership can sometimes pose competitive concerns especially when a common owner has shareholdings in multiple competing companies or when some minority shareholders may influence important business decisions. How should it be addressed? How would it "significantly impede effective competition"? The “State Capitalism” can also reinforce the incentive to adopt other goals than to preserve competition in merger controls. How this issue should be addressed?

Eleanor M. Fox, New York University School of Law, U.S. – **CONFIRMED**

Simon Roberts, Competition Commission, South Africa- **to be CONFIRMED**

Marcelo Celani, Univ. Di Tella, Argentina,- **CONFIRMED**

Panel IV

Evaluating IDRC FORUM OF COMPETITION AND DEVELOPMENT -

Wrap up and Concluding Remarks

Frédéric Jenny, ESSEC Business School and Supreme Court (Cour de Cassation),
France - **CONFIRMED**

Tuesday 17 April 2012

From	Until	Agenda	Location	Information
18:00	21:00	Registration	Royal Tulip Hotel	
18:30	20:30	Welcome Reception Cocktail at Royal Tulip Hotel (<i>ICN conference attendees only</i>)	Royal Tulip Hotel	

Wednesday 18 April 2012

From	Until	Agenda	Location	Info
08:00	09:00	Registration	Royal Tulip Hotel	
		Optional Breakout sessions		
08:00	09:00	BOS#1: Working Group Chairs meeting		
		BOS #2: ICNtroduction - learn about the ICN and its work		
		Speakers: Paul O'Brien , Attorney US Department of Justice Matthew Chiasson , Competition Law Officer, Competition Bureau Canada		
		Opening session		
09:00	11:00	Moderator: Olavo Chinaglia , Chair, Brazilian Preparatory Committee for ICN Rio Speakers: José Eduardo Cardozo , Brazilian Minister of Justice Antonio Henrique Silveira , on behalf of Brazilian Minister of Finance Joaquín Almunia , Vice President, European Commission Shan Ramburuth , Commissioner, Competition Commission of South Africa John Fingleton , Chair, International Competition Network		
11:00	11:30	Coffee break		
		Advocacy Working Group		
11:30	12:15	Plenary: Effectively advocating competition: Ways and Means		
		Moderator: Manuel Sebastião , President, Portuguese Competition Authority Speakers: Ashok Chawla , Chairman, Competition Commission of India Chris Fonteijn , Chairman, Netherlands Competition Authority David Gilo , Director-General, Israel Antitrust Authority Bruno Lasserre , President, Autorité de la concurrence Antonio Henrique Silveira , Secretary, Brazilian Secretariat of Economic Monitoring		
12:15	13:30	BOS #1: Explaining the Benefits of Competition to Government and Legislators : Means and Messages		
		Moderator:		

	<p>Annetje Ottow, Professor, Europa Instituut of Utrecht University, Netherlands</p> <p><u>Speakers:</u></p> <p>Francis Kariuki, Acting Director General, Competition Authority of Kenya</p> <p>Allan Fels, Dean, Australia and New Zealand School of Government</p> <p>Rafael Coloma, Head of International Relations Unit, Spanish Competition Authority</p> <p>Hilary Jennings: Head of Global Relations, Organisation of Economic Co-operation and Development</p>		
	<p>BOS #2: Explaining the Benefits of Competition to Business: Means and Messages</p> <p><u>Moderator:</u></p> <p>Lih-Chyun Sun, Commissioner, Taiwan Fair Trade Commission</p> <p><u>Speakers:</u></p> <p>Joong-weon Jeong, Director General, Korea Fair Trade Commission</p> <p>Valentin Mircea, Vice President, Romanian Competition Council</p> <p>Grant Murray, Associate, Baker & Mckenzie LLP</p> <p>Anne Riley, Associate General Counsel, Shell International</p> <p>Cani Fernández, Partner, Cuatrecasas, Gonçalves Pereira</p>		
	<p>BOS #3: Explaining the Benefits of Competition to the Media: Means and Messages</p> <p><u>Moderator:</u></p> <p>John Oxenham, Director, Nortons Inc.</p> <p><u>Speakers:</u></p> <p>Sean Ennis, Executive Director, Competititon Commission of Mauritius</p> <p>Andrey Zakataev, Associate, Antimonopoly Law-Office</p> <p>Barbara Mroczek, Director of the International Relations and Communication Department, Poland Office of Competition and Consumer Protection</p> <p>Bert Foer, President, American Antitrust Institute</p>		
	<p>BOS #4: Explaining the Benefits of Competition to the General Public: Means and Messages</p> <p><u>Moderator:</u></p> <p>Mariana Tavares, Director, International Relations Bureau, Portuguese Competition Authority</p> <p><u>Speakers:</u></p> <p>James Rill, Senior Counsel, Baker Botts</p> <p>Tan Hi Lin, Deputy Director, Singapore Competition Commission</p> <p>Udai Mehta, Associate Director, CUTS</p> <p>Gene Kimmelman, Chief Counsel for Competition Policy and Intergovernmental Relations, US DOJ</p> <p>Mariana Tavares de Araújo, Partner, Levy & Salomao</p>		
	<p>BOS #5: Preventing antitrust violations: the role of market studies</p> <p><u>Moderators:</u></p> <p>Carles Esteva Mosso, Director of policy and strategy, European Commission DG Competition</p> <p>Anne Perrot, Vice President, Autorité de la concurrence</p> <p><u>Speakers:</u></p>		

		<p>Alden Abbott, Director Global Patent and Competition Strategy, Research in Motion</p> <p>Kasturi Moodaliyar, Senior Lecturer Competition Law, University of Witwatersrand</p> <p>DeCoursey Eversley, Director of Fair Competition, Barbados Fair Trading Commission</p> <p>Ed Smith, Director International, UK Office of Fair Trading</p>		
		BOS #6: Preventing antitrust violations: the role of compliance		
		<p><u>Moderators:</u></p> <p>Liza Bellulo, Head of International and European affairs, Autorité de la concurrence</p> <p>Barbara Rosenberg, Partner, Barbosa Müssnich & Aragao</p> <p><u>Speakers:</u></p> <p>David Anderson, Partner, Berwin Leighton Paisner</p> <p>Hiromitsu Miyakawa, Partner, Jones Day</p> <p>Paolo Palmigiano, Head of Competition Law, Lloyds Banking Group</p>		
13:30	14:30	Lunch		
		Agency Effectiveness Working Group		
14:30	15:15	Plenary: Agency Effectiveness: Smart Resource Management		
		<p><u>Moderator:</u></p> <p>Annetje Ottow, Professor, Europa Instituut of Utrecht University</p> <p><u>Speakers:</u></p> <p>William Kovacic, Professor, George Washington University</p> <p>Eduardo Pérez Motta, Chairman, Mexico Federal Competition Commission</p> <p>Elizabeth Farina, Professor, University of Sao Paulo</p> <p>Metin Toprak, Deputy Chairman, Turkish Competition Authority</p> <p>Francis Kariuki, Acting Director General, Competition Authority of Kenya</p>		
15:15	16:30	BOS #1: Effective Project Delivery: tips for effectively delivering projects within an agency		
		<p><u>Moderator:</u></p> <p>Siún O'Keeffe, Senior International Advisor, Netherlands Competition Commission</p> <p><u>Speakers:</u></p> <p>Joseph Walsler, Assistant Principal, Ireland Competition Authority</p> <p>Sean Ennis, Executive Director, Competition Commission of Mauritius</p> <p>Maria Coppola, Counsel, US Federal Trade Commission</p>		
		BOS #2: Effective Project Delivery: tips for effectively delivering projects within an agency		
		<p><u>Moderator:</u></p> <p>Heidi Sada, Director, Mexico Federal Competition Commission</p> <p><u>Speakers:</u></p> <p>Kristina Geiger, Deputy Director General, Swedish Competition Authority</p>		

		Seema Gaur , Advisor, Competition Commission of India Hugh M. Hollman , Associate, Jones Day		
		BOS #3: Human Resources Management: preliminary findings of the human resources survey		
		<u>Moderator:</u> Ayesha Budd , Senior International Adviser, Netherlands Competition Authority and Brazilian Administrative Council for Economic Defense <u>Speakers:</u> Ahmed Qadir , International Advisor, Competition Commission of Pakistan Peggy Griffith , Chief Executive Officer, Barbados Fair Trading Commission Francisco Todorov , Partner, Trench, Rossi & Watanabe		
		BOS #4: Human Resources Management: preliminary findings of the human resources survey		
		<u>Moderator:</u> Marcelo Siqueira , Brazilian Federal Attorney-General <u>Speakers:</u> Nigel Caesar , Competition Law Officer, Competition Bureau Canada Krisztian Katona , Counsel, International Office, US Federal Trade Commission		
		BOS #5: Knowledge Management Chapter: where are we now?		
		<u>Moderator:</u> Ali Demiröz , Acting Senior Coordinator, Turkish Competition Authority <u>Speakers:</u> William Kovacic , Professor, George Washington University Shan Ramburuth , Commissioner, Competition Commission of South Africa		
		BOS #6: Agency Heads Roundtable discussion on Effective Decision-Making (<i>Agency Heads only</i>)		
		<u>Moderators:</u> John Fingleton , Chief Executive Officer, UK Office of Fair Trading Andreas Mundt , President, Bundeskartellamt		
16:30	17:00	Coffee Break		
		Steering Group Substantive Projects		
17:00	17:45	Plenary: Discussion of Steering Group Substantive Projects		
		<u>Moderator:</u> John Fingleton , Chief Executive Officer, UK Office of Fair Trading <u>Speakers:</u> Rachel Brandenburger , Special Adviser International, US Department of Justice Alexander Italianer , Director General, European Commission DG Competition Malgorzata Krasnodebska-Tomkiel , President, Poland Office of Competition and Consumer Protection		
17:45	18:30	BOS #1: Enforcement Cooperation		

	<p><u>Moderator:</u> Paul O'Brien, Attorney, US Department of Justice</p>		
	BOS #2: Enforcement Cooperation		
	<p><u>Moderator:</u> Rachel Brandenburger, Special Advisor, US Department of Justice</p>		
	BOS #3: Investigative Process		
	<p><u>Moderator:</u> Randolph Tritell, Director, US Federal Trade Commission <u>Resource person:</u> Sam Pieters, Administrator, European Commission, DG Competition</p>		
	BOS #4: Investigative Process		
	<p><u>Moderator:</u> Carles Esteva Mosso, Director, European Commission, DG Competition <u>Resource person:</u> Maria Coppola, Counsel, US Federal Trade Commission</p>		
	BOS #5: Working with Courts and Judges		
	<p><u>Moderator:</u> Radoslav Depolo, Minister, Tribunal de Defensa de la Libre Competencia, Chile <u>Resource persons:</u> Liza Bellulo, Head of International and European affairs, Autorité de la concurrence Dragomir Iliev, DG Competition, European Commission</p>		
	BOS #6: Working with Courts and Judges		
	<p><u>Moderator:</u> Aleksandra Maczynska, Deputy Director, International Relations and Communication Department, Office of Competition and Consumer Protection <u>Resource persons:</u> Michal Petr, Vice President, Czech Office for the Protection of Competition Roberto Chieppa, Secretary General, Italian Competition Authority</p>		
(free evening)			

Thursday 19 April 2012

From	Until	Agenda	Location	Information
		Optional breakout Sessions	Royal Tulip Hotel	
08:00	09:00	BOS #1: Competition Law in Latin America		
		<p><u>Moderator:</u> Fernando Furlan, Visiting Scholar, University of Macau</p> <p><u>Resource person:</u> Paul Phumpiu, President, Defence of Free Competition Commission of Indecopi</p>		
		BOS#2: NGAs and agencies, building an effective partnership: different jurisdictions, different experience		
		<p><u>Moderator:</u> Bruno Lasserre, President, Autorité de la concurrence</p> <p><u>Speakers</u> Marcelo Calliari, Partner, Tozzini Freire Gönenç Gürkaynak, Partner, ELIG William Kovacic, Professor, George Washington University Brian Lingela, Director of Consumer and Education, Zambia CCPC</p>		
		ICN Special Project		
09:00	10:30	Plenary: Settlements in the areas of cartel, mergers and unilateral conduct		
		<p><u>Moderator:</u> Olavo Chinaglia, Acting President, Brazilian Administrative Council for Economic Defense</p> <p><u>Speakers for Unilateral Conduct:</u> Carlos Ragazzo, Commissioner, Brazilian Administrative Council for Economic Defense Edith Ramirez, Commissioner, US Federal Trade Commission</p> <p><u>Speakers for Mergers:</u> Ricardo Ruiz, Commissioner, Brazilian Administrative Council for Economic Defense</p> <p>(tbc)</p> <p><u>Speakers for Cartels:</u> Vinicius Carvalho, Secretary, Brazilian Secretariat of Economic Law</p>		

		Eric van Ginderachter , Director Cartels, European Commission, DG Comp		
10:30	11:00	Coffee Break		
		Merger Working Group		
11:00	12:00	Plenary: Merger Analysis		
		<u>Moderator:</u> Sharis Pozen , US Department of Justice <u>Speakers:</u> Kazuhiko Takeshima , Chairman, Japan Fair Trade Commission Kai-Uwe Kuhn , Chief Economist, European Commission DG Competition Melanie L. Aitken , Commissioner, Competition Bureau Canada Giovanni Pitruzzella , Chairman, Italian Competition Authority Philip Collins , Chairman, UK Office of Fair Trading Ashok Chawla , Chairman, Competition Commission of India		
12:00	13:00	BOS #1: Hot topics in Merger Analysis		
		<u>Moderator:</u> Salvatore Rebecchini , Commissioner, Italian Autorità <u>Speakers:</u> Paolo Benedetti , Director General, Mexican Federal Competition Commission Peter Ohrlander , Analyst, DG Competition Toh Han Li , Assistant Chief Executive, Competition Commission of Singapore Tsuyoshi Ikeda , Mori, Hamada & Matsumoto Gerald FitzGerald , Director of our Monopolies Division, Irish Competition Authority		
		BOS #2: Hot Topics in Merger Review		
		<u>Moderator:</u> Lynda Marshall , Assistant Chief, US Department of Justice <u>Speakers:</u> Joseph Wilson , Commissioner, Competition Commission of Pakistan Eric Tu , Taiwan Fair Trade Commission Juergen Schindler , Allen & Overy		

	Daren Shiau , NGA, Allen & Gledhill		
	BOS #3: Hot Topics in Merger Analysis		
	<u>Moderator:</u> Anne Perrot , Vice President, Autorité de la concurrence <u>Speakers:</u> Roger Witcomb , Chairman, UK Competition Commission Barbara Schulze , Head of International Office, Bundeskartellamt Adrian Majumdar , RBB Economics Margaret Ward , Jones Day		
	BOS #4: Hot Topics in Merger Analysis		
	<u>Moderator:</u> Jan McDavid , Hogan Lovells <u>Speakers:</u> Mateusz Blachucki , Advisor, Polish OCCP Chris Fonteijn , Chairman, Netherlands Competition Authority Rose Webb , Executive General Manager, ACCC Annette Schild , Arnold & Porter		
	BOS #5: Settlements (Special Project)		
	<u>Moderator:</u> Alessandro Octaviani , Commissioner, Brazilian Administrative Council for Economic Defense <u>Speakers:</u> Eduardo Caminati , Partner, Lino, Beraldi, Bueno e Belluzzo Advogados Sheldon Mills , Director, UK Office of Fair Trading		
	BOS #6: Problems and solutions when negotiating remedies in merger cases (Special Project)		
	<u>Moderator:</u> Carole Begent , Deputy Chief, UK Competition Commission <u>Speakers:</u> Elvino Mendonça , Commissioner, Brazilian Administrative Council for Economic Defense Götz Drauz , Wilson Sonsini Ted Henneberry , Bingham McCutchen		

13:00	14:30	Lunch (from 14:00 to 14:30: ICN attendees are welcome to meet the Working Group co-Chairs at Turmalina Room, BOS #1)		
14:30	14:45	Video presentation: ICN Curriculum Project		
		<u>Presenter:</u> Randolph Tritell , Director, US Federal Trade Commission		
		Unilateral Conduct Working Group		
14:45	15:45	Plenary: How Low Can You Go? Pricing by Dominant Firms		
		<u>Moderator:</u> Cynthia Lagdameo , Counsel, US Federal Trade Commission <u>Panel Chair:</u> Simon Roberts , Chief Economist and Manager, Competition Commission of South Africa <u>Case Team For:</u> Felipe Irrázabal , National Economic Prosecutor, Chilean Competition Authority Jorge Padilla , Senior Managing Director and Head, Compass Lexecon <u>Case Team Against:</u> Dan Sjoblom , Director General, Swedish Competition Authority Deborah Majoras , Chief Legal Officer and Secretary, Procter & Gamble Company		
15:45	16:45	BOS #1: Practical Challenges of Applying Predatory Pricing Tests		
		<u>Moderators:</u> Simon Roberts , Chief Economist and Manager, South Africa Competition Commission James Musgrove , Partner, Lang Michener LLP <u>Resource persons:</u> Lilla Csorgo , Chief Economist, New Zealand Commerce Commission Joe England , Partner, White & Case		
		BOS #2: Practical Challenges of Applying Predatory Pricing Tests		
		<u>Moderators:</u> James O'Connell , Partner, Covington & Burling Jacques Steenbergen , Director General, Belgian Competition Authority <u>Resource persons:</u> Trudi Makhala , Senior Analyst, Policy & Research Division, Competition Commission South Africa David Spector , Professor, Paris School of Economics and MAPP		

		BOS #3: Objectives and Priorities for Unilateral Conduct Enforcement		
		<p><u>Moderators:</u></p> <p>Karin Lunning, Director, Swedish Competition Authority</p> <p>Charles Webb, Partner, Baker Botts</p> <p><u>Resource persons:</u></p> <p>Daniel Gappy, Chief Executive Officer, Seychelles Fair Trading Commission</p> <p>Youngjin Jung, Partner, Kim & Chang</p>		
		BOS #4: Objectives and Priorities for Unilateral Conduct Enforcement		
		<p><u>Moderators:</u></p> <p>Luc Peeperkorn, Principal Expert Antitrust Policy, Unit 2, DG Competition</p> <p>Eleanor Fox, Professor, New York University School of Law</p> <p><u>Resource persons:</u></p> <p>Mats Bergman, Professor, Södertörn University</p> <p>Valentin Mircea, Vice President, Romanian Competition Council</p>		
		BOS #5: Negotiating Settlements (Special Project)		
		<p><u>Moderators:</u></p> <p>Marcos Paulo Verissimo, Commissioner, Brazilian Administrative Council for Economic Defense</p> <p>Barbara Schulze, Head of International Unit, Bundeskartellamt</p> <p><u>Resource persons:</u></p> <p>Donald Baker, Partner, Baker & Miller</p> <p>Alexandre Henriksen, Chief Economist, Brazilian Secretariat of Economic Law</p>		
		BOS #6: Negotiating Settlements (Special Project)		
		<p><u>Moderators:</u></p> <p>Ayesha Budd, Senior International Adviser, Netherlands Competition Authority and Brazilian Administrative Council for Economic Defense</p> <p><u>Resource persons:</u></p> <p>Wojciech Dorabialski, Head Unit Market Analysis Department, Polish Competition Authority</p> <p>Assimakis Kominos, Partner, White & Case</p> <p>Vicente Bagnoli, Professor of Law, Mackenzie University</p>		
16:45	17:15	Coffee Break		

		Optional Breakout Sessions		
17:15	18:15	BOS #1: ICN Curriculum Project		
		<u>Moderator:</u> Randy Tritell , Director, US Federal Trade Commission <u>Speaker:</u> DeCoursey Eversley , Director, Barbados Fair Trading Commission		
17:15	18:15	BOS #2: ICN Curriculum Project		
		<u>Moderator:</u> Margaret Bloom , Visiting Professor, King's College London <u>Speaker:</u> Joseph Wilson , Commissioner, Competition Commission of Pakistan		
17:15	18:15	BOS #3: The Role of International Organizations in Supporting Competition Law in Developing Countries		
		<u>Moderator:</u> Eduardo Perez Motta , Chairman, Mexico's Federal Competition Commission <u>Speakers:</u> Mario Umaña : Senior Specialist, Inter-American Development Bank Hilary Jennings : Head of Global Relations, Organisation of Economic Co-operation and Development Marialisa Motta , Manager of the World Bank Group's Investment Climate Reform Advisory Unit Ulla Schwager , Legal Affairs Officer, United Nations Conference on Trade and Development		
19:00	23:00	Formal Cocktail at Villa Riso (<i>ICN conference attendees and spouses welcome. Bus transportation provided by the BCPS. Dress Attire: Semi Formal</i>)		

Friday 20 April 2012

From	Until	Agenda	Location	Information
		Cartel Working Group	Royal Tulip Hotel	
09:00	10:00	Plenary: Bid-rigging		
		<p><u>Opening Remarks:</u> Cecilio Madero, Deputy Director General, European Commission, DG Competition</p> <p><u>Moderator:</u> Scott Hammond, Deputy Assistant Attorney General, US Department of Justice</p> <p><u>Speakers:</u> Andreas Mundt, President, Bundeskartellamt Toshiyuki Nambu, Deputy Secretary General, Japan Fair Trade Commission Shan Ramburuth, Commissioner, Competition Commission of South Africa Jordi Fornells, Deputy Director, Spain National Competition Commission</p>		
10:00	11:00	BOS #1: Bid-rigging: enforcement experiences and challenges		
		<p><u>Moderator:</u> Fernanda Garcia Machado, Head of Unit, Brazilian Secretariat of Economic Law</p> <p><u>Speakers:</u> Lih-Chyun Sun, Commissioner, Taiwan Fair Trade Commission Luc Gyselen, Partner, Arnold & Porter Burcu Can, Competititon Expert, Turkish Competition Authority Siun O'Keeffe, Senior International Advisor, Netherlands Competition Commission</p>		
		BOS #2: Bid-rigging: enforcement experiences and challenges		
		<p><u>Moderator:</u> Mariana Tavares, Director of Internatonal Relations Bureau, Portuguese Competition Authority</p> <p><u>Speakers:</u> Antonio Capobianco, Principal Administrator, Organisation for Economic Cooperation and Development Agata Zawłocka-Turno, Head of Unit, Poland Office of Competition and Consumer Protection Toshiaki Tada, Partner, Hibiya Sogo Law Office</p>		
		BOS #3: Bid-rigging: cooperation with procurement authorities		
		<u>Moderator:</u>		

		<p>Paul O'Brien, Attorney, US Department of Justice</p> <p><u>Speakers:</u></p> <p>Shingo Kasahara, Deputy Director, Japan Fair Trade Commission</p> <p>Paolo Benedetti, Director General, Mexico Federal Competition Commission</p> <p>Hanna Witt, Deputy Head of Unit, Swedish Competition Authority</p>		
		BOS #4: The nexus between Leniency and Settlement Procedures (Special Project)		
		<p><u>Moderator:</u></p> <p>Eric van Ginderachter, Director, European Commission, DG Competition</p> <p><u>Speakers:</u></p> <p>John Pecman, Senior Deputy Commissioner, Competition Bureau Canada</p> <p>Liza Bellulo, Head of International and European affairs, Autorité de la concurrence</p> <p>Caio Mario da Silva Pereira Neto, Partner, Pereira Neto, Galdino, Macedo Advogados</p> <p>Gary Spratling, Partner, Gibson, Dunn & Crutcher</p>		
		BOS #5: Problems and solutions in cartel settlement procedures (Special Project)		
		<p><u>Moderators:</u></p> <p>Francisco Schertel, Case Handler, Brazilian Administrative Council for Economic Defense</p> <p>Diogo Andrade, Director, Brazilian Secretariat of Economic Law</p> <p><u>Speakers:</u></p> <p>Kris Dekeyser, Director, European Commission, DG Competition</p> <p>Gilvandro Araújo, Attorney-General, Brazilian Administrative Council for Economic Defense</p>		
		BOS #6: International competition issues facing younger competition agencies		
		<p><u>Moderator:</u></p> <p>Marcus Bezzi, Executive General Manager, Enforcement and Compliance Division, Australian Competition and Consumer Commission</p> <p><u>Speakers:</u></p> <p>Oscar García Cardoze, Director, Panama Consumer Protection and Competition Authority</p> <p>József Sárai, Head of International Unit, Hungarian Competition Authority</p> <p>Daeyoung Kim, Director, International Cooperation Division, Korea Fair Trade Commission</p> <p>Vladmir Kachalin, Advisor, Federal Antimonopoly Service of Russia</p> <p>Thula Kaira, Chief Executive Officer, Botswana Competition Authority</p>		
11:00	11:30	Coffee Break		
		Closing session		

11:30	12:20	Working Groups Report Back and Future Work		
		<u>Advocacy Working Group:</u> Vladmir Kachalin , Advisor, Federal Antimonopoly Service of Russia <u>Agency Effectiveness Working Group:</u> Heidi Sada , Director, Mexico Federal Competition Commission <u>Cartel Working Group:</u> Toshiyuki Nambu , Deputy Secretary General, Japan Fair Trade Commission <u>Mergers Working Group:</u> Salvatore Rebecchini , Commissioner, Italian Autorità <u>Unilateral Conduct Working Group:</u> Karin Lunning , Director International Affairs, Swedish Competition Authority		
12:20	12:30	Closing Remarks:		
		Olavo Chinaglia , Acting President, Brazilian Administrative Council for Economic Defense		
12:30	12:50	Closing Remarks:		
		ICN Steering Group Chair		
12:50	13:00	Introduction of 2013 Annual Conference Host Agency:		
		Malgorzata Krasnodebska-Tomkiel , President, Poland Office of Competition and Consumer Protection		
13:00	14:30	Lunch		
13:00	14:30	Steering Group meeting (lunch included)		
14:30	18:30	City Tour (fee for ICN Conference attendees and partners)		