

***Competition Policy and Economic Development –
a view from the European Commission***

Introductory remarks before

ICC Competition Commission, New York, 30 October 2002

Ladies and Gentlemen

It is both a great pleasure and a privilege for me to address this distinguished audience with some reflections on the emerging global competition system.

Over the last year, we have witnessed a rapid evolution, if not revolution, of international competition policy.

Let me just recall that the Doha Development Agenda firmly establishes that discussions on competition issues is now part of the WTO framework. Discussions are already actively under way in Geneva, and we hope to make good progress in view of next year Cancun's Ministerial meeting.

However, I would like to focus my remarks today to the parallel, and complimentary developments at the level of the International Competition Network, or ICN.

The ICN is an informal, consensus-based virtual network of competition authorities from around the globe. It was founded exactly a year ago in this town, and its membership has rapidly risen from the founding 14 agencies to some 75 anti-trust authorities from both developed and developing countries. Both the European Commission, as well as our two American counterparts, have taken a lead role in the creation, and the subsequent promotion of the ICN.

Some weeks ago, the ICN held its first Annual Conference in Naples. Alongside the participation of the leaders of some 65 competition authorities, we made a point of inviting representatives of the relevant stakeholders in civil society as well, in order to engage a wide and open debate. I am glad to note that the ICC has been supportive of the ICN since its early stages, and would hope that this support continues unabated.

One of the key projects that ICN looked into during its first year was to search for possibilities of convergence in the area of multi-jurisdictional merger control. However, as the relevant group was chaired by our colleagues from the US DoJ, I will leave any comments on this issue to them.

ICN Members in Naples also decided to install a new working group to study “capacity building and competition policy implementation”. This group is intended to address the specific needs of competition authorities from developing countries, as a true reflection of the wide geographic reach of the ICN initiative.

As the Commission was asked to co-chair this group, together with our South-African colleagues, I would like to brief you on what we intend to do in this new forum.

The starting point of our reflections is the following:

First of all, I think we have to recognise that the theoretical groundwork for the links between development and competition is far from complete. This means that we have to keep asking the right questions, and to listen.

Secondly, we would like to give a prominent voice to the experiences that our colleagues from competition authorities in developing countries are making on the ground. ICN, in view of its composition, should be in a privileged position to collect this empirical evidence.

Taking these two strands together, the road ahead for ICN’s new capacity building working group will become clearer. Together with our South African colleagues, we intend to proceed in the following three systematic steps, building on both theoretical and empirical evidence.

The case for competition law in developing countries

First of all, we intend to continue our reflections on the link between development and competition, in order to consolidate the theoretical foundations of our work. The questions that we would like to raise include, for example, what to make of the existing current of opinion that tends to oppose the development and enforcement of competition law in developing countries. Such a viewpoint would countenance, at most, a limited, or narrowly focused, competition law.

It is also argued that competition law limits the ability of developing country governments to introduce pro-development industrial policy and prevents firms from achieving the scale necessary to compete with the developed country multinational corporations. This latter argument is most frequently advanced against the inclusion of merger regulation in developing country competition law.

It is clear that we, as competition agencies, need to develop responses to these concerns. In order to come to terms with these issues, we envisage to invite a representative range of ICN Members from developing countries to submit background papers focusing on these and related questions.

Methodology for implementing competition policies, and developing credible enforcement agencies

The second step in the work program of our new ICN Working Group will naturally follow from any conclusions we can draw from the first. These conclusions will be coupled with the concrete experiences of developing countries in implementing

competition law. We intend to give particular emphasis in this respect to the establishment and design of the necessary advocacy, investigative and adjudicative agencies.

To this effect, we plan to make a survey, again of selected agencies from developing countries, asking them about their experiences on the following issues:

- How competition laws have been implemented in countries at different stages of economic development and transition;
- Which are the key economic, political and social supporting factors, and which are the constraints encountered and overcome;
- Which factors have been shaping the institutional design of competition authorities, and which role have other institutions and social partners played in this process?
- Which initiatives have been found useful to strengthen the credibility and independence of the enforcement agency.

With the help of these and other information, we ultimately aspire to elaborate a methodology for implementing competition policies, and developing credible enforcement agencies.

I would like to point out that the working title given to this new ICN Working Group goes beyond the issue of capacity building, by including a reference to competition policy implementation as well. This is intended to signal that this process is not a one-way learning process, but that we expect that also the mature competition authorities of developed countries stand to learn a lot during this enterprise. Already the recent preparation of the Report on Advocacy, prepared by ICN's parallel Working Group on Competition Advocacy, provided a host of new insights for which we are grateful.

Models of support from partner countries and multinational agencies

Finally, as the third element, we intend to compile a survey of existing technical assistance programs. Programs there are many, and they are manifold, but in order to make an efficient use of the existing limited resources, it may be useful to get a better overview of what is already done by individual jurisdictions, and multinational donor agencies. Very modestly, maybe we will also be able to feed some of the findings of our reflections in the shaping of future assistance projects. Hence, to compile this information, we will address ourselves both to donor agencies, as well as to the recipients of technical assistance programs.

Conclusion

With these steps, I think that ICN's new working group has its work cut out quite concretely during the months to come. I admit that the program is ambitious, and it remains to be seen to what extent we will be able to deliver even tentative answers to most of the issues raised by the time of the June 2003 Mexico Annual Conference. It

may not be unreasonable to suspect that we will continue to deal with a number of these issues well beyond that moment.

It is also true that together with our South African partners, we count on the active support in this process from all parts of ICN's membership, as well as from multinational organisation, and, crucially, both academia and the private sector.

I hope that this working group will become a constructive meeting of minds, and look very much forward to the progress that we can achieve in this important field.

Finally, and with these words I will conclude, I would like to put the ambition of this working group into the wider context of the reinforcement of global governance mechanisms. It is my firm belief that whatever multilateral initiatives we create, it is critical for efficient governance to have competent and independent authorities at the national – or regional - level implementing competition policy. Without such institutions, well-equipped to implement this policy, true - that is: effective - governance will remain an illusion.

Naturally, I would expect the business community to play a leading role in the advocacy of competition issues especially in developing countries.