International Antitrust Cooperation: Expanding the Circle

MOLLY ASKIN*
maskin@ftc.gov
Counsel for International Antitrust in the Office of International Affairs of the US Federal Trade Commission

RANDOLPH TRITELL*
rtritell@ftc.gov
Director of the Office of International Affairs of the US Federal Trade Commission

Abstract

International antitrust cooperation among competition agencies began as a way to minimize tensions created by the extraterritorial application of antitrust laws. It was facilitated by agreements between governments and competition agencies, as well as through multilateral organizations. Efforts to address competition issues through the World Trade Organization foundered, and many more countries adopted competition laws in the 1990s and 2000s. Cooperation expanded to promote consistent analyses and outcomes and to provide opportunities for competition agencies to work with one another on enforcement, policy, and training. Today, competition agencies in emerging and developing countries cooperate with one another and with more experienced agencies bilaterally and through multilateral organizations, including the ICN, OECD, UNCTAD, and regional organizations. The Federal Trade Commission and the Department of Justice's Antitrust Division are engaged in enforcement cooperation and policy cooperation with a large and growing number of competition agencies. Policy cooperation often includes providing comments on draft laws and regulations, sharing experiences through technical assistance programs, and engaging in discussions regarding substantive and procedural aspects of competition law enforcement. Cooperation among competition agencies will continue and will expand to address new challenges.

---

* The views expressed are those of the authors alone.

One of the most significant developments accompanying the widespread adoption of competition laws worldwide has been the growth in cooperation among antitrust enforcement agencies. Although cooperation instruments evolved out of a need to minimize frictions caused by the "extraterritorial" application of competition law, particularly by the United States, in recent years, cooperation has expanded through bilateral agreements, multilateral organizations, and a variety of informal arrangements to encompass many young competition agencies as well as those in developed countries. Today, cooperation is an important vehicle for agencies to share experience, promote sound policies, and coordinate their activities, and it continues to support compatible analysis and outcomes in cross-border investigations. This article explores the evolution and benefits of international antitrust cooperation, the US Federal Trade Commission's cooperation with an expanding circle of agencies, and opportunities and challenges in further developing cooperation.

I. The Rocky Road to International Antitrust Cooperation

Cooperation among antitrust enforcement agencies evolved after years of conflict over the cross-border application of antitrust law. Early cases in the United States interpreted the Sherman Act as not reaching conduct abroad. In *American Banana Co. v. United Fruit Co.*,[1] the Supreme Court held that "[a] conspiracy in this country to do acts in another jurisdiction does not draw to itself those acts and make them unlawful, if they are permitted by the local law." However, in the 1940s, the Supreme Court, in *US v. Aluminum Co. of America*, adopted an effects-based approach, applying the Sherman Act to conduct taking place outside the United States if it had a direct and intended effect in the United States. The Court held that "any state may impose

[1] 213 U.S. 347, 359 (1909).

liabilities, even upon persons not within its allegiance, for conduct outside its borders that has consequences within its borders which the state reprehends."[2]

As antitrust laws spread, other jurisdictions adopted the effects doctrine. For example, in the Wood Pulp cartel case, the European Commission ("EC") challenged the conduct of US, Canadian, Finnish, and Swedish wood pulp producers, which set prices for wood pulp sold to consumers in the European Union.[3] The US association's conduct was exempt from US antitrust laws under the Webb-Pomerene Act for its activities as an export association. On appeal before the European Court of Justice ("ECJ"), US and Canadian firms argued that condemning their conduct violated principles of international comity. The ECJ held, however, that anticompetitive conduct by parties located outside the European Union ("EU") that reached an agreement outside the EU could be liable under the Treaty Establishing the European Economic Community based on the conduct's anticompetitive effect in the Common Market.[4]

This "extraterritorial" application of antitrust law generated international tensions, particularly when the conduct challenged as illegal was lawful or even encouraged by the other country's government. These issues came to a head in the late 1970s when a US court entered default judgment against non-US firms that took part in a cartel involving uranium. A US firm alleged that companies based in Canada, South Africa, Australia, and France violated the Sherman Act

[2] *US v. Aluminum Co. of America (Alcoa)*, 148 F.2d 416 (2d Cir. 1945). *Accord*, *Continental Ore Co. v. Union Carbide*, 370 U.S. 690, 705 (1962); *US v. Sisal Sales Corp.*, 274 U.S. 268, 275-276 (1927)

[3] Commission Decision No. 85/202/EEC of 19 December 1984, relating to a proceeding under Article 85 of the EEC Treaty (IV/29.725-Wood Pulp). Article 85 of the EEC Treaty is now Article 101 of the TFEU. At the time of the case, the European Union was called the European Economic Community.

[4] Joined Cases 89, 104, 114, 116, 117 and 125 to 129/85, A. Ahlstrom Osakeyhtio and others v. Commission ("Wood Pulp"), Sept 27, 1988, [1988] ECR 5193 (ECJ). See also John J. Parisi, *Cooperation Among Competition Authorities in Merger Regulation*, CORNELL INTERNATIONAL LAW JOURNAL, Vol. 43, 2010, at 58, *available at* http://www.lawschool.cornell.edu/research/ILJ/upload/Parisi.pdf.

by setting minimum prices and allocating sales.[5] Several foreign firms challenged jurisdiction through US-based subsidiaries and others did not answer the complaint. The US district court entered default judgments against nine companies.[6] The governments of Australia, Canada, South Africa, and the United Kingdom filed amicus curiae briefs arguing that the actions of the non-US firms were outside the court's jurisdiction under the Sherman Act.[7]

While the uranium case was pending, several jurisdictions took steps to protect their citizens and businesses from the so-called extraterritorial application of US antitrust law by enacting "blocking statutes." Such statutes impose penalties for complying with discovery ordered by foreign courts but allow for certain modes of discovery under the Hague Convention on Taking Evidence Abroad in Civil or Commercial Matters. The United Kingdom's blocking statute was described as "primarily a reaction to the accumulation of attempts by the United States since the 1950s to impose its own economic and other domestic policies [...] outside its territorial jurisdiction, without regard for the trading interests of other countries."[8] Other countries including Australia, Belgium, Canada, France, South Africa, and Switzerland also adopted blocking statutes. The United Kingdom also enacted a "clawback" statute to recoup the trebled portion of damages awarded in US private antitrust litigation,[9] stating that their goal was to "reassert and reinforce the defenses of the United Kingdom against attempts by other countries to enforce their economic and commercial policies unilaterally on us" in response to "the extra-territorial application of domestic law."[10]

---

[5] *In re Uranium Antitrust Litigation*, 617 F.2d 1248 (7th Cir. 1980).

[6] Id.

[7] Id.

[8] Press Release, *U.K. Dep't of Trade and Indus., Protection of Interests Bill* (Oct. 31, 1979).

[9] Protection of Trading of Interest Act at Sec. 6 (1980).

[10] Mr. John Nott, Secretary of State for Trade, 973 Parl. Deb., H.C. (5th ser.), Vol. 1533, 4:43pm (1979), *available at* http://hansard.millbanksystems.com/commons/1979/nov/15/protection-of-trading-interests-bill.

While the case law on extraterritorial application of US antitrust law evolved through private litigation, political tensions that developed during the Laker Airlines civil litigation led President Reagan to suspend a Department of Justice criminal antitrust investigation. In the civil case, Laker argued that predatory price-fixing among US, Belgian, British, Dutch, and German airlines forced Laker out of business. After the civil suit was filed, British Airways sought and won an injunction in a UK court that established that certain foreign firms were not liable for damage suffered by Laker and prevented Laker from pursuing antitrust claims in the US.[11] A blocking order was also issued under the UK blocking statute. In response, the US judge issued temporary restraining orders preventing other non-US defendants from seeking injunctions that interfered with jurisdiction of the US courts.[12]

Shortly thereafter, the World Trade Organization ("WTO") began discussing competition issues in the Uruguay Round of negotiations, and discussions continued into the 2000s. The WTO established a Working Group on the Interaction between Trade and Competition Policy at the 1996 WTO Ministerial Conference in Singapore. The working group issued reports analyzing the relationship between trade and competition law and between WTO members' competition laws and enforcement mechanisms. The group also identified options for creating a multilateral framework for competition policy that could address the challenges presented by extraterritorial application of antitrust laws.[13]

The European Union, supported by many members, sought to introduce competition rules, including cooperation provisions, into the WTO during the

[11] British Airways, (1984) 1 Q.B. at 169-203 (judgment by Sir John Donaldson M.R.). The House of Lords ultimately overturned the injunction, *British Airways Board v. Laker Airways Ltd.*, (1984) 3 W.L.R. 413.

[12] See *Laker Airways Ltd. v. Sabena, Belgian World Airlines; KLM Royal Dutch Airlines*, 731 F. 2d 909 (D.D.C. 1984); *Laker Airways Ltd. v. Pan American World Airways*, 559 F. Supp. 1124 (D.D.C. 1983).

[13] WTO, *Documents of the Working Group on the Interaction between Trade and Competition Policy, available at* http://www.wto.org/english/tratop_e/comp_e/wgtcp_docs_e.htm.

Doha Round, which began in 2001. The United States questioned the benefit of WTO competition rules, including mandatory cooperation provisions, particularly if they would be subject to dispute settlement. Many developing countries, some of which did not have a competition law or were concerned about taking on new obligations, opposed WTO competition disciplines. In 2004, the WTO General Council removed competition law from the agenda for the Doha Round of meetings, stating that competition policy "will not form part of the Work Program set out in that Declaration and therefore no work towards negotiations on any of these issues will take place."[14] The WTO competition working group has since disbanded.

Cooperation provisions are an increasingly common feature of bilateral and plurilateral trade agreements. However, as discussed below, most practical cooperation mechanisms have evolved through bilateral contacts and soft law initiatives in multilateral competition bodies.

II. The Development of International Antitrust Cooperation

Even as efforts to establish multilateral competition rules foundered in the 1990s and 2000s, many nations adopted competition laws and established competition agencies. Increased levels of enforcement by a multiplicity of competition agencies generated a need for mechanisms to minimize conflicts and for agencies to work together on enforcement, policy, and training. To meet this need, cooperation evolved to include work with counterpart competition agencies on individual cases ("enforcement cooperation") and policy cooperation. Policy cooperation occurs through bilateral and multilateral relationships and can include competition agencies providing input on proposed laws, regulations, and agency guidance, sharing information and experience, and developing competition policy norms through multilateral organizations. Competition agencies, including the Federal Trade Commission ("FTC"), have

[14] WTO, *Doha Work Programme—Decision Adopted by the General Council on 1 August 2004*, WT/L/579 (Aug. 2, 2004) at 3, *available at* http://www.wto.org/english/tratop_e/dda_e/ddadraft_31jul04_e.pdf.

found that cooperation helps avoid conflicts in enforcement outcomes, increases predictability, and enables more efficient use of limited agency resources.

a. Early Examples of Enforcement Cooperation

The adoption and increased enforcement of competition laws by trading partners led to the first instances of enforcement cooperation by the Federal Trade Commission and Department of Justice's Antitrust Division (together, "US Agencies"). Cooperation in merger reviews was more common than in other types of investigations because agencies often had similar review timelines and had a shared interest in compatible analysis and remedies. Merging parties supported and encouraged cooperation to facilitate efficient reviews and non-conflicting outcomes, and sometimes agreed to waive the confidentiality of information they submitted to reviewing agencies, which allowed the cooperating agencies to cooperate more closely.

An early example of US-EU merger cooperation was the 1994 Shell/Montedison transaction. The discussions between FTC and the EC's Directorate-General for Competition ("DG COMP") staff included how the differences in the applicable US and EU member states' contract and intellectual property laws affected the analysis of competitive effects and how remedies could be structured to ensure they were compatible.[15] During that year, the FTC and DG COMP also cooperated in the investigations of several mergers of pharmaceutical firms while the Department of Justice's Antitrust Division ("DOJ") cooperated with DG COMP in merger investigations including WorldCom/MCI and MCI WorldCom/Sprint.[16] During the 1990s, parties became more comfortable granting confidentiality waivers ("waivers")

[15] Robert Pitofsky, Chairman, US Fed. Trade Comm'n, Remarks Before the Fordham Corporate Law Institute 22nd Annual Conference on International Antitrust Law and Policy: International Antitrust–An FTC Perspective, (Oct. 26, 1995), *available at* http://www.ftc.gov/public-statements/1995/10/international-antritrust-ftc-perspective.

[16] See Bruno Zanettin, Cooperation Between Antitrust Agencies at the International Level, 2002, at 105, citing Commission Report to the Council and the European Parliament on the Application of the EC-US Agreement, 1 January 2000 to 31 December 2000, at 6.

to facilitate enforcement cooperation. As cooperation and providing waivers became more common, FTC and DG COMP staff engaged in enforcement cooperation, comparing legal and economic theories, holding joint meetings with merging parties, and collaborating on remedies.

The DOJ also cooperated on cross-border cartel investigations, often invoking bilateral Mutual Legal Assistance Agreements ("MLATs") to facilitate information sharing.[17] For example, in the late 1990s and early 2000s, antitrust agencies in Australia, Brazil, Canada, the EU, Japan, Mexico, New Zealand, Switzerland, and the US cooperated in the investigation of a global cartel involving certain vitamins.[18]

As cross-border mergers also involved emerging and developing countries that had enacted competition laws, additional opportunities for enforcement cooperation emerged. For example, in 1998, antitrust enforcement agencies in Australia, Zambia, and Zimbabwe consulted regarding their review of the Coca-Cola/Schweppes merger.[19] The following year, Zambian and Zimbabwean agencies discussed aspects of the merger between Rothams of Pall Mall and British American Tobacco.[20]

b. Cooperation through Multilateral Organizations

As enforcement cooperation became more common throughout the 1990s, the US Agencies continued to work with other competition agencies through multilateral organizations to develop competition policy and promote convergence. The concept of convergence, which involves more closely

[17] See Charles S. Stark, Chief, Foreign Commerce Section, Antitrust Div., US Dep't of Justice, Improving Bilateral Antitrust Cooperation, Remarks at the Conference on Competition Policy in the Global Trading System: Perspectives from Japan, the United States, and the European Union 4 (June 23, 2000), *available at* http://www.justice.gov/atr/public/speeches/5075.pdf.

[18] See John M. Connor, *The Great Global Vitamins Conspiracies: 1985-1999*, at 108, *available at* http://ssrn.com/abstract=885968.

[19] UNCTAD at p. 18.

[20] Id.

aligning substantive policies, is different from cooperation, but the two activities are closely linked. Taken together, cooperation and convergence increase the likelihood of consistent outcomes.

The US Agencies have sought to promote cooperation and convergence through various multilateral competition organizations such as the Organization for Economic Cooperation and Development ("OECD"), International Competition Network ("ICN"), the United Nations Conference on Trade and Development ("UNCTAD"), and regional competition bodies. Beginning in the 1960s, the OECD,[21] through its Competition Committee,[22] and UNCTAD[23] facilitated dialogue and collaboration among agencies from developed and developing countries on issues related to competition law, policy, and enforcement cooperation.

In the 1990s, discussions among several competition agencies focused on how they could work together and promote sound competition policy and convergence. These discussions led to the creation of the ICN, which was formed in 2001 "to facilitate effective international cooperation to the

[21] The OECD consists of thirty-four economically developed countries: Australia, Austria, Belgium, Canada, Chile, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea, Luxembourg, Mexico, Netherlands, New Zealand, Norway, Poland, Portugal, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Turkey, United Kingdom, and the United States. Numerous non-members participate: Brazil, Bulgaria, Chinese Taipei, Colombia, Egypt, India, Indonesia, Latvia, Lithuania, Malta, Peru, Romania, Russian Federation, South Africa, Ukraine. It aims to promote sound economic policies and economic growth.

[22] The Competition Committee has held over 100 meetings since its founding in 1961 and provides a forum for senior representatives of members' competition agencies to exchange ideas and discuss policies of mutual interest, conduct peer reviews, and develop best practice recommendations. See Remarks of Angel Gurría, OECD Secretary-General, 100th Meeting of the Competition Committee, Paris, 20 February 2008, http://www.oecd.org/competition/competitionbringsprosperity.htm.

[23] UNCTAD was established in 1964 as a forum to address trade, investment and development issues. UNCTAD's mandate is to "promote international trade; formulate principles and policies on international trade and related problems of economic development; and initiate actions for the negotiations and adoption of multilateral legal instruments in the field of trade." UNCTAD has convened an "International Group of Experts" on competition law that meets annually and develops competition policy statements, best practices and peer reviews of competition agencies. See United Nations Conference on Trade and Dev. (UNCTAD), *UNCTAD: A Brief Historical Overview*, UNCTAD/GDS/2006/1, at 10, http://www.unctad.org/en/docs/gds20061_en.pdf.

benefit of member agencies." [24] The ICN and other multilateral organizations continue to support cooperation and convergence; their work in the last twenty years is discussed in sections III and IV.

c. Memorialization of Cooperation

Beginning in the 1970s, some antitrust agencies entered into bilateral and multilateral written agreements on cooperation. For the US Agencies, written agreements are not a prerequisite for enforcement cooperation but they provide a useful framework for enforcement cooperation and have served as catalysts for increased engagement. Antitrust agencies in some jurisdictions require written agreements in order to engage in case cooperation. Cooperation agreements typically provide for notification of enforcement matters that implicate the other agency's interests, investigative assistance through sharing non-confidential information, traditional and positive comity, and consultation to address disputes. The US has entered into government-level agreements that are legally binding, though they do not contain an enforcement mechanism or supersede domestic law, and also into agency-level Memoranda of Understanding. With one exception mentioned below, they do not allow for the sharing of confidential information without waivers from the parties.

1. Bilateral Agreements

The US entered into its first antitrust cooperation agreements in response to tensions over "extraterritoriality." Agreements with Germany in 1976, Australia in 1982, and Canada in 1984, reflect the mutual desire to reduce and manage conflicts. As more countries embraced competition law and adopted their own effects tests, the objectives and content of the agreements evolved to primarily facilitate and enhance inter-agency engagement on investigations and policy. This is reflected in the spate of agreements into which the US entered in

[24] International Competition Network, "History," http://www.internationalcompetitionnetwork.org/about/history.aspx.

the late 1990s. There are now ten bilateral antitrust cooperation agreements between the US and foreign governments as well as three agency level Memoranda of Understanding.[25] While cooperation agreements originally focused on developed countries with established competition agencies, in recent years they have increasingly involved countries with newer agencies such as those in Brazil, Chile, China (MOU), Colombia, India (MOU), and Russia (MOU).

In 1995, the US Congress enacted the International Antitrust Enforcement Assistance Act ("IAEAA"), which authorizes the US Agencies to enter into mutual assistance agreements that, under specified conditions, allow the agencies to share confidential investigative information in their files and to use their information gathering powers to obtain evidence to share with the foreign counterpart competition agency. The IAEAA specifies safeguards governing the exchange of confidential information. Although the statute was greeted with hopes and, by some, fears of widespread sharing of confidential information, the United States has been able to enter into only one such agreement, with Australia.[26]

In addition to the many bilateral agreements involving developed countries, emerging and developing countries have entered into cooperation arrangements. For example, Romania and Bulgaria have entered into an agreement,[27] Zambia and Zimbabwe have a Joint Protocol on the exchange of information in

[25] All agreements and arrangements are available at http://www.ftc.gov/policy/international/international-cooperation-agreements. The US Agencies also entered into enhanced positive comity agreements, which include a presumption of deference to the other jurisdiction's enforcement under certain conditions, with the EC and Canada but they have never been invoked.

[26] US-Australia Mutual Antitrust Enforcement Assistance Agreement, http://www.ftc.gov/policy/cooperation-agreements/usaaustralia-mutual-antitrust-enforcement-assistance-agreement.

[27] Id., OECD, *Improving International Co-operation in Cartel Investigation*, ,DAF/COMP/GF/(2012)16, *available at* http://www.oecd.org/daf/competition/ImprovingInternationalCooperationInCartelInvestigations2012.pdf.

competition cases,[28] and agencies in Peru and Colombia entered a cooperation agreement that "allows for the exchange of confidential information and requires both agencies to maintain confidentiality of the information shared between them and to use it only for purposes of competition law enforcement."[29] Turkey "has entered into eight MOUs signed on the basis of mutual consent, willingness and determination of the parties," with the aim of "encourage[ing] cooperation through the exchange of non-confidential information and meetings."[30] As of 2011, Brazil had entered into "bilateral agreements with seven foreign agencies […] and five of them have explicit provisions on cooperation and avoidance of conflicts in order to minimize any potentially adverse effects of one country's competition law enforcement on other countries' interests in the enforcement of its respective competition laws."[31]

Some emerging and developing countries' competition laws also directly address aspects of cooperation. For example, competition laws in Botswana and Zambia contain provisions regarding bilateral agreements that give effect to positive comity requests by other states.[32]

2. Multilateral Agreements

Multilateral agreements and arrangements also enable international antitrust enforcement cooperation. While non-binding, the Recommendation of the OECD Council concerning International Co-operation on Competition Investigations and Proceedings is an important informal cooperation

[28] UNCTAD, *Review of the Experience Gained so far in Enforcement Cooperation, Including at The Regional Level*, TD/B/C.I/CLP/10 (2011) 7, http://unctad.org/en/Docs/ciclpd10_en.pdf.

[29] Id., at 6.

[30] Id.

[31] OECD, *Cross-Border Merger Control: Challenges for Developing and Emerging Economies*, DAF/COMP/GF(2011)13, at 108, *available at* http://www.oecd.org/daf/competition/mergers/50114086.pdf.

[32] Sections 77(1) and (2) of the Botswana Competition Act No. 17 of 2009 and sections 65(1) and (2) of the Zambia Competition and Consumer Protection Act No. 24 of 2010.

instrument.[33] It includes provisions on the exchange of confidential information, enhanced cooperation, notifications of antitrust investigations and coordination among antitrust agencies concurrently investigating the same transaction or conduct. Non-OECD members can associate themselves with and use the recommendations.

The ICN has a voluntary Framework for Merger Review Cooperation, which is open to all ICN member agencies.[34] Regional organizations, including the European Competition Network ("ECN") and Asian Pacific Economic Cooperation ("APEC") also support and facilitate enforcement cooperation.[35]

3. Trade Agreements

Many trade agreements, including approximately half of the free trade agreements the United States has signed[36], include a chapter on competition policy. Such chapters typically include provisions that parties will cooperate in competition enforcement and policy, maintain a competition law and an enforcement agency, and consult to resolve disagreements. Importantly, these provisions are not subject to dispute settlement.

---

[33] *Recommendation of the OECD Council concerning International Co-operation on Competition Investigations and Proceedings*, as approved by Council on 16 September 2014, [C(2014)108], *available at* http://www.oecd.org/daf/competition/2014-rec-internat-coop-competition.pdf. The original recommendation was adopted in 1967.

[34] ICN, *Framework for Merger Review Cooperation* (2012), http://www.internationalcompetitionnetwork.org/uploads/library/doc803.pdf.

[35] See, e.g., Commission Notice on cooperation within the Network of Competition Authorities, Official Journal C101, 27/04/2004, p. 0043-0053, *available at* http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52004XC0427%2802%29:EN:HTML; APEC Competition Law and Policy Group, Survey on Information Exchange on Competition in APEC Region–Phase 1, November 2012, *available at* http://publications.apec.org/publication-detail.php?pub_id=1343.

[36] For example, the North American Free Trade Agreement ("NAFTA") and bilateral agreements with Australia, Chile, Colombia, Korea, Peru and Singapore. A complete list of the United States' trade agreements are *available at* http://www.state.gov/e/eb/tpp/bta/fta/fta/index.htm.

The first free trade agreement with a competition chapter into which the United States entered was NAFTA, which took effect on January 1, 1994. While its primary focus is to reduce tariffs and eliminate trade barriers among the signatory states,[37] it also promotes fair competition and cooperation among competition agencies.[38] Specifically, the signatories promise to "adopt or maintain measures to proscribe anticompetitive business conduct," "shall consult" regarding competition law and enforcement, and agree that their respective competition law enforcement agencies will cooperate.[39] To facilitate cooperation and harmonization of competition laws, NAFTA created a Working Group on Trade and Competition, although the group has been inactive since producing its initial report.[40] The United States-Chile Free Trade Agreement calls for the parties "to cooperate in the area of competition policy;" the United States-Colombia Trade Promotion Agreement contains an identical provision.[41] For the US Agencies, competition chapters of free trade agreements have not played a meaningful role in cooperation on cases or policy, particularly in relation to antitrust-specific cooperation agreements.

Other countries have entered free trade agreements providing for cooperation on competition matters, including the EU in its free trade agreements with Canada and South Korea and in the Euro-Mediterranean Association Agreements.[42] Japan has included competition chapters in bilateral economic partnership agreements with Singapore, Mexico, Malaysia, the Philippines, Chile, Thailand, Indonesia, Vietnam, and Switzerland.[43]

---

[37] NAFTA, Art. 102, http://www.nafta-sec-alena.org/en/view.aspx.

[38] Id.

[39] Article 1501(1) and (2).

[40] Article 1504; see Interim Report of the NAFTA 1504 Working Group to the NAFTA Commission, *available at* http://www.international.gc.ca/trade-agreements-accords-commerciaux/agr-acc/nafta-alena/report9.aspx?lang=en&view=d.

[41] Agreement at Chapter 16.

[42] http://www.ustr.gov/trade-agreements/free-trade-agreements.

[43] OECD, *Cross-Border Merger Control: Challenges for Developing and Emerging Economies*, DAF/COMP/GF(2011)13, p. 164, *available at* http://www.oecd.org/daf/competition/mergers/50114086.pdf.

Many jurisdictions are also party to regional free trade and common market agreements that include provisions addressing competition issues. For example, the agreement establishing Mercosur "includes the general guidelines for cooperation between the MERCOSUR's institutions and national competition agencies"[44] and, in 2006, Mercosur's Member States signed an Agreement for Cooperation between Competition Agencies for Regional Merger Review, which provides "cooperation mechanisms between national competition agencies on merger review matters." [45] Southern African Development Community ("SADC") members adopted an agreement that contains competition enforcement cooperation commitments.[46] Member states of the Association of Southeast Asian Nations ("ASEAN")[47] cooperate to "enhance and expedite" competition policies in each country.[48] ASEAN encourages international cooperation to help member states' regulatory bodies create consistent and harmonized competition laws and policies.[49] Other regional organizations with agreements that address competition cooperation include the Andean Community, CARICOM, COMESA, SACU, SIECA, and WAEMU.[50]

---

[44] OECD, *Cross-Border Merger Control: Challenges for Developing and Emerging Economies*, DAF/COMP/GF(2011)13, p. 108, *available at* http://www.oecd.org/daf/competition/mergers/50114086.pdf.

[45] OECD, *Cross-Border Merger Control: Challenges for Developing and Emerging Economies*, DAF/COMP/GF(2011)13, p. 109, *available at* http://www.oecd.org/daf/competition/mergers/50114086.pdf.

[46] Article 1(g), SADC *Declaration on Regional Cooperation in Competition and Consumer Policies* (Members will "pursue case specific cooperation to the extent consistent with each member's laws, regulations, and important common interests in preventing hardcore cartels, abuse of dominance, anticompetitive mergers and unilateral conduct.")

[47] Indonesia, Malaysia, Philippines, Singapore, Thailand, Brunei Darussalam, Myanmar, Cambodia, Lao PDR (Laos), and Viet Nam. Member states are listed at http://www.asean.org/18619.htm.

[48] ASEAN, *Regional Guidelines on Competition Policy*, 2010, *available at* http://www.asean.org/archive/publications/ASEANRegionalGudelinesonCompetitionPolicy.pdf.

[49] Id., at 43.

[50] See LACF, *Report on Competition Provisions in Regional Trade Agreements* (2008), *available at* http://www.oecd.org/competition/latinamerica/2013-latin-american-competition-forum.htm.

III. Cooperation Continues to Expand

While arrangements and agreements that address international antitrust cooperation are increasingly common, they are not a prerequisite for either policy or enforcement cooperation. The FTC frequently cooperates with competition agencies without written agreements and welcomes cooperation with competition agencies around the world.

a. Enforcement Cooperation

Enforcement cooperation comprises a range of activities and can be based on different types of information. A considerable amount of useful cooperation can take place based on publicly available information that does not require sharing information provided by parties to an investigation. Cooperation can be more fruitful when it is based on what the US Agencies call "agency confidential" information, which consists of information that the agencies are not statutorily prohibited from disclosing but normally treat as non-public,[51] such as the staff's analysis of the relevant product and geographic markets, the competitive effects of the transaction or conduct, the timing of the investigation, and potential remedies.

Enforcement cooperation may also occur among agencies after parties or third parties have chosen to waive confidentiality protections that allow agencies to discuss and share the party's or third party's confidential information. In merger investigations currently conducted by the US Agencies, parties routinely waive statutory confidentiality protections to facilitate enforcement cooperation. Waivers have been less common in conduct investigations, in part because the parties do not have the same incentive to conclude the investigation as they do in merger cases and because conduct investigations are less frequently cross-

[51] See United States, *Discussion on How to Define Confidential Information*, October 2013, http://www.ftc.gov/sites/default/files/attachments/us-submissions-oecd-other-international-competition-fora/1310us-confidentialinfo.pdf.

border. However, parties are now granting waivers in these cases more frequently.

The US Agencies have found that waivers can make investigations more efficient and facilitate more consistent analysis and remedies by agencies investigating the same matter. To facilitate understanding and use of confidentiality waivers, the US Agencies released a model waiver of confidentiality for use in civil matters involving non-U.S. competition authorities and an FAQ about waivers.[52] Many competition agencies around the world also use confidentiality waivers, although they are used more commonly by agencies with mature competition regimes. The ICN created a model waiver of confidentiality accompanying its report on Waivers of Confidentiality in Merger Investigations.[53]

Case examples illustrate the increasing frequency and depth of cooperation with both more experienced and with newer competition agencies. For example, during its investigation of the proposed merger transaction between Western Digital and Hitachi Global Storage Technologies, the FTC cooperated with agencies in ten jurisdictions – Australia, Canada, China, Japan, Korea, Mexico, New Zealand, Singapore, Turkey, and the European Union.[54] The merging parties provided waivers of confidentiality on a jurisdiction-by-jurisdiction basis. The cooperation covered a range of topics, including timing, market definition, theories of harm, and remedies. Bilateral discussions with some agencies also covered coordinating remedies to address competitive concerns in multiple jurisdictions. Not all of the investigating agencies required remedies.[55]

[52]http://www.ftc.gov/policy/international/international-competition/international-waivers-confidentiality-ftc-antitrust.

[53]http://www.internationalcompetitionnetwork.org/uploads/library/doc330.pdf.

[54] FTC Action Preserves Competition in the Market for Desktop Hard Disk Drives Used in Personal Computers, March 5, 2012, *available at* http://www.ftc.gov/news-events/press-releases/2012/03/ftc-action-preserves-competition-market-desktop-hard-disk.

[55] Remedies were required by the FTC, the European Commission, China's Ministry of Commerce, the Japanese Fair Trading Commission, and the Korean Fair Trade Commission.

During its review of Thermo Fisher Scientific's acquisition of Life Technologies in 2013 and 2014, the FTC cooperated with nine non-US antitrust agencies, including newer agencies, on the analysis and divestitures. Cooperation discussions included market definition, theories of harm, and analysis of competitive effects. The FTC coordinated its consideration of remedies with many of the agencies, including with DG COMP such that both agencies approved the same divestiture buyer on the same day.[56] Other recent matters in which the FTC has cooperated closely with counterpart competition agencies included the investigations of unilateral conduct by Motorola Mobility LLC and Google.

DOJ also has also cooperated with newer agencies in both merger reviews and in cartel matters. For example, in the Unilever/Alberto Culver transaction, DOJ cooperated with agencies in Mexico, South Africa, and the United Kingdom.[57] DOJ cooperated with Brazil's competition agency on a cartel investigation involving commercial compressors used in devices such as water coolers and vending machines.[58]

Agencies around the world have been engaging in more frequent and deeper enforcement cooperation. A recent example is in the acquisition of Pfizer's Infant Nutrition business by Nestlé, which included assets in many emerging and developing markets. The transaction was reviewed by several younger competition agencies. Competition agencies in Chile, Colombia, Mexico,

[56] Press Release, FTC, FTC Puts Conditions on Thermo Fisher Scientific Inc.'s Proposed Acquisition of Life Technologies Corporation (January 31, 2014), *available at* http://www.ftc.gov/news-events/press-releases/2014/01/ftc-puts-conditions-thermo-fisher-scientific-incs-proposed; Press Release, EC, Mergers: Commission approves General Electric as purchaser of Thermo Fisher's divestment businesses, 31 January 201[4], *available at* http://europa.eu/rapid/press-release_IP-14-97_en.htm?locale=en.

[57] Press Release, DOJ, Justice Department Requires Divestitures in Unilever's Acquisition of Alberto-Culver Company (May 6, 2011), *available at* http://www.justice.gov/opa/pr/justice-department-requires-divestitures-unilevers-acquisition-alberto-culver-company.

[58] Press Release, US Dep't of Justice, Panasonic Corp. and Whirlpool Corp. Subsidiary Agree to Plead Guilty for Role in Price-Fixing Conspiracy Involving Refrigerant Compressors (Sept. 30, 2010), *available at* http://www.justice.gov/atr/public/press_releases/2010/262783.htm; Press Release, Conselho Administrativo de Defesa Economica (Sept. 30, 2009), *available at* http://www.cade.gov.br/Default.aspx?9caf7e8b65ba51d227142a065c.

Pakistan, and South Africa cooperated during their reviews of the transaction, and discussions included defining relevant markets, identifying theories of harm, and coordinating remedies.[59]

b. Bilateral Policy Cooperation with Newer Agencies

FTC officials routinely share their experience with officials of foreign governments involved in developing competition laws, regulations, guidelines, enforcement institutions, and practices. The FTC encourages the development of legal frameworks and competition enforcement based on sound principles and internationally-recognized good practices. Once the agencies are operating, the FTC's bilateral policy cooperation includes informal and formal consultations, experience sharing and technical assistance. The FTC and counterpart competition agencies consult on a variety of topics, including effective legal instruments, use of economic tools, experiences in analyzing specific industries and sectors, agency effectiveness, and competition advocacy to other parts of government.

For example, bilateral policy cooperation between the US Agencies and China began as the Antimonopoly Law was being conceived and drafted, and the US Agencies worked with India on drafts of its revised competition law and implementing guidelines. Once the laws took effect, the US Agencies worked closely with the Chinese and Indian agencies on the substantive and procedural implementation of their laws. The US Agencies later entered into Memoranda of Understanding memorializing the cooperative relationship. FTC and DOJ officials have engaged in extensive technical cooperation with the Chinese and Indian agencies participated in high-level meetings to exchange experience and views and cooperated on enforcement matters under parallel review.

[59] See ICN MWG Teleseminar, *Cooperation in Mergers: assessment & remedies*, January 2014, presentation slides *available at* http://www.internationalcompetitionnetwork.org/uploads/library/doc940.pdf.

The FTC's relationship with the Competition Commission of South Africa ("CCSA"**)** evolved as the CCSA gained experience in competition law enforcement. In the early 2000s, FTC, as well as DOJ, staff served as resident advisors and led many training workshops for CCSA staff.[60] A decade later, the FTC, DOJ, and CCSA are jointly leading regional training workshops for competition agencies in Botswana, Malawi, Mauritius, Namibia, Seychelles, Swaziland, and Zambia. In these workshops, CCSA staff present and share their experiences along with DOJ and FTC staff.[61] Staff from competition agencies in Egypt, Kenya, and Zimbabwe have attended these workshops, in addition to staff from COMESA's Competition Commission. The trainings have led to many informal bilateral requests from workshop participants, and the FTC continues to deepen bilateral relations with the participants' competition agencies.

In our own hemisphere, the FTC and the Mexican competition agency led the formation of the Inter-American Competition Alliance,[62] which holds teleseminars (in Spanish) with officials from competition agencies throughout North, Central, and South America. Each member agency proposes and selects topics to present. The programs focus on practical enforcement issues, often through presentations of cases. This experience sharing has increased the contacts among agencies. The relationships fostered by the Alliance support enforcement cooperation in the Americas.

[60] See US Federal Trade Commission's and Department of Justice's Experience With Technical Assistance For The Effective Application of Competition Laws, (Feb. 2008), at 7, *available at* http://www.ftc.gov/sites/default/files/attachments/international-assistance-program/ftcdojtechnicalassist.pdf.

[61] See, e.g., Press Release, Malawi Competition and Fair Trading Commission, *Regional Workshop on Merger Analysis* (Dec. 2013), *available at* http://www.cftc.mw/index.php/2013-12-16-09-56-37/news/25-regional-workshop-on-merger-analysis.

[62] See *Quines somos?*, http://www.crcal.org/alianza-interamericana/quienes-somos.

c. Multilateral Cooperation and the Role of Newer Agencies

As introduced in section II above, several international organizations support and further policy cooperation among competition agencies. The ICN, OECD, UNCTAD, and regional organizations such as APEC and the African Competition Forum provide valuable fora to deepen competition policy cooperation among developed and developing countries.

The ICN's membership continues to expand from its sixteen founding members in 2001 to agencies in one hundred and nineteen jurisdictions today.[63] Most members are from emerging and developing countries. The ICN is a consensus-driven organization in which all members are welcome to participate in and lead working groups or individual projects. The ICN is an important vehicle for policy cooperation. Its projects focus on practical aspects of enforcement cooperation that address the needs of young agencies. It has undertaken many projects that advance cooperation among its members, including model waivers to facilitate cooperation in cartel and in merger matters, a joint ICN-OECD survey on enforcement cooperation, a framework for merger cooperation, a report on cooperation in cartel matters, and cooperation provisions in recommended practices on merger notification and procedures.[64] In addition, the ICN's Advocacy and Implementation Network ("AIN")[65] and Advocacy & Implementation Network Support Program ("AISUP") [66] specifically offer support and opportunities for experience sharing between newer and experienced member agencies.

---

[63] ICN Membership Directory, http://www.internationalcompetitionnetwork.org/members/member-directory.aspx.

[64] For a complete list of ICN's cooperation-related work, see http://internationalcompetitionnetwork.org/about/cooperationwork.aspx.

[65] See ICN, *Advocacy and Implementation, available at* http://www.internationalcompetitionnetwork.org/about/steering-group/advocacy-implementation.aspx.

[66] See ICN, AISUP, http://www.internationalcompetitionnetwork.org/about/steering-group/advocacy-implementation/aisup.aspx

Newer agencies and agencies from emerging and developing countries are increasingly involved at the working group level. For example, during 2013 and 2014, newer agencies participated in teleseminars conducted by the Merger Working Group on International Cooperation and on welcoming calls for newer members held in English, French, and Spanish,[67] and participate in creating and using training modules as part of the ICN's Training on Demand Project.[68] Newer agencies also serve in leadership roles, including on the Steering Group and as working group co-chairs.[69]

The OECD's Competition Committee of the includes members from developed economies and many non-member observers from competition agencies in emerging and developing countries.[70] It includes working parties that focus on competition issues in regulated sectors and on international cooperation and enforcement. Newer agencies contribute to the OECD's policy reports and have additional interactions through the Latin American Competition Forum and the Global Forum. During the annual Global Forum on Competition, OECD members and a large group of non-members discuss competition issues relevant to emerging and developing countries and newer agencies. The Global Forum has held policy roundtables focused on issues of concern for newer competition agencies, including cooperation.[71] Any competition agency can request a peer

[67] See ICN Merger Working Group, "What's new?," http://www.internationalcompetitionnetwork.org/working-groups/current/merger.aspx.

[68] Training on Demand modules are *available at* http://www.internationalcompetitionnetwork.org/about/steering-group/outreach/icncurriculum.aspx.

[69] The Steering Group currently includes agencies from Barbados, Brazil, Russia, South Africa, and Turkey. India co-chairs the Merger Working Group and Colombia and Brazil co-chair Cartel Working Group sub-groups.

[70] OECD Competition Committee members are listed at http://www.oecd.org/competition/bycountry/.

[71] OECD, *Cross-Border Merger Control: Challenges for Developing and Emerging Economies*, DAF/COMP/GF(2011)13, *available at* http://www.oecd.org/daf/competition/mergers/50114086.pdf.

review through the OECD, and many newer agencies have participated in the peer review process.[72]

The United Nations Conference on Trade and Development, which includes 194 members, also focuses on competition law in developing countries.[73] UNCTAD's Competition Law and Policy group has developed principles on aspects of competition law enforcement.[74] It also conducts training and capacity building to assist newer agencies[75] and conducts voluntary peer reviews.[76]

IV. Prospects for and Challenges of Future Cooperation

The benefits of both enforcement and policy cooperation continue to expand. In just two decades, since cooperation began to address the issues created by the extraterritorial application of antitrust law, much has been achieved. Today, competition agencies at all experience levels find that cooperating with counterpart agencies benefits the development of their agencies and their enforcement programs, and cooperation remains a priority.[77]

For the FTC, cooperation, including with agencies in emerging and developing countries, is not a luxury but a necessity. It advances the objectives of

[72] OECD, *Country Reviews of Competition Policy Frameworks*, *available at* http://www.oecd.org/regreform/sectors/countryreviewsofcompetitionpolicyframeworks.htm.

[73] UNCTAD Membership, *available at* http://unctad.org/en/Pages/About%20UNCTAD/UNCTADs-Membership.aspx.

[74] United Nations Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices, TD/RBP/CONF/10/Rev.2 (2000), *available at* http://unctad.org/en/docs/tdrbpconf10r2.en.pdf.

[75] UNCTAD, *Technical Cooperation in the Area of Competition Law and Policy*, *available at* http://unctad.org/en/Pages/DITC/CompetitionLaw/Technical-Cooperation-in-the-Area-of-Competition-Law-and-Policy.aspx.

[76] UNCTAD, *Voluntary Peer Review of Competition Law and Policy*, *available at* http://unctad.org/en/Pages/DITC/CompetitionLaw/Voluntary-Peer-Review-of-Competition-Law-and-Policy.aspx.

[77] In 2013, 84% of respondents to the ICN-OECD Cooperation Questionnaire indicated that international co-operation is a policy priority. ICN-OECD Survey Report at 36, *available at* http://www.oecd.org/competition/InternEnforcementCooperation2013.pdf.

convergence toward sound policy and ensuring compatible outcomes of investigations subject to multi-jurisdictional review. Competition agencies in emerging and developing countries have found "that exchanges with other agencies are very beneficial, and that experience-sharing helps them to develop strategies to approach cases and strengthen enforcement even at the national level."[78] The expansion of the number of competition laws and agencies, their scope of work, and continued globalization make it likely that opportunities to cooperate will continue to grow, and that agencies will continue to develop tools to facilitate and deepen cooperation.

It seems likely that increasing cooperation on competition policy and enforcement will continue to support convergence toward sound competition rules and enforcement. Since the ICN was created, many agencies that have adopted competition laws, regulations, and guidelines have consulted and followed the ICN Recommendations. For example, Brazil, Turkey, India, and many other jurisdictions have adopted merger review practices that conform more closely with the ICN's Recommended Practices on Merger Notification and Review Procedures,[79] which has contributed to streamlining filings in multi-jurisdictional transactions. In the area of merger analysis, agencies such as those in Korea, Finland, Germany, Singapore, and Chile have moved to a competitive effects-based analysis consistent with the ICN's Recommended Practices for Merger Analysis.[80] ICN recommendations on the Assessment of

[78] Id., at 11 (among respondents from non-OECD countries).

[79] See Ron Knox, *Brazil raises merger thresholds under new antitrust law*, May 30, 2012, *available at* http://www.globalcompetitionreview.com/news/article/31896/brazil-raises-merger-thresholdsnew-antitrust-law/; [India's] Competition Act, 2002, as amended, Competition (Amendment) Act, 2007, para. 2 (y), *available at* http://www.cci.gov.in/index.php?option=com_content&task=view&id=18; Nicholas Hirst and Cihan Tutluoglu, *Turkey's merger control system to benefit from higher thresholds and streamlined test–lawyers* FINANCIAL TIMES, Jan. 9, 2013, *available at* http://www.ft.com/cms/s/2/9f2e3cca-5a74-11e2-a02e-00144feab49a.html#ixzz2Na3NuSkc.

[80] See Korea Fair Trade Commission, *Guidelines for the combination of enterprises review*, December 28, 2011, *available at* http://eng.ftc.go.kr/files/static/Legal_Authority/Guidelines%20for%20the%20combination%20of%20enterprises%20Review_mar%2014%202012.pdf; Finnish Competition Authority, *Guidelines on Merger Control*, January 2011, *available at* http://www.kilpailuvirasto.fi/tiedostot/Suuntaviivat-1-2011-Yrityskauppavalvonta-EN.pdf;

Dominance and Substantial Market Power Analysis, Competition Assessment, State Created Monopolies and Predatory Pricing have also facilitated greater international convergence toward good practices.[81] Newer as well as more experienced agencies have also used recommendations and other work product of the OECD and UNCTAD to shape their rules and guide their enforcement.[82]

Work in the ICN, OECD, and UNCTAD and at regional organizations continues to address aspects of enforcement cooperation, and the forum each organization provides for policy cooperation is ever-present. The ICN's Merger Working Group is focused on enforcement cooperation, and based on its experience-sharing work last year is drafting guidance on merger enforcement cooperation. The UNCTAD meeting in 2015 addressed merger enforcement cooperation.[83] Also in 2015, the OECD Competition Committee members discussed the types of provisions typically included in antitrust cooperation agreements.[84] In addition, the OECD's recently revised Recommendation on cooperation in competition enforcement encourages "information gateways" that could encourage broader and deeper cooperation, including toward increased sharing of confidential information in enforcement matters.

Bundeskartellamt, *Guidance on Substantive Merger Control*, March 29, 2012, *available at* http://www.bundeskartellamt.de/wEnglisch/download/pdf/Merkblaetter/2012-03-29_Guidance_final_neu.pdf (increased focus on economics; agency will take into account all relevant factors in its analysis); Competition Commission of Singapore, *CCS Guidelines on the Substantive Assessment of Mergers*, effective July 1, 2012, *available at* http://www.ccs.gov.sg/content/dam/ccs/PDFs/Publications/AnnexA_Revised%20Merger%20Guidelines%20for%20publication%20_3_.pdf; [Chile] Fiscalía Nacional Económica, *Guía para el Análisis de Operaciones de Concentración*, October 2012, *available in Spanish at* http://www.fne.gob.cl/wp-content/uploads/2012/10/Guia-Fusiones.pdf.

[81] All ICN Recommended Practices are *available at* http://www.internationalcompetitionnetwork.org/library.aspx?search=&group=0&type=3&workshop=0.

[82] See, e.g., Interview with Felipe Irarrázabal, Chile's National Economic Prosecutor, The Antitrust Source, June 2013, at 5, *available at* http://www.americanbar.org/content/dam/aba/publishing/antitrust_source/jun13_irarrazabal_intrvw.authcheckdam.pdf.

[83] UNCTAD Press Release, Seventh United Nations Conference to Review All Aspects of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices, *available at* http://unctad.org/en/Pages/MeetingDetails.aspx?meetingid=609.

[84] OECD, *Competition Issues under Discussion*, *available at* http://www.oecd.org/daf/competition/workinprogress.htm.

As cooperation continues to expand and to deepen, there will be new challenges. As with past challenges, these can be overcome through discussions and interactions facilitated by a combination of multilateral and bilateral relationships.

One challenge is the variety of national laws that typically restrict sharing confidential information. Confidential information is often necessary to most effectively assist other agencies in analyzing cases and designing appropriate remedies. Confidentiality waivers have been particularly valuable in facilitating sharing confidential information, but this takes place primarily among agencies from developed countries in merger investigations. Concerns about agencies' ability to protect parties' confidential information also limit the amount of cooperation that parties are willing to authorize. Although some countries have entered into agreements that allow their competition agencies to share confidential information and some agencies, such as those in Canada and the UK, have statutory authority to do so unilaterally, legal instruments to facilitate broader sharing of confidential information had only a limited effect in overcoming these barriers. For example, the US legislation authorizing agreements that can enable such sharing was enacted in 1995 with the expectation that the United States would conclude agreements to implement it. However, for reasons such as concerns about onward sharing of information and reluctance or inability to share information for use in criminal prosecutions, as mentioned previously, only one such agreement has been concluded and that has been used extremely rarely.

Although cooperation can take place among agencies that operate with different laws, legal systems, and policies, it works best among agencies with similar frameworks. Thus, to the extent that competition agencies deviate from a consumer welfare-based model to enforcement that appears to consider industrial and other policies, the prospects for enforcement cooperation decrease. Finally, it can take time for newer agencies to feel comfortable cooperating with other agencies, particularly those they don't know well. Over

time, it is likely that their confidence will grow and, through participation in multilateral bodies they will become more familiar with their counterparts and be more comfortable cooperating on cases.

The Federal Trade Commission has devoted substantial resources to furthering cooperation with its counterparts around the world. These efforts have yielded substantial benefits in promoting procedural and substantive convergence and in reaching sound and compatible results in cross-border matters. The FTC looks forward to increasing our cooperation with the expanding circle of international partners, to the benefit of all of our agencies and the consumers we serve.