Ad Hoc Expert Meeting: The role of competition law and policy in fostering sustainable development and trade through the enhancement of domestic and international competitiveness of developing countries

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Contribution on:

Competitive Neutrality and Development

Contribution

by

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Competitive neutrality and development[1]

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The phrase competitive neutrality typically refers to attempts to place state-owned and private sector suppliers on an equal footing in the marketplace. State owned companies are becoming more, not less, prevalent in the world economy. In part this reflects interventions in the financial crisis, but mostly it is due to the increasing weight of jurisdictions with more state ownership in the world economy – particularly, but not only China. Of the world's 2000 largest companies, 282 are SOEs. This is the highest number recorded for several decades. The State in various countries holds majority or significant influence in at least 22 of the world's 100 largest corporations.

It is the treatment of foreign SOEs in cross-border investments that particularly concerns most other policy communities, yet for competition experts there is almost nothing to discuss. A firm owned by a foreign state will almost invariably be treated simply as an enterprise under competition law, although some states might impose additional checks on mergers for non-competition reasons.

The focus of competition experts is often therefore on advocacy of competitive neutrality in policies affecting *domestic* SOEs. The aim is not to reduce the role of the state, but rather to try to minimise any inefficient distortion of competitive resulting from the pursuit of policy objectives. Often, the way to do this is to separately identify the social, policy aspect of an SOE's functions from its more commercial functions.

In developing economies, state ownership and state intervention in the economy more generally often takes place at a different scale, and for different purposes, than in the richer industrial economies. There is a school of thought in development economics that SOEs – or other state intervention – help solve a very general market failure, in that capital markets will not provide for periods of learning or building up to achieve economies of scale.

It is not my purpose here to assess this argument - although I think many competition experts have some respect for the ability of the market to make the right choices, and a healthy scepticism about Governments to identify better ones.

Rather, my concern is that if state ownership aims to correct what is seen as a very broad market failure, rather than some specific social objective, then it is much harder to see how that intervention can be neatly separated from more commercial objectives. So it is harder to see how to achieve competitive neutrality in countries with enterprises that are owned or run by the state in order to promote development rather generally.

The OECD is very interested in competitive neutrality, and will work on aspects of it in several policy fields over the next few years. Experts on investment policy, competition, corporate governance and trade all need to be involved, at a very minimum, as their

[1] The views expressed here are my own and do not constitute official views of the OECD, its Competition Committee or any member states of the OECD.

perspectives are often very different. As a start, the OECD's Competition Committee has decided to bring in experts from these other policy fields, and assess the work that has been done to promote competitive neutrality, at its first meeting in 2015.