

“Informal Cooperation in competition among competition agencies on specific cases”

See UNCTAD report TD/B/C.I/CLP/29 June 2014

Framing the Issue

For the last 5 Intergovernmental Meetings, UNCTAD has organized its work on four main themes;

- **Development Dimension of Competition policy;**
- **Agency Effectiveness;**
- **International Cooperation; and**
- **Capacity Building.**

This RT is a continuation of work on International Cooperation.

Lessons Learnt so far

- **Takes note of work done by OECD, ICN separately and jointly;**
- **UNCTAD work with both with developed and developing countries in this area.**

Lessons Learnt so far

South/South Cooperation

- **Proliferation of Trade Agreements (with competition related provisions) at sub-regional and regional levels;**
- **Examples are available in many regions.**

But;

- **Implementation takes a long time;**
- **Impact has not been very visible especially in developing countries.**



Lessons continued.....

- **Proliferation of informal cooperation efforts different parts of the world; Examples**
 - **African Competition Forum, bilateral exchanges;**
 - **Asia – APEC Training courses and experience sharing events;**
 - **MENA (COMPAL Global);**
 - **Sophia Forum;**
 - **Lima declaration (Chile, Columbia, Peru);**
 - **SADC, On-line case information sharing;**
 - **Bilateral informal exchange (e.g. within EU and with other countries, US and other competition agencies etc.)**

Question? Why informal cooperation?

Challenges to formal cooperation :

• Identified in 2013 IGE report on international cooperation:

- Trade and Investment environment which differs significantly;
- Sovereignty Issues (allocation of competence);
- Lack of mutual interest in many instances to facilitate implementation of Agreements.

Why informal cooperation is easier?

- **Informal cooperation is unofficial, friendly and unconstrained (definition from the UNCTAD paper);**
- **Not usually tied to RTA or other agreements;**
- **By choice of competition agencies, mostly peers.**



Types of Informal cooperation

Two possible areas of informal cooperation:

- ✓ **Cooperation of a general nature; including capacity building programmes, networking forums, conferences etc;**
- ✓ **Case specific cooperation.**



Application Informal Cooperation

- **Applicable to all types of anti competitive practices; mergers, agreements and abuse of dominance;**
- **However; Information sharing in cartel cases is more limited due to the nature of its content;**
- **Other additions:**
 - **Comparable case procedures;**
 - **Trust between agencies;**
 - **Confidence with each other;**
 - **Businesses confidence across borders.**



Way forward for informal cooperation

Issues for action;

- Promoting better understanding of each other's Laws;
- Building human and technical capacities of young competition agencies;
- Developing guidelines and best practices;
- Ensuring the inclusion of provisions in national laws allowing for cooperation and exchange of information for enforcement purposes;
- Establishing and implementing clear safeguards for due process and the protection of confidential information.

Way Forward for Informal Cooperation

Further:

- Targeted case information sharing sessions on case procedures;
- Opportunity to look back at cases already finalized (usually same case in different jurisdictions);
- Undertake post analysis of information gathered, strategy, evidence and share experiences;
- Identify lessons and areas where informal cooperation would have assisted;
- Build a data bank of such shared experiences and build capacity enhancement programmes based on lessons learned;
- Develop knowledge management techniques to share such information, locally and across borders.



**THANK YOU FOR YOUR
ATTENTION.**

