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Round Table on Cross-Border Anti-Competitive
Practices: The challenges for developing countries
and economies in transition

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Cross Border Anticompetitive Practices –
The Challenges for Developing Countries and
Economies in Transition

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Overview

- 4 Key Facts - International Competition Law Enforcement.
- 4 Enforcement Realities - Developing Countries and Economies in Transition.
- Proposal - Aggregating Enforcement Capabilities.
4 Key Facts

- Imperfect overlap between domestic competition enforcement and global trade.

- Cross border restraints on competition often transfer wealth from one jurisdiction to another.

- Extraterritoriality as a central tool.

- The promise and limits of cooperation networks.
4 Enforcement Realities

- Exposure to negative transfer of wealth.
- Limited ability to benefit from enforcement elsewhere.
- Effective domestic enforcement as priority.
- Cooperation as a shield and sword.
Aggregating Enforcement Capabilities

Reality:

- Limited capacity (experience, resources, extraterritorial powers).
- Exposure for externalities from enforcement actions elsewhere.
- Multinational sophisticated infringements.

One possible way to improve agencies’ effectiveness may be through the creation of a focused-multinational information sharing platform.
Collaborative Information Platform

Key features

- Pooling together resources to create a visible flow of non-confidential information.

- Each jurisdiction will log information onto the platform
  - Past investigations (Mergers, Cartels)
  - Market studies
  - Ongoing open investigations (Mergers, Cartels)

- Enable information gathering and sharing
  - industry/company search.
  - One way or two way communication.

- Facilitate collaboration - ongoing investigations
Collaborative Information Platform

Benefits

- Reduce fragmented enforcement.
- Enhance agency effectiveness in dealing with sophisticated cross border activities and determining enforcement priorities.
- Enhance deterrence (and subsequently the use of leniency programmes).
- Enable follow-on investigations and domestic remedies.
- Support capacity building, learning, and ‘soft’ ad-hoc cooperation.

- Virtual framework.
- Cost effective yet potentially highly beneficial.
- Cooperation and level of information exchange determined on ad hoc basis.
- Support more formal cooperation.