

Minutes Second Substantive Meeting of 2024
Working Group on Cross-border Cartels
25 April 2024
14:00-16:00 (CET)

Following the first substantive meeting on 29 February 2024, the second substantive meeting of the Working Group on Cross-border Cartels (WG on CBC) was held virtually on 25 April 2024 at 14:00 CET for 2 hours. This meeting comprised of four sets of presentations. El Salvador, Switzerland, the United States and Armenia gave presentations on their cases.

1. The meeting was opened and moderated by the UN Trade and Development (UNCTAD) secretariat.
2. The El Salvador's Superintendency of Competition (SC) gave a presentation about inter-agency cooperation in the planning and implementation of dawn raids against bid rigging. The SC recognised some indicators of bid rigging, such as identical price breakdown in offers and similarities in wording and spelling errors, for the proposal of the municipal council of Guacotecti in 2021. The SC conducted dawn raids and investigation with technical assistance from the General Attorney and logistical coordination from the national police. The competition authority of Mexico (COFECE) also assisted the SC with several points such as forensic tools, market intelligence tools, verification visits and evidence collection.
3. The Competition Commission of South Africa (CCSA) asked a question about the standards for judging the seriousness of cartel offenses. The SC responded that it is determined based on the impact on the market and the nature of the cartel conduct. She added that more specific standards may be established as cases accumulate in the future. The Department of Justice of United States (US DOJ) asked what impact this investigation had on other companies and the public. The SC answered that they hoped the investigation would encourage more leniency from other market participants. The Trade Competition Commission of Thailand (TCCT) inquired how the local government came to make the report, and the SC responded that the alert was possible because procurement officials were aware of the signs of bid rigging through the many advocacy activities the competition authority had been doing.
4. As the second agenda item, the Swiss Competition Commission (COMCO) presented about screening tools for bid rigging in road construction. The COMCO has developed a statistical tool based on data which is publicly available since 2008. This tool aims to capture the differences in the distribution of bids based on the hypothesis that the distribution of bids will

differ between collusive tenders and competitive tenders. Through this method, the COMCO uncovered and fined a bid rigging of road construction sector in a region of See-Gaster in Switzerland. The COMCO added that these methods of screening can serve as an additional tool to fight against bid rigging while providing room for development in the future by combining it with machine learning technology.

5. The US DOJ asked why these tools were made public. The COMCO responded that, firstly, the reason for initiating the investigation had to be revealed to the company in accordance with the enforcement procedures, and secondly, they expected a deterrence effect on the cartel through the authority's detection capabilities. He added that the authority is continuing to develop screening tools incorporating new technologies.
6. Then the US DOJ introduced the third agenda about their cross-border cartel of the Korea Fuels case prosecuted in 2019. Five oil refineries in the Republic of Korea were involved in bid rigging on fuel supply to the US military forces in Korea. The US DOJ ended up this case recovering approximately \$363 million from 5 companies, and all of whom pled guilty. The investigation began from a whistleblower in Korea, who was a part of facilitating cartel activities and reported the conduct. Because of the statute of limitations, the investigation needed to proceed quickly. The US DOJ completed the investigation in about a year based on close cooperation with the competition authority in Korea. He emphasized the importance of close cooperation with other competition authorities based on mutual concern when investigating cross-border cartel cases.
7. Professor Marek Martyniszyn (NGA) asked where the conduct took place and whether the bid rigging was sanctioned in both the United States and Korea. The US DOJ responded that the conduct occurred in Korea and they believe that the both countries have dual criminality according to the competition laws of each country. The US DOJ added that they charged one member of the conspiracy with witness tampering and that the extradition efforts remain ongoing.
8. Next, the Competition Protection Commission of the Republic of Armenia (CPC RA) gave a presentation on detection of bid rigging in food procurement in Armenia. In Armenia, the public procurement procedures are mostly conducted through electronic platforms including electronic auctions. In the case of bid

rigging on food procurement, the state organization of the Ministry of Labor and Social Affairs reported about the unusual behavior of some companies and the CPC RA started the investigation. Especially, the digital platform of the CPC RA helped integrate all electronic procurement data from other government agencies and enhancing the efficiency of the evidence gathering process. The cartel uncovered based on the facts such as family relations or affiliations among employees of bidders, shared IP addresses, same intentional mistakes and similar patterns of pricing policies. The bid rigging of five companies were classified as an anti-competitive agreement and the companies were fined approximately 14 million AMD.

9. The European Commission raised a question regarding the procedures of the electronic bid system, and the CPC RA explained the electronic bid procedure of Armenia. Initially, bidders submit their applications on the opening date specified. The participants with the lowest price can offer new prices the other day within half an hour of time frame. The participant with the lowest bid becomes the winner.
10. After the presentations and Q&A sessions, the UN Trade and Development secretariat introduced the meeting of the Intergovernmental Group of Experts on Competition Law and Policy (IGE) from 3 to 5 July. The UN Trade and Development secretariat also requested input from the delegates for their opinions on whether to renew the mandate of this WG on CBC for another year.
11. The UN Trade and Development secretariat informed the renewal of the mandate of WG on CBC would be decided by the Agreed Conclusions of the IGE in July and closed the meeting.

2nd Substantive Meeting of Working Group on Cross-Border Cartels		
List of Participants		
Shushan Sargsyan Tatevik Hovhannisyan	Competition Protection Commission (CPC)	Armenia
Corinna Potocnik-Manzouri Setso Sikwane	Federal Competition Authority (FCA)	Austria
Troy Waterman	Barbados Fair Trading Commission	Barbados
Goitseone Modungwa Ernest Bagopi Powell Kebinaefhe	Competition and Consumer Authority (CCA)	Botswana
Andrea Nascimento Maurício Estellita Lins Costa Emmanuel Ali Novaes Faria	Administrative Council for Economic Defense (CADE)	Brazil
Daria Kotova	BRICS Competition Law and Policy Center	BRICS
Armine Hakobyan	Eurasian Economic Commission	Eurasian Economic Commission
Tsitlakidou Athanasia	European Commission	European Union
Evelyn Olmedo Evelyn Jeannette Portillo	El Salvador's Competition Superintendence (SC)	El Salvador
Dominik Rock	Bundelskartellamt	Germany
Nadia Skandali	Hellenic Competition Commission	Greece
Yusuke Takahara Yoshihiro Funatsu	Japan Fair Trade Commission (JFTC)	Japan
Alejandro Pedraza	Federal Economic Competition Commission (COFECE)	Mexico
Oluwasogo Samuel Ibrahim Sulaiman	Federal Competition and Consumer Protection Commission of Nigeria (FCCPC)	Nigeria
Martyna Derszniak-Noirjean Iryna Kokun	Office of Competition and Consumer Protection (UOKiK)	Poland
Anastasia Dokukina Uliana Arkhangelskaya	Federal Antimonopoly Service (FAS)	Russia
Maanda Lambani	Competition Commission South Africa (CCSA)	South Africa
Jual Carlos Morales	National Markets and Competition Commission (CNMC)	Spain
Daniel Mueller Yavuz Karagoek	Competition Commission (COMCO)	Switzerland

Palida Puangsuk	Trade Competition Commission of Thailand (TCCT)	Thailand
Sil van Kordelaar	Competition and Markets Authority (CMA)	United Kingdom
Caldwell Harrop Ryan Tansey Brian Serino Sarah Bartels	Department of Justice (DOJ)	United States
Ophilia Sithole	Competition and Tariff Commission	Zimbabwe
Daria Kotova	BRICS Competition Law and Policy Center	
Sven Gallasch	Deakin Law School	Australia
Marek Martyniszyn	Queen's University Belfast	United Kingdom
Gamze Öz	Queen Mary University of London	United Kingdom
Tica Bosch	Product Safety Management	
Joon Gil Lee	Jipyong LLC	Republic of Korea
Santiago Roca		
