

Minutes Second Substantive Meeting of 2025
Working Group on Cross-border Cartels
10 April 2025
14:00-16:00 (CET)

The twenty-second session of the Intergovernmental Group of Experts (IGE) on Competition Law and Policy, held from 3 to 5 July 2024 in Geneva, decided “welcomes the information exchanges and discussions on best practices to promote cooperation between competition authorities in dealing with cross-border cartel cases and common issues in the fight against bid rigging; and decides to renew the mandate of the informal working group on cross-border cartels, to highlight best practices, facilitate information exchanges, consultations and international cooperation, discuss tools and procedures and undertake other projects as agreed in the future, and to report to the Ninth United Nations Conference to Review All Aspects of the Set.”

Following the kick-off meeting on 21 November 2024 and the first substantive meeting of the Working Group on Cross-border Cartels (WG on CBC) on 20 February 2025, the second substantive meeting of the WG on CBC was held virtually on 10 April 2025 at 14:00 CET for 2 hours. This meeting was comprised of three presentations and a discussion about the mandate of the working group.

1. The meeting was opened and moderated by the UNCTAD secretariat.
2. The Korea Fair Trade Commission (KFTC), presented on recent policies and cases on bid rigging in the Republic of Korea. The KFTC uses a three pronged approach to bid rigging which includes: a leniency program, a whistleblower rewards program, and collaboration with procurement authorities that uses the Bid Rigging Indicator Analysis System (BRIAS). The KFTC also highlighted that the Republic of Korea amended its Competition law in 2023 to strengthen the monitoring and sanctioning of bid rigging in the public sector which is helping to eliminate the gaps that once existed in public procurement surveillance, by ensuring that information on all public procurement bids above a certain threshold is consistently submitted to the KFTC. The KFTC works closely with procurement authorities to establish internal regulations to ensure that their members do not engage in bid rigging practices and to help establish independently operated anonymous reporting centers. The KFTC concluded by noting that bid rigging is not simply a domestic issue, but it is also a global threat to fair competition and public trust.
3. The Georgian Competition and Consumer Agency inquired about how BRIAS works logistically. The KFTC explained that it is an electronic procurement system. Next, Mr. Peter Whelan asked about how the KFTC uses the sanction of restricting future bidding for companies that are found guilty of bid rigging. The KFTC responded that the sanctions would be determined by the procurement

authorities, not by competition law in Korea. The European Commission asked what the next steps are when the BRIAS notifies of potential bid rigging and whether the KFTC has had any false positives from the BRIAS system. The KFTC explained that KFTC officers should investigate further when BRIAS notifies of a potential bid rigging and that when there is a false positive, it closes the case. Mr. David Anderson inquired about whether the KFTC has done advocacy with private enterprises, in addition to public enterprises. The KFTC noted that it has had regular consultations with public companies.

4. Then the Superintendence of Industry and Commerce of Colombia (SIC) gave a presentation on a transborder price fixing case in the tissues paper market. Ultimately, the SIC issued resolutions and fines against these companies for price fixing. These companies appealed these decisions to the Tribunal for La Comunidad Andina (CAN). In the CAN investigation, the tribunal looked at emails, testimonies and an economic analysis on the parallel price evolution in the tissue paper market to help make their determination. The SIC highlighted the key defenses that the tissue paper companies made in the CAN Tribunal, as well as the key arguments from CAN. Ultimately, the CAN Tribunal upheld the SIC's resolutions and fines against these companies for price fixing.
5. The Georgian Competition and Consumer Agency asked about the type of testimonies and recorded evidence that were used in the price fixing investigations. The SIC noted that the two types of testimonies, one that was taken during the leniency program in Colombia and one that was taken during the SIC's investigation, were provided to the CAN and that there is also the opportunity for the directors of the tissue paper companies to provide direct testimony in the CAN. The SIC further explained that recorded evidence collected by the SIC in this investigation included emails, chat communications, and testimonies which, when put together, show evidence of price fixing. The UNCTAD Secretariat inquired about the type of data that was used in the economic analysis to show the parallel evolution of price fixing in Colombia. The SIC explained that the data was provided by companies, such as the final price submitted to the client, and from information collected by the superintendents during the investigation.
6. Next, the Competition Authority of Kenya (CAK), presented a case study of the paint sector cartel conduct in Kenya. The CAK noted that the cartel stems from a merger that had been approved by the COMESA Competition Commission (CCC) in 2017. In 2019, the CAK investigated a cartel case in the paint sector which included companies that were part of the merger. The CAK highlighted that the merger analysis failed to be futuristic and analyze what the market would be like after the merger. The CAK explained how the cross-border nature of these cartels can have specific challenges, such as: difficulty in prosecuting a cartel that exists in multiple countries, competition authorities being restricted by their

domestic legal obligations and the obligation not to share confidential information with other competition authorities, as well as challenges in cooperating with competition authorities with different levels of development. He also reflected that the MoU between the CAK and the CCC has evolved to include additional investigative and educational mandates. Additionally, the CAK expressed that competition agencies should recognize the significance of better cooperation on procedural and substantive matters, partner states should share tools on investigations to benefit authorities, that there should be more engagements carried out under the CCC, and to hold more cross-border cartel specific fora.

7. Professor Marek Martyniszyn, the academic coordinator of the WG on CBC, commented that this presentation as well as the one from Colombia highlighted that not every case will end being dealt with by a regional body and that trust, such as evidenced in the MoU between the CAK and the CCC, critical to sharing evidence in competition cases. Additionally, he also emphasized that the WG on CBC follows the CAK's recommendation to have cross-border specific forums. Mr. David Anderson asked if the CAK tried to get waivers from the parties to disclose information to other agencies, in order to increase cooperation. The CAK noted that waivers would not work as well as the leniency program, which did not receive any reports for this cartel. The UNCTAD Secretariat questioned how effective a MoU can be to assess and provide information for investigations. The CAK noted that the MoU is not legally binding, but that it smooths the process of cooperation or information sharing, especially with regards to issues of mergers, acquisitions, market inquiries, and advocacy. Professor Martyniszyn further commented that MoU's can often allow for the exchange of relevant non-confidential information, such as internally created information.
8. The UNCTAD secretariat then asked participants for their perspective on whether the mandate of the WG on CBC should be extended or not. The Hellenic Competition Authority questioned if the subject of the WG should be broader and cover issues such as, cartels or bid rigging, generally. The Georgian Competition and Consumer Agency and the CAK expressed that the WG on CBC should be extended as it is. Additionally, Mr. David Anderson asserted that the WG on CBC should continue in some form. The UNCTAD secretariat informed participants that they could send additional comments by email about the mandate of the WG on CBC.
9. Lastly, the UNCTAD secretariat encouraged for active participation in the 9th UN Conference on Competition and Consumer protection in July, and closed the meeting.

2nd Substantive Meeting of Working Group on Cross-Border Cartels		
List of Participants		
Troy Waterman	Barbados Fair Trading Commission	Barbados
Bruna Pamplona de Queiroz Felipe Leitao Valadares Roquete Andrea Nascimento Emmanuel Ali Novaes Faria Maurício Estellita Lins Costa	Administrative Council for Economic Defense (CADE)	Brazil
Santiago Hernandez Perez Maria Cristina Quintero Riveros Daniela Huertas Maria Margarita Martinez Cabrera Diego Andres Solano Osorio Alejandro Pardo Saray Maria Catalina Gastelbondo Chirivi Ricardo Andres Franklin Guevara Luis Enrique Monsalve Rodriguez Edixon Alejandro Pardo Saray	The Superintendence of Industry and Commerce (SIC)	Colombia
Hazel Orozco Chavarria Viviana Blanco Barboza Daniel Lopez Salas Henry Alvarado Vargas	Commission for the Promotion of Competition	Costa Rica
Armine Hakobyan	Eurasian Economic Commission	Eurasian Economic Commission
Adriana Berbec	European Commission	European Union
Ana Rukhadze Ramazi Razmadze	Georgian Competition and Consumer Agency (GCCA)	Georgia
Mary Chamilou Hara Nikolopoulou	Hellenic Competition Commission	Greece
Sara Naso	Italian Competition Authority (AGCM)	Italy

Ami	Japan Fair Trade Commission (JFTC)	Japan
Arthur Odima	Competition Authority of Kenya (CAK)	Kenya
Jihong Son Misun Jang	Korea Fair Trade Commission (KFTC)	Korea (Republic of)
Pedraza Córtes Francisco Alejandro	Federal Economic Competition Commission (COFECE)	Mexico
Hanna Koehler	Polish Competition Authority	Poland
Catarina Tourais	Competition Authority of Portugal	Portugal
Ulyana Arkhangelskaya	Federal Antimonopoly Service (FAS)	Russia
Seapei Melamu Maanda Lambani Lebogang Seshoene Thabiso Mabotja Maria Chipasula Khomotso Modjadji Relebohile Thabane Evidence Mathivha Lungile Khoza Depuo Makubela Thembekile Tshabalala Laura Mantshidi Londiwe Senona Matodzi Sivhaga Mbongiseni Ndlovu Mmapaseka Riba Thokozani Mahlangu Kelebogile odingoana Meshack Neshituthuni Nkhulu Kekana Nyiko Nobela Tsholo Rakgoale Mulalo Shandukani	Competition Commission of South Africa (CCSA)	South Africa
Juan Carlos Morales Alonso	Spanish National Commission on Markets and Competition (CNMC)	Spain
Daniel Müller	Competition Commission (WEKO)	Switzerland
Pierre-Louis Gonin	State Secretariat for Economic Affairs (SECO)	Switzerland
Peeti Leo-Likhit Chatpisit Yakhumpai	Trade Competition Commission of Thailand (TCCT)	Thailand

Michelle Ofner	U.S. Department of Justice (US DOJ)	United States
Ophilia Sithole Tawanda Mawundike	Competition and Tariff Commission	Zimbabwe
Dave Anderson	BCLP LLP, Belgium and UNCTAD NGA	
Daniel Favoretto	Competition Lawyer, former UNDP	
Joong-weon Jeong	BKL LLC, Republic of Korea	
Marek Martyniszyn	Queen's University Belfast, United Kingdom	Academic Coordinator of the WG on CBC
Peter Whelan	University of Leeds, United Kingdom	
Walter M.		
