

**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**

**Geneva, 7 July 2014**

Contribution on:

**International cooperation in competition law enforcement and development**

**Contribution**

**by**

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The views expressed are those of the author and do not necessarily reflect the views of UNCTAD

## **International co-operation in competition law enforcement and development**<sup>1</sup>

### **John Davies**

Competition law enforcement exists to preserve the integrity of free markets, undistorted by anti-competitive conduct. More vigorous competition has two main benefits: first, it protects consumers; second, it promotes productivity growth, which in turn leads to faster economic growth. There are now plenty of academic studies, from developed and developing countries alike, demonstrating both of these effects.

Competition law has gone global in the last 20 years. There has been more than a 600% increase in the number of jurisdictions with competition law enforcement since 1990, from fewer than 20 to about 120 today. This is a major policy achievement. Many competition law cases have an international dimension, and the number is rising rapidly, perhaps as a consequence of increasing international trade and the growth of global supply chains.

Consequently, co-operation between competition authorities when assessing essentially the same matter is becoming more and more important. This is particularly true when considering mergers (such as Glencore/Xstrata) and cartels (eg air cargo) with effects worldwide.

There is often a stark distinction between the experiences of large and small jurisdictions, between established and new agencies and between developed and developing economies. Whatever the legal position, as a practical matter an agency in a small developing economy finds it much harder to investigate – and remedy or punish if need be – international cases than would an agency in a large industrial economy.

In these circumstances, agencies need to work together, whether through simply alerting one another to their common interest or through information sharing of increasing sophistication. Possibly in future co-operation will need to go further still, towards joint decision-making. In cases of supra-national market sharing, agencies might struggle to find an effective application of the law in a purely national context, so regional enforcement can be particularly valuable.

Although co-operation has increased over the last 20 years, the need for co-operation is perhaps increasing still faster, for two reasons. First, business is more globalised than it was, and there is still considerable scope for further economic integration. Secondly, there are more jurisdictions with competition laws than there were, so the complexity of co-operation has increased substantially. The implication is that the number of competition cases with an international dimension will continue to grow very rapidly.

The OECD's Competition Committee has identified international co-operation as its strategic priority for the past two years, and has recently decided to continue with this priority. A new Council Recommendation on mechanism for co-operation, proposing consideration of information gateway legislation among other things, has been agreed and will be put to Member countries for adoption. Countries not presently members of OECD are welcome and encouraged to adhere to this Recommendation.

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<sup>1</sup> 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.