



**International  
Competition  
Network**



**Summary of ICN Work Product  
2016-2017**

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## Section I: Working Groups

### Advocacy Working Group

The mission of the Advocacy Working Group ([AWG](#)) is to improve the effectiveness of ICN members' advocacy activities in advancing the adoption of competition principles in government and promoting the development of a competition culture within society through the development of practical tools and guidance, and the facilitation of experience sharing among ICN member agencies. During the 2016-2017 ICN year, by the Italian Competition Authority, the Mexican Federal Economic Competition Commission and the Swedish Competition Authority were the co-chairs of the AWG. The AWG has been engaged in the following main activities:

- the Strategy Project;
- the Benefits Project;
- the Market Studies Project;
- the Competition Advocacy Contest Project; and,
- 2016 Advocacy Workshop (Mexico City, Mexico)

The AWG's work on dissemination, implementation and outreach is also reported below.

#### ***Strategy Project***

The aim of the project has been to improve the way competition agencies define their advocacy strategies, by encouraging experience sharing and discussion among ICN AWG Members and NGAs on this topic.

In 2016-2017, the AWG has gathered from its members information about the stages that precede and follow the advocacy actions, i.e. the elaboration of the advocacy strategy (analysis of the environment, priority setting, definition of the advocacy objectives, feasibility study), and the consequent monitoring of the results and refining of the strategy. This effort was strengthened with a Teleseminar entitled "Planning an effective advocacy strategy" in November 2016 and a teleseminar entitled "Monitoring and assessing the results of advocacy efforts" in March 2017.

Following each teleseminar, a short set of questions was sent in order to collect agencies' and NGAs' views and experiences on the internal process followed by competition agencies. These experiences have been summarised in a short report which will be the basis for further work with a view to identifying guiding principles for competition agencies.

### ***Benefits Project***

The Benefits Project seeks to provide ICN members with knowledge, strategies and arguments for explaining the benefits of competition in support of their competition advocacy efforts toward government and non-governmental stakeholders.

In 2016-2017 the AWG has worked on the third section of the online interactive platform, to be uploaded on a [dedicated page](#) of the ICN website, addressing the topic: "Explaining the Benefits of Competition to the General Public through the Media and Academia". This section contains tips for effective communication with the general public, key messages and a selection of various case studies.

### ***Market Studies Project***

The Market Studies Project has sought to update and revamp the existing AWG work-products on market studies and increase their dissemination among ICN members so that they can be more effectively used as a resource for authorities that have recently started conducting market studies, or are considering introducing market studies in their toolkit. During 2016-2017 the AWG has produced a booklet with high-level guiding principles in selecting and conducting market studies, based on the 2016 revised Market Studies Good Practice handbook. The booklet aims to offer both case officers and staff responsible for strategic planning and conducting of market studies an understanding of the overarching issues to consider when undertaking market studies.

### ***ICN – World Bank Group Competition Advocacy Contest 2016-2017***

The Contest Project aims to highlight the key role competition agencies play in promoting competition by showcasing their advocacy success stories. In 2016 the ICN and the World Bank Group launched the [2016-2017 Competition Advocacy Contest](#) following the successful [2015-2016 edition](#). The 2016-2017 edition was focused on “Innovative Advocacy Strategies to Address Market Challenges”. The winners, whose stories will be announced at the 2017 ICN Annual Conference in Porto, Portugal, will be invited to present their stories at an ICN-World Bank Group event and be featured in a joint publication.

### ***2016 Advocacy Workshop (Mexico City, Mexico)***

The Fourth ICN Advocacy Workshop was held in Mexico City on November 3-4 2016. The event gathered around 85 attendees from 28 jurisdictions. The topic of the workshop was “Designing Effective Advocacy Strategies”. The Workshop’s two-day format was organized in three plenary sessions and nine breakout sessions which included mock cases for practical approaches to the issues being discussed. One of the breakout sessions was held in the Spanish language in order to foster participation of Latin American and Caribbean colleagues. The workshop also introduced a new concept for experience exchange: “Sharing Over Coffee”. The purpose of this was to increase the awareness and networking potential of coffee and lunch breaks that take place between sessions.

### ***Implementation, dissemination and outreach***

The AWG undertook various initiatives to disseminate and implement AWG work products. The AWG organized two teleseminars for the 2016-2017 period. The first teleseminar was held on November 17, which sought to identify the internal processes that agencies conduct for designing a formal advocacy strategy and the criteria to select the initiatives and assign the necessary resources in order to conduct them. The second teleseminar was held on 16 March and focused on monitoring and assessing the results of advocacy efforts. At the Advocacy Workshop a session was arranged to promote awareness of AWG work product. Breakout sessions at the Advocacy Workshop and the ICN Annual Conference were designed to allow the discussion and implementation of AWG work product in small group discussions. As part of a continued constructive dialogue with the OECD, the AWG co-chairs presented the AWG work on market studies at the OECD Global Forum on Competition in December 2016.

## Agency Effectiveness Working Group

The mission of the Agency Effectiveness Working Group ([AEWG](#)) is to identify key elements of an effective and efficient competition agency and develop best practices for agency strategy, planning, operations, and investigative tools and procedures. The AEWG's work explores a variety of factors that affect how competition agencies achieve their objectives in an efficient and effective way.

For 2016-17, the Finnish Competition and Consumer Authority, Competition Commission of India, Norwegian Competition Authority, and United States Federal Trade Commission helped lead the AEWG. The AEWG had three areas of focus during 2016-2017:

- 1) New work on agency use of social media and websites,
- 2) Project on agency training programs, and
- 3) Oversight of the renowned ICN Training on Demand Project (ITOD).

### **ICN Agency Practice Manual additions**

The **Social Media Project** examined how competition agencies communicate externally via social media, in relation to their websites. The aim of the project has been a comparative overview addressing questions such as what types of social media are used, how are they used, and what value do the agencies get from their use. This project included an agency practices survey and also a non-governmental survey. The Social Media Report will be added as a new chapter of the AEWG's ICN Agency Practice Manual.

The **Staff Training Project** explored the range of training tools and exercises that agencies use to train their staff. The output is a report which covers the following areas: (i) identification of approaches adopted for providing staff training, (ii) challenges faced in providing staff training, (iii) best practices or solutions identified by agencies and (iv) provide list of actionable steps that can be taken by an agency to improve the training process. The report can be utilized by agencies to learn about practices prevalent in other agencies, and to identify and implement useful practices. The Staff Training Report will be added as a new chapter of the AEWG's ICN Agency Practice Manual.

### **ICN Training on Demand Project**

No ICN project has done more to promote ICN work across the full range of topics and deliver more entertainment value doing so, than the [ICN's Training on Demand](#) (ITOD) project. The mission of the ITOD is to create a comprehensive curriculum of training materials to serve as a virtual university on competition law and practice for competition agency officials. The Project is led by the US FTC and a dedicated Project Group that includes representatives from each ICN Working Group and additional interested members and NGAs. The project engages the skills and talents of ICN members and NGAs, particularly academics, to provide a valuable new resource to build capacity and to

strengthen competition policy and enforcement. Training modules, consisting of video lectures and accompanying ICN materials, provide an on-line educational centre for competition authorities and others in the competition community from around the world. The modules promote ICN work products and incorporate ICN members' experiences.

In 2016-17, the Training on Demand Project created new modules on international cooperation, international organizations, procedural fairness and competition assessment. The Project also continues to improve its offerings of viewing formats, translations, and links to additional ICN work that enhance the usability and usefulness of the modules.

### **Other AEWG Updates**

#### ***Upward interest in the AEWG work***

AEWG updated its mailing list asking agencies and members to renew their interest in WG's work (also removing non-interested members/participants). The updated statistics show that the amount of WG stakeholders has increased some 15 per cent during the last three years, being currently around 70 agencies and 230 participants.

#### ***Expert Calls***

In its ongoing quest to provide compelling discussion topics, AEWG organized a kick-off conference call planning the new AEWG year (summer 2016), webinar on agencies' social media and website strategies (November 2016), staff training project update call (January 2016) and webinar/conference call on new IT and digital tools (March/April 2017).

#### ***Implementation Efforts***

In 2016, AEWG organized a Workshop in Botswana where it took the opportunity to promote and advocate the use of ICN work products.

#### ***Stocktaking on members' preferences***

AEWG has annually organised a survey/poll among AEWG members where members are asked to indicate their preferences in terms of future AEWG work. This exercise was carried out also in 2017. As a result, the following themes gained support for future discussion and work in the AEWG:

- (i) internal organizational choices that competition agencies make and have control over,
- (ii) the role of chief/senior economists for effective enforcement,
- (iii) new IT and digital tools in case management,
- (iv) effective technical assistance,
- (v) courtroom skills,
- (vi) effective enforcement in an inter-agency framework,
- (vii) how to identify and speak with all relevant stakeholders (not just the complainants/targets of an investigation),
- (viii) due process, transparency and agency effectiveness.

## Cartel Working Group

The ICN Cartel Working Group ([CWG](#)) brings together antitrust enforcers to address the challenges of anti-cartel enforcement, enhancing the ability to eliminate both domestic and international cartels. The CWG aims at reducing obstacles that antitrust agencies face in deterring and detecting cartels through the examination of important legal and policy issues and the exchange of effective investigative techniques. For the 2016-17 ICN year, the CWG was co-chaired by the DG Competition of the European Commission, the South African Competition Commission and the Netherlands Authority for Consumers and Markets (ACM).

The CWG consists of two subgroups:

- *Sub Group 1 (SG1): Legal Framework* was co-chaired by the Japan Fair Trade Commission (JFTC) and the Hungarian Competition Authority (GVH) in 2016-17. It addresses legal and conceptual challenges of anti-cartel enforcement. The focus of the subgroup is examining policy-level issues of the institutional and investigative framework for the detection and punishment of hard-core cartel conduct.
- *Sub Group 2 (SG2): Enforcement Techniques* was co-chaired by the Australian Competition and Consumer Commission (ACCC) and the Russian Federal Antimonopoly Service in 2016-17. It aims to improve the effectiveness of anti-cartel enforcement by identifying and sharing specific investigative techniques and advancing the education and information sharing agenda of the CWG.

### SG1: Legal Framework

#### *Checklist for efficient and effective leniency programme (Project 1)*

SG1 has produced a concise document which lists the legal and enforcement prerequisites to an effective and efficient leniency programme, such as the setting of thresholds to obtain leniency, the criteria for significant added value (SAV), rewards for leniency cooperation, leniency programmes under administrative and criminal procedure. The checklist is particularly useful for young competition authorities which plan to elaborate their leniency regimes.

#### *Setting of Fines for Cartels in ICN jurisdictions (Project 2)*

In the light of the development of fining policies of the ICN member institutions, SG1 revised the 2008 CWG report on “*Setting of Fines for Cartels in ICN Jurisdictions*”. Since then more jurisdictions have participated in the project. In addition to updating the information of the previous report, now the revised report is being developed to focus more on fining policies.

#### *Discussion Call Series*

The call series format facilitates exchanges of experiences, sharing of ideas, and learning about specific enforcement and policy efforts in other jurisdictions. Over the past working year, SG1 held various calls on the one hand on investigative tools and detection methods (Project 3), and on the other hand on disclosure and discovery (Project 4). Altogether five calls were organized, complemented by two “Asia-Pacific friendly” timed calls. Participants in the calls were representatives from member agencies and, where such participation was permitted, also NGAs.

Within the framework of Project 3 on investigative tools and detection methods, agencies and NGAs shared views on experiences, challenges and difficulties concerning the use of cartel leads and informants in one event, while further three webinars – open to enforcement agencies only – were devoted to the topic of challenges related to electronic searches during dawn raids and evidence gathering after dawn raids.

Within the framework of Project 4 on disclosure and discovery, the appropriate protection of leniency-based information, in the light of the opportunity of civil and criminal courts to request such information, was discussed in order to examine how this conflict might be reconciled or solved.

## **SG 2: Enforcement Techniques**

### *Scoping Study for new content for the Anti-Cartel Enforcement Manual*

During 2016, SG 2 undertook the first part of a two-year project: a Scoping Study project to explore whether:

- (a) a further chapter in the *Anti-Cartel Enforcement Manual* would be beneficial to members and, if so, on what topic; and/or
- (b) it is timely to revisit and update the content of existing chapters (for instance, investigative strategy or interviewing techniques, both of which date back to 2008).

The Scoping Study project was completed early in 2017; the results of this work will be used by SG 2 to undertake the second part of the project (development of new or revised content in the *Anti-Cartel Enforcement Manual*) in 2017-18.

### *Establishing a framework for the promotion of sharing of non-confidential information*

During 2015-16 SG 2 developed and implemented a framework for the promotion of sharing of non-confidential information. This framework is intended to assist competition agencies in knowing how to, and whom to, contact in international counterpart agencies when seeking non-confidential information. During 2016-17, SG 2 continued to maintain and promote the Framework. As at February 2017, more than 50% of CWG members had registered their participation. The CWG will continue to support and promote the Framework in 2017 - 18.

### Update to Anti-Cartel Enforcement Templates

During 2016-17, SG 2 continued the process of updating the Anti-Cartel Enforcement Templates, which provide public access to information about ICN members' anti-cartel enforcement regimes. The templates cover a range of topics, including the process for filing a complaint, decision-making, sanctioning cartel conduct, investigative tools, leniency, rights of defendants and confidentiality. Templates can be found on the ICN website.

### ICN Cartel Workshop 2016

The 2016 ICN Cartel Workshop was hosted by la Comisión Nacional de los Mercados y la Competencia (CNMC) in Madrid, Spain from 3rd to 5th October, 2016. The Workshop theme was *Enhancing Cartel Enforcement* and more than 275 participants from 66 jurisdictions attended the event.

A mixture of plenaries, mini-plenaries and breakout sessions covering both established and emerging issues in cartel enforcement, were offered, wherein over 130 speakers and moderators shared their knowledge and experience. Sessions included, *inter-alia*, making your leniency program more effective; the relationship between corruption and cartel investigations; cartel combatting bid rigging in public procurement. The Workshop included two Spanish language sessions, which were very well attended.

### Update of the Compilation of Good Practices, Anti-Cartel Enforcement Manual

In 2016-17, SG 2 updated the Compilation of Good Practices (2011), which summarizes the "good practices" identified in the Anti-Cartel Enforcement Manual. The Compilation now includes practices which have been identified, revised or reworded since 2011.

## Merger Working Group

The mission of the ICN Merger Working Group ([MWG](#)) is to promote the adoption of best practices to: (i) enhance the effectiveness of merger review processes; (ii) facilitate procedural and substantive convergence; and (iii) reduce the public and private time and cost of multi-jurisdictional merger reviews. For the 2016-2017 ICN year, the Canadian Competition Bureau, French Autorité de la concurrence, and U.S. Federal Trade Commission co-chaired the MWG, with participation from 68 member agencies.

2016-2017 was an active year for the MWG, with historic results. For the first time in ICN's distinguished history, a working group reopened existing Recommended Practices to discuss and make significant upgrades. For only the second time in ICN history, a Working Group organized two in-person events during the same ICN year: the MWG's 2016 Roundtable on merger notification and the MWG's 2017 Workshop on investigative techniques.

### ***Recommended Practices (RPs) Project***

In 2016, the MWG began an ambitious project to reassess and update its two sets of Recommended Practices approved 6-14 years ago, one on merger notification and procedures and a second on merger analysis. As aspirational recommendations for all members, RPs are the ICN's highest level work product, and the MWG RPs are among the ICN's most prominent and influential work. This is the first time any working group has taken on the complex challenge of reopening approved consensus ICN RPs for improvements and updates based upon new perspectives and years of experience with the existing RPs. The MWG identified four important topics for review: revisions and additions to RPs on 1) nexus and thresholds, and 2) merger remedies, and completely new RPs on 3) types of transactions subject to merger review, and 4) the role of efficiencies in merger analysis. After comprehensive working group dialogue over several drafts of each RP during the year, the MWG delivers new and revised RPs on these topics for 2017.

The RPs Project was launched with the intent to assess (and further promote) the level of use and implementation of the MWG RPs. As an initial step, the MWG conducted a comprehensive ICN-wide self-assessment exercise on the Merger Notification and Review Procedures RPs in 2016. To that effect, an online self-assessment questionnaire was circulated to find out how the RPs are being implemented by ICN members, with replies from 80 jurisdictions. The results of this exercise were compiled into a 2017 Report to provide helpful insight on current use of the RPs and a basis for MWG implementation efforts, including updating the RPs.

### ***Roundtable on Nexus and Thresholds***

On December 3, 2016, agency heads and senior officials joined other ICN members and non-governmental advisers in Paris, France, to share delicious croissants and perspectives

on a critical element of effective merger control: notification rules. The first half of the roundtable addressed the design of merger thresholds, with a focus on nexus to the jurisdiction and notification thresholds. Small group discussions considered proposed revisions to the ICN's Recommended Practices for Merger Notification and Review Procedures (RPs), spanning topics such as: conformity with ICN RPs and whether proposed changes would encourage greater conformity; how to define a "party" in calculating thresholds; and the need for complementary ICN work product. In the second session, participants considered the challenges of the digital economy and low-turnover transactions and explored different ways of addressing these challenges, including residual jurisdiction and alternative criteria for notification. The ICN's MWG has been at the epicenter of international dialogue on merger notification issues for more than 15 years; the 2016 Roundtable event continued this proud tradition of ICN leadership on the issue.

### ***Publication of Merger Remedies Guide***

2016 also saw the publication of the acclaimed [ICN Merger Remedies Guide](#) (Guide), the culmination of a multi-year project of the MWG, involving input from dozens of member agencies and non-governmental advisers. The Guide provides overarching principles of sound merger remedies and guidance on how these principles inform remedy design and implementation. It builds on and supersedes the MWG's 2005 Report on the Merger Remedies Review Project, and complements the MWG's trailblazing 2015 [Practical Guide on International Cooperation](#), by highlighting factors in the design of multi-jurisdictional mergers. The MWG also kicked off the implementation of the Guide through a webinar (delivered in two sessions), where speakers applied the principles and considerations set out in the Guide to a hypothetical case study crafted for the exercise – a merger of two hypothetical pharma companies. The session was well attended by members and NGAs across a number of time zones, who provided helpful input and comments. The Guide again was highlighted at the 2017 MWG Workshop, with a session on remedy process and analysis.

### ***2017 Merger Workshop on Investigative Techniques***

The MWG thirteenth workshop took place on February 15-16 in Washington, DC, hosted by the U.S. competition agencies. The MWG organizes the ICN's longest running and most varied, in terms of format, series of workshops with events targeted to case handlers, economists, and merger policy makers. Over 125 member agency and non-governmental adviser participants attended the 2017 Workshop from 45 jurisdictions.

The format was a skills-training workshop on effective merger investigative techniques based on a comprehensive, real-world feel hypothetical case that included role-playing demonstrations such as a party-agency meeting. Many of the workshop sessions involved small group discussions and hands-on skill exercises among 10-12 participants. The Workshop began a new project within the MWG to examine and promote effective

investigative techniques in merger review, including a planned 2017-18 update to the MWG's chapter on Developing Reliable Evidence within the MWG's [Investigative Techniques Handbook](#).

The 2017 Workshop was a true Working Group effort, with presenters, moderators, facilitators, and role players from 24 agencies, and spirited interaction and experience sharing during the small group exercises from all. The MWG is grateful to everyone that took on a role at the Workshop and the many enthusiastic participants that contributed to the success of the Workshop. The "overall satisfaction" rating for the Workshop from the dozens of participants that filled out an evaluation is a stunning, near perfect 4.97 out of 5! In addition, the "opportunities for discussion and participation" and "workshop materials" were each rated a perfect 5.0.

In the follow-up evaluation, member agencies cited inspirational implementation stories involving MWG work product, including use for internal training, review of notification thresholds and nexus, developing guidelines for merger analysis, and practical implementation of best practices in case management. The impressive presentation materials from the Workshop are available on the [Workshop webpage](#) and the thought-provoking hypothetical materials are available for agencies to use for their own internal training.

#### ***Framework for Merger Review Cooperation***

The MWG also maintains a [Framework for Merger Review Cooperation](#) among interested member agencies. The Framework provides contact details of agency liaison officers to facilitate information exchange between cooperating agency case teams. The JFTC administers the Framework. As of 2017, 60 competition authorities have joined the Framework.

## Unilateral Conduct Working Group

The Unilateral Conduct Working Group ([UCWG](#)) was established at the fifth annual ICN conference in May 2006. Its primary objectives are to examine the challenges involved in analyzing unilateral conduct of dominant firms and firms with substantial market power, facilitate greater understanding of the issues involved in analyzing unilateral conduct, and promote convergence and sound enforcement of laws governing unilateral conduct. For the 2016-17 ICN year, the US Department of Justice, the United Kingdom Competition and Markets Authority and the Australian Competition and Consumer Commission co-chaired the UCWG.

### ***Chapter on the Analytic Framework***

During the last year, the Working Group continued to develop a “workbook” on the analysis of unilateral conduct, concluding a two year project to produce a chapter on the Analytical Framework for Evaluating Unilateral Conduct. Previous chapters drafted by the Working Group focused on [Assessing Dominance/Substantial Market Power](#), [Objectives of Unilateral Conduct Laws](#), [Predatory Pricing Analysis and Exclusive Dealing](#), [Tying and Bundling](#). This workbook chapter poses and explores basic questions an agency must address in formulating its enforcement policies, focusing on two key questions in unilateral conduct enforcement: ‘what is dominance?’ and ‘what makes conduct exclusionary?’

### ***Vertical Restraints Project***

In 2016, the UCWG developed the *Vertical Restraints – Options for Future Work Issues Paper* which provided a basis for consultation with UCWG members and non-governmental advisers on options and priorities for future work by the UCWG in the area of vertical restraints. A report providing a summary of submissions and setting out the issues identified as being of greatest interest/priority for further work by the UCWG was presented and discussed with UCWG during an interactive webinar.

### ***Webinars***

The Working Group held two webinars, the first exploring efficiencies in unilateral conduct, while the second continued the Working Group’s development of the vertical restraints project. These and other materials are available from the [ICN website](#).

## Section II: Steering Group Initiatives

### ICN Chair

#### *The Change Committee*

Following the network-wide “second decade follow-up” assessment presented at the 2016 Annual Conference in Singapore, the ICN initiated several measures in order to take up suggestions received from the membership and NGAs. The SG established a project called the “Change Committee”, where small and flexible teams led by Steering Group members develop proposals for action and act as incubators. The Change Committee is looking into a number of key areas, such as the website, member engagement particularly of younger agencies, NGA participation, regional diversity, new work topics, cooperation with other international organizations and the improvement of internal processes.

#### *ICN Newsletter*

One measure that is based on input from the membership and NGAs is the new format for the ICN newsletter. To further improve the internal information flow of the network, the newsletter now provides the working groups with a platform to share information with the membership and NGAs and contains a calendar of upcoming events.

#### *Town Hall Teleconference Series*

The Steering Group has agreed to continue its successful format of town hall teleconferences where heads of agencies discuss general policy issues and potential new topics that the ICN might deal with and which are not yet covered by the regular planning of the Working Groups. The ICN town hall calls are open to the whole ICN community.

#### *Diversity*

The Annual Conference Planning Committee (ACPC) comprising inter alia, the host agency, the Chair, the Vice-Chairs and the Working Group Co-Chairs has very efficiently taken steps in order to further streamline the organization of the annual conference, with a renewed emphasis on diversity and a focus on interactivity and dynamism in the sessions.

### ICN Vice-Chairs

According to the ICN Operational Framework, the ICN can have up to two Vice Chairs. In June 2016, Alejandra Palacios Prieto, President of the Mexican Federal Economic Competition Commission, replaced Vinicius Marques de Carvalho, President of the Brazilian Administrative Council for Economic Defense. As Bruno Lasserre has left the Autorité de la concurrence, the second position as Vice Chair has opened up and in 2017, Chris Fonteijn, Chairman of the Netherlands Authority for Consumers and Markets, has taken up the role of

Vice-Chair. Together with Alejandra, Chris will focus on topics that are essential to the ICN. Alejandra will concentrate on younger agencies and regional diversity while Chris will focus on the new ICN website and other communication channels. During the 2017-2018 ICN year, the Chris will present a proposal for a new ICN website. A plan will be put in place to facilitate migration of content from the old to the new site. In addition, the ICN website team will explore the possibilities of increasing ICN's presence on Social media sites, and expanding the use of communication channels, so as make full use of active NGAs. Implementation remains a top priority. If we want to ensure that the ICN and its work products matter, we need to enhance the implementation of ICN work products. To achieve this goal, we will reinforce the already existing ICN Advocacy & Implementation Network (AIN) which is responsible for promoting the use of ICN work products throughout the world.

## **Younger agencies and regional diversity**

Aiming to build on the existing ICN efforts and assure continuity as well as progress on the current projects, the work of Vice Chair Alejandra Palacios has been driven by the findings of the Report "The future of the ICN in its second decade" (hereafter Second Decade Report or Report).

Notably, the Report recognized the importance of strengthening advocacy efforts to foster active participation of younger agencies, among other regions, from Latin America and the Caribbean. For this reason, aiming to gain some in-depth knowledge about that, found in general terms by the Second Decade Report and wanting to explore more on the reasons why younger agencies cannot actively participate in the ICN, the Mexican Competition Authority (COFECE for its Spanish acronym) launched a regional survey that shed light on the shortcomings regarding the involvement within the ICN activities on behalf of Latin American and the Caribbean authorities. The idea is to replicate this survey in the rest of the world, finding common issues to design and implement specific strategies to address the identified problems.

The survey was launched in October 2016 and sent to 19 Latin American jurisdictions, 11 of which responded. The survey consisted of 35 questions both open and closed, divided into 7 sections.

Among the most revealing results, it was found that the main overall barriers faced by regional agencies for a better involvement in the ICN activities are budget and staff constraints, as well as scarcity of technical knowledge. 63% of respondents considered language as a barrier that prevent agencies from further engagement.

According to the survey results, part of the concerns raised by younger agencies from Latin America and the Caribbean is the multiplicity of events addressing competition related topics that are organized by different bodies and that sometimes overlap in subjects. Thus,

because of financial constraints, agencies tend to attend only those events for which they are granted funding. In this sense, it was pointed out that sometimes the lack of information about the ICN financial aid prevents competition authorities from applying for funding and participating in the Network events.

Bearing this in mind, while starting to implement various mechanisms aimed to address the identified needs in the Latam region, Alejandra is currently seeking to build consensus around the convenience to launch a similar survey for younger agencies outside Latin America and the Caribbean, hoping that this will become a worldwide comprehensive exercise that would allow the ICN to map similar necessities and work a comprehensive strategy.

From the preliminary results, Alejandra suggests strengthening ties among the ICN and other international organizations such as the World Bank, the Inter-American Development Bank, the United Nations Conference on Trade and Development and the Organization for Economic Cooperation and Development. It is her believe that the efforts of these institutions are complimentary and, when coupled, they can achieve greater goals as each of these institutions have different strengths: financial assistance, outreach matters, capacity building efforts, as well as the promotion of ICN work products and best practices.

### ***NGA engagement***

As stated in the Second Decade Report, the pursuit of voluntary adoption of widely-accepted norms of competition policy, substantive standards, procedures and levels of institutional capability is a pillar within the works of the ICN. In order to follow the path toward convergence, it is necessary to include expert voices that contribute with diverse points of view to the debates and discussions within the ICN.

Accordingly, COFECE recognizes that all ICN efforts would be enriched with the feedback and participation of Non-Governmental Advisors.

Taking that into account, in late 2016 COFECE launched a pilot strategy for NGA engagement, starting with Mexico. This, considering that Mexico was one of the jurisdictions with less involvement on behalf of domestic NGAs.

A mapping effort was carried out to identify over 60 specialized Mexican lawyers, economists and academics that could add value to the ICN works. Then, the spotted experts were encouraged, by means of an institutional event, to get a closer look at the ICN goals, structure, outputs, benefits and relevance in the international scene.

Upon request, and after having met the established criteria, the NGAs were assigned to the Working Group of their preference and have since then been monitored in terms of their performance, as well as commitment to the Network's aims.

From the implementation of the pilot strategy, COFECE has increased its NGAs to 25; the same experts who share their standpoint and expertise, adding value to the ICN's work products and discussions.

Alejandra believes that a version of this strategy can be replicated in other jurisdictions that currently lack the participation of national non-governmental experts within the ICN, which will undoubtedly benefit the Network and will enable it to continue pursuing convergence on competition policy.

## **Advocacy and Implementation Network (AIN)**

The mission of the Advocacy & Implementation Network (AIN) is to promote greater awareness and implementation of the ICN work product among ICN members, in support of the ICN's mission to promote convergence and effective cooperation. Its goal is to promote better use of the ICN work products and to facilitate technical assistance for ICN members through the AIN Support Program(AISUP).

During the 2016-2017 ICN year, the AIN has been engaged in the following activities:

- Updating ICN Work Products Catalogue
- Activities to implement and promote the AISUP
- Introduction of the ICN work products

The details of each activity are described in "Activity Report on ICN Advocacy and Implementation Network 2016-2017" which will be available on the ICN website.

In addition to the AIN original activities above, ICN Steering Group compiled "The Final Report of the future of the ICN in its second decade" in June 2016 which concluded that "there is a broad consensus that the ICN should focus on implementation" and identifies "greater focus on implementation" as a "key priority" in terms of implementation.

### Updating ICN Work Products Catalogue

The AIN which is comprised of Co-Chairs of each Working Group updated the ICN Work Products Catalogue which is used for identifying work products relevant to the needs of recipient agencies.

The JFTC promoted the catalogue by distributing USB memory sticks at ICN and other events. In addition, AIN introductory kit containing the ICN Work Products Catalogue was disseminated to new ICN members in cooperation with the Membership Working Group.

### Activities to implement and promote the AISUP

The technical assistance through AISUP has been implemented to recipient agencies from Ethiopia, India, Kazakhstan, Kyrgyzstan, Moldova, Mongolia, Tanzania, Trinidad and Tobago by supporting agencies from France, Italy, Mexico, Russia, United States (US FTC) and Mauritius. Especially in this term, Mauritian competition authority (CCM) and Ethiopian competition authority (TCCPA) has agreed upon a work plan for the technical support. The CCM has accepted to send one of its senior officers to provide a training and support to TCCPA in May 2017.

### Introduction of the ICN work products

The AIN promoted the ICN work products with introduction to AIN and AISUP by taking advantage of opportunities at various events including the ICN events.

For example, the following activities were implemented.

- The Working Group, such as the AWG, the CWG and the MWG, promote implementation of the ICN work products at each event (breakout sessions at the workshop, teleseminars).
- The AIN contributed to an optional breakout session on the ICN introduction by making a brief report on the outline of the AIN and the implementation of AISUP in the 2016 Annual Conference in Singapore.
- The CADE provided the technical assistance for Angolan competition authority (IPREC) in 2016 and gave the suggestions and comments to the draft of Argentinian new competition legislation.
- The JFTC made a brief presentation to introduce the ICN and the ICN work products at its own technical assistance programs for developing countries.

In addition, the JFTC distributed USB memory sticks including the electronic data of the ICN work products at various ICN and other events.

### **ICN Blog**

In November 2009, the ICN launched an online ICN Blog & Bulletin Board. The ICN Blog serves as a virtual bulletin board for updates and highlights about ICN events, ICN work, member agencies, and the international competition community at large. The ICN Blog's audience has grown substantially, with over 700 visits each day during the first quarter of 2017. Typical postings include notices of ICN teleseminars, ICN newsletters, workshop and conference updates, and policy and enforcement news from member jurisdictions. The US FTC manages the ICN Blog at [www.icnblog.org](http://www.icnblog.org).

## Section III: Operational Working Groups

### Operational Framework Working Group

The Operational Framework Working Group ([OFWG](#)) was established at the first ICN Annual Conference in Naples, Italy in September 2002. The mission of the OFWG is to provide recommendations on operational and governance issues of the ICN to the SG. In 2016-2017, the Brazilian Administrative Council for Economic Defense (CADE) and the Federal Antimonopoly Service of the Russian Federation chaired the OFWG.

#### 2016-2017 Summary of Work

In 2016-2017, the OFWG concluded the discussion on financing of ICN events. The Co-Chairs presented a report based on the stocktaking realized among former ICN events' hosts and a set of recommendations to the Steering Group in its meeting at the OECD, in Paris, December 2016.

### Membership Working Group

The Membership Working Group, co-chaired by the Korea Fair Trade Commission and the Comision Nacional de los Mercados y la Competencia of Spain, was established at the first ICN Annual Conference in September 2002. Its main purpose is to accept applications for ICN membership from competition agencies around the world, examine them under the criteria for membership set out in the Operational Framework of the ICN and refer the case to the SG for the members' review and consensus.

Since the 2014 ICN Annual Conference, the Membership Working Group has reviewed applications for entry to the ICN and the SG approved the following new ICN members:

- Competition Agency, Georgia;
- Competition and Consumer Protection Authority, Ethiopia;
- Competition and Consumer Protection Tribunal, Zambia;
- Fair Trading Commission, Trinidad&Tobago;
- Competition Protection Authority, Kuwait;
- Committee of the Protection of Competition and Prohibition of Monopolistic Practices, Qatar;
- Competition Commission, Philippines;
- Competition and Consumer Affairs Commission, Guyana;
- Competition Authority, French Polynesia

The new and successive members noted above help make the total number of the ICN membership mark **135 agencies from 122 jurisdictions as of 30 March 2017.**

## Appendix: Overview of ICN Working Group Achievements 2016-2017

<p><b>Advocacy WG</b></p>	<ul style="list-style-type: none"> <li>▪ A report on competition authorities' strategies for planning and evaluation of advocacy activities.</li> <li>▪ The Competition Benefits Project: online section on explaining the benefits of competition to the general public via media and academia.</li> <li>▪ Market Studies Guiding Principles Booklet</li> <li>▪ ICN – World Bank Competition Advocacy Contest</li> <li>▪ Advocacy Workshop in Mexico City, Mexico</li> <li>▪ Two teleseminars on competition authorities' strategies for planning and evaluation of advocacy activities.</li> </ul>
<p><b>Agency Effectiveness WG</b></p>	<ul style="list-style-type: none"> <li>▪ Agency Use of Social Media and Websites (chapter for ICN Agency Practice Manual)</li> <li>▪ Agency Training Programs (chapter for ICN Agency Practice Manual)</li> <li>▪ ICN Training on Demand project modules <ul style="list-style-type: none"> <li>▪ International Cooperation</li> <li>▪ International Organizations</li> <li>▪ Procedural Fairness</li> <li>▪ Competition Assessment</li> </ul> </li> <li>▪ Webinar/Teleseminars on agencies' social media and website strategies, staff training and new IT and digital tools.</li> </ul>
<p><b>Cartel WG</b></p>	<p><b>Sub Group 1</b></p> <ul style="list-style-type: none"> <li>▪ .</li> <li>▪ Checklist for efficient and effective leniency programme;</li> <li>▪ Report on Setting of Fines for Cartels in ICN jurisdictions;</li> <li>▪ Discussion call series on investigative tools and detection methods;</li> <li>▪ Discussion call series on disclosure and discovery</li> </ul> <p><b>Sub Group 2</b></p> <ul style="list-style-type: none"> <li>▪ Annual ICN Cartel Workshop, hosted by the Comisión Nacional de los Mercados y la Competencia (CNMC), October, 2016</li> <li>▪ Update of the <i>Compilation of Good Practices from the Anti-Cartel Enforcement Manual</i></li> <li>▪ Framework for the promotion of the sharing of non-confidential information</li> <li>▪ Anti-Cartel Enforcement Template Update</li> </ul>

<b>Merger WG</b>	<ul style="list-style-type: none"> <li>▪ Recommended Practices for Merger Notification and Review Procedures <ul style="list-style-type: none"> <li>• Definition of a Merger Transaction (new)</li> <li>• Nexus to Reviewing Jurisdiction (revised)</li> <li>• Remedies (revised)</li> </ul> </li> <li>▪ Recommended Practices for Merger Analysis <ul style="list-style-type: none"> <li>• Efficiencies (new)</li> </ul> </li> <li>▪ Roundtable held in December 2016 in Paris; discussion panels on design of merger review thresholds</li> <li>▪ Workshop held in February 2017 in Washington; training-style workshop on merger investigative techniques</li> <li>▪ Work to promote the familiarity, use and implementation of MWG work product focused on 2016 Merger Remedies Guide</li> <li>▪ Framework for Merger Review Cooperation (continued administration)</li> </ul>
<b>Unilateral Conduct WG</b>	<ul style="list-style-type: none"> <li>▪ Completion of the <i>Analytical Framework for Evaluating Unilateral Conduct</i> chapter of the Unilateral Conduct Workbook</li> <li>▪ Vertical Restraints – <i>Options for Future Work</i> (issues paper); <i>Outcomes of Consultation Process</i> (report to UCWG members); and <i>Options for future ICN work and recent experiences</i> (webinar)</li> <li>▪ Webinar on <i>Efficiencies in Unilateral Conduct Cases</i></li> </ul>
<b>AIN</b>	<ul style="list-style-type: none"> <li>▪ Updating ICN Work Products Catalogue</li> <li>▪ Activities to implement and promote the AISUP</li> <li>▪ Introduction of the ICN work products by following activities: <ul style="list-style-type: none"> <li>✓ Presentation of the ICN work products at various events hosted by the ICN, other organizations or specific competition authorities</li> <li>✓ Distribution of USB memory sticks containing the electronic data of the ICN work products at various events</li> </ul> </li> </ul>
<b>Operational Framework WG</b>	<ul style="list-style-type: none"> <li>▪ Report discussing the financing of ICN events</li> </ul>
<b>Membership Working Group</b>	<ul style="list-style-type: none"> <li>▪ This year three new member agencies joined the ICN (competition authorities from Philippines, Guyana and French Polynesia)</li> </ul>