

## II. AGENDA OF THE PARIS WORKSHOP

### Chairpersons:

*Prof. Allan FELS*, Dean, The Australia and New Zealand School of Government (2 December)

*Mr. Alberto HEIMLER*, Director, Research Department, Competition Authority of Italy, (3 December, morning)

*Mr. Frédéric JENNY*, Chair, OECD Competition Committee and Vice-President, Competition Council of France (3 December afternoon)

### Co-Chairpersons:

*Mr. Ernesto ESTRADA*, Convenor of APEC Competition Policy and Deregulation Group (CPDG), Federal Competition Commission of Mexico

*Mr. Rolf ALTER*, Deputy Director of Public Governance and Territorial Development, OECD Secretariat

### Tuesday 2 December 2003

09:00 – 09:30      **Registration**

09:30 – 10:00      **Welcome and Opening Remarks**

- *Mr. Richard HECKLINGER*, Deputy Secretary General of the **OECD**
- *Mr. Ernesto ESTRADA*, Convenor of the **APEC** Competition Policy and Deregulation Group (CPDG) and General Director for International Affairs, Federal Competition Commission, Mexico

10:00 – 11:00      **Session 1: Developing the OECD-APEC Integrated Checklist for Regulatory Reform**

Competition is the foundation of regulatory reform. Indeed, regulatory reform often involves replacement of regulation by competition. But for competition to deliver higher outputs, lower costs, wider variety, and greater dynamism, it must be subject to rules to guide market forces in directions that benefit consumers. The keynote speaker will address, “The role of competition policy in regulatory reform, particularly in APEC countries.”

The creation of an *Integrated Checklist on Regulatory Reform* is a central element of the APEC and OECD joint programme in 2003-4. The Vancouver Workshop agreed to the basic architecture of the *Checklist*: three pillars focusing on regulatory, competition and market openness policies surmounted by a horizontal pediment applying to the three policy areas. Furthermore, it agreed the *Checklist* should be performance-oriented. It was also agreed to establish a steering group to help guide the APEC and OECD Secretariats in the management of the project.

This session will discuss and decide on the practical implementation of the agreement reached in Vancouver. It will discuss how to accommodate the competition aspects in such an architecture and the scope and type of competition policy questions to be developed.

- **Mr. Rolf ALTER**, Deputy Director of Public Governance and Territorial Development, OECD Secretariat
- **Mr. Cesar CORDOVA NOVION**, Deputy Head of Program on Regulatory Reform, OECD Secretariat
- **Prof. Allan FELLS**, Dean, Australia and New Zealand School of Government (ANZSOG)
- Responses to the keynote speeches and general discussion

11:00 – 11:15

### **Coffee Break**

11:15 – 13:00

### **Session 2: Advocacy for Competition**

This session will also focus on advocacy for reducing administrative barriers to entry into markets.

Introducing or increasing competition usually benefits an economy as a whole and consumers in particular. Those who oppose competition are often few and forceful while beneficiaries of competition are dissipated and unaware of competition's benefits. Competition authorities can advocate for competition to correct that imbalance.

A common target for advocacy is removing constraints on market entry, such as licensing requirements that set excessive hurdles. Competition advocates must address the effects on resource allocation and consumer protection.

- What are effective arguments to make in advocating for competition? To whom? When?
- How can opposition to redistribution be effectively addressed?
- What challenges have been encountered in protecting consumers when markets have been liberalised? How were they addressed?

The topic of this session, while general, relates indirectly to several items and directly to item B9 in the prototype Integrated Checklist.

- **Mr. Adriaan TEN KATE**, Chief economist of the Mexican Competition Commission, Mexico
- **Mr. Rainer GEIGER**, Deputy Director of Financial, Fiscal and Enterprise Affairs Directorate, OECD Secretariat
- **Mr. Tetsuji YOKOTE**, Deputy Director, International Affairs Division, Fair Trade Commission, Japan

- **Mr. Wenhong TANG**, Division Director, Department of Treaty and Law, Ministry of Commerce, People's Republic of China

13:00 – 15:00

**Lunch**

- General discussion

15:00 – 17:00

**Session 3: Developing the Integrated Checklist: Institutional Arrangements for the Competition Authority**

- Independence and accountability
- Relationship with other authorities
- Due process and appeals

This session addresses how to make a competition authority effective, particularly in enforcing the law, as well as how the features of the legal environment should protect the due process rights of firms and individuals subject to the law.

- What aspects of independence make a competition authority effective in enforcement and in advocacy?
- How is accountability of the competition authority ensured?
- What institutional arrangements work best when both the competition authority and another authority have decision-making roles?
- What features of the relationship between the authorities for competition and for regulation of sectors best promote competition? What features of inter-ministerial coordination best promote competition?
- How are fundamental due process rights of persons subject to the competition law protected?
- What access do firms and individuals harmed by violation of the competition law have to courts or tribunals?

This session will discuss the concepts underlying several elements of the prototype Integrated Checklist, especially B1, B2, B7, B11, H3, H8 and H11.

- **Mr. Byung Ju LEE**, Director General, Competition Policy Bureau, Fair Trade Commission, Korea
- **Mr. Csaba KOVACS**, Head, Competition Policy Section, Competition Authority, Hungary
- **Mr. Nipon POAPONGSAKORN**, Senior Consultant, Thailand Development Research Institute, Thailand
- General discussion

17.15

**Cocktail: Salle George Marshall**

**Wednesday, 3 December 2003**

10:00 – 13:00      **Session 4: Competitive Neutrality**

Government business activities should not enjoy net competitive advantages simply by virtue of public sector ownership. Lack of competitive neutrality distorts competition, wasting resources, retarding innovation and delaying economic development. Typical advantages for state-owned enterprises include tax exemptions, lower costs of capital, exemptions from regulation, and other benefits associated with not having to achieve a commercial rate of return on assets. State aid issues may involve competitive neutrality.

- Do state-owned enterprises enjoy advantages over privately-owned enterprises? If so, what are they? How significant are they?
- How can these distortions be eliminated?
- Do other categories of enterprises, *e.g.*, foreign or domestic, enjoy advantages? If so, what categories and what are the advantages?
- How can these distortions be eliminated?

The topic of this session, while general, relates directly to items B10 and H4 in the prototype Integrated Checklist.

- **Mr. Sander BALJÉ**, Ministry of Economic Affairs, The Netherlands
- **Mr. Ralph LATTIMORE**, Assistant Commissioner, Productivity Commission, Australia
- **Mr. Anton van der LANDE**, Vice President of Public Affaires International, United Parcel Service (UPS)
- General discussion

11:00 – 11:15      **Coffee break**

13:00 – 15:00      **Lunch**

15:00 – 17:30

**Session 5: Developing the Integrated Checklist: Characteristics of a Competition Law**

- Objectives
- Content
- Coverage

This session addresses the major objectives of promoting competition in the context of regulation, as well as the key characteristics of a competition law.

- Should regulation be least distorting of competition and how should a “market failure” or a “legitimate public interest” be defined and identified?
- What conduct should a competition law prohibit? Is the list proposed in the prototype *Integrated Checklist*—hard-core cartels, abuses of dominant position, anticompetitive mergers—over- or under-inclusive?
- Can we better specify the scope of application of a competition law, now drafted as, “broadly to all activities in the economy... except those specifically excluded”?
- Finally can we better specify how to determine whether investigative powers and sanctions are effective? Is there a role for transition periods, especially for sanctions?

The topics of this session relate directly to items B3, B4, B5, B6 and B8 in the prototype Integrated Checklist.

- **Mr. Norman FAMILANT**, Chief, Economic Litigation Section, Antitrust Division, Department of Justice, United States
- **Mr. Freddy FREITAS**, Technical Secretary of the Competition Tribunal of the National Institute of Defense of Competition and Protection of the Intellectual Property – INDECOPI, Peru
- **Mr. Alberto HEIMLER**, Director, Research Division, Competition Authority, Italy
- **Mr. Enrique VERGARA**, Deputy National Economic Prosecutor, Chile
- General discussion

16:00 – 16:15

**Coffee break**

17:30 – 18:00

**Summary of the Sessions and Closing Remarks**