



# The Federal Trade Commission's International Antitrust Program

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The Federal Trade Commission plays a lead role in fostering international cooperation and convergence toward sound antitrust policy and procedure. The FTC has long placed a high priority on its international antitrust program to ensure the fulfillment of the Commission’s competition mission in a global economy. The Commission’s international antitrust program: (i) serves as an expert resource to support the FTC’s competition enforcement program by assisting with international aspects of investigations and litigation and guiding broader U.S. policy and engagement on international antitrust issues; (ii) builds cooperative relations with foreign competition agencies; and (iii) promotes convergence of international antitrust policies toward best practice. This paper presents the background and organization of the FTC’s international antitrust program and describes our main activities to further the program’s goals internally, through bilateral relations, and in multilateral fora.<sup>1</sup>

## I. Organization of the Office of International Affairs (OIA)

The Office is headed by a Director, Randolph W. Tritell (202-326-3051; [rtritell@ftc.gov](mailto:rtritell@ftc.gov)), and a Deputy Director for International Antitrust, Elizabeth Kraus (202-326-2649; [ekraus@ftc.gov](mailto:ekraus@ftc.gov)), who oversees the Office’s antitrust work. The Office has nine other antitrust attorneys, with the indicated primary portfolios:

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<sup>1</sup> For further information, see the Office’s antitrust webpage at <http://www.ftc.gov/policy/international/international-competition>. The Office handles similar functions with respect to the international aspects of consumer protection and data privacy enforcement as well as relations with foreign consumer protection and data privacy agencies and policy leadership in these areas. See <https://www.ftc.gov/policy/international/international-consumer-protection>.

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## **II. An Internal and External Resource on International Antitrust**

The Office of International Affairs supports the Bureau of Competition on international issues that arise in investigations and litigation. The Office works with staff on issues such as personal and subject matter jurisdiction, service of process, and obtaining evidence abroad, and assists our case teams in understanding foreign laws and procedures and how they intersect with FTC and other U.S. laws and procedures. It also works with other U.S. agencies to ensure that broader U.S. policy and engagement reflects an understanding of complex international antitrust issues and accepted principles of competition law, economics, policy, and procedure.

The Office regularly engages and welcomes interaction with businesses and practitioners concerning the enforcement of antitrust law and policy internationally, and provides information on the FTC's approaches and activities internationally. We recently co-authored the revised the Antitrust Guidelines for International Enforcement and Cooperation, which provide guidance to business and practitioners on the agencies' international enforcement policy and related investigative tools and cooperation with foreign agencies.<sup>2</sup>

## **III. Bilateral Relationships**

Building and maintaining strong bilateral relationships with foreign competition agencies is a critical element of the FTC's enforcement program. Given the many important FTC cases involving foreign parties, evidence located abroad, or parallel review with other agencies, effective cooperation with other agencies is a necessity. Cooperation enables the agencies to identify issues of common interest, improve our analyses, and avoid inconsistent outcomes.

The FTC cooperates with foreign competition agencies through formal and informal agreements and arrangements; cooperation also takes place without such agreements.<sup>3</sup> The

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<sup>2</sup> Antitrust Guidelines for International Enforcement and Cooperation (International Antitrust Guidelines), [https://www.ftc.gov/system/files/documents/public\\_statements/1049863/international\\_guidelines\\_2017.pdf](https://www.ftc.gov/system/files/documents/public_statements/1049863/international_guidelines_2017.pdf). See also, Maureen K. Ohlhausen, Guidelines for Global Antitrust: The Three Cs – Cooperation, Comity, and Constraints (Sept. 8, 2017), [https://www.ftc.gov/system/files/documents/public\\_statements/1252733/iba\\_keynote\\_address-international\\_guidelines\\_2017.pdf](https://www.ftc.gov/system/files/documents/public_statements/1252733/iba_keynote_address-international_guidelines_2017.pdf).

<sup>3</sup> The United States has bilateral cooperation agreements with eleven jurisdictions: Germany (1976); Australia (1982); the European Communities (1991); Canada (1995); Brazil, Israel, and Japan (1999); Mexico (2000); and the competition enforcement agencies of Chile (2011), Colombia (2014), and Peru (2016). The U.S. antitrust agencies entered Memoranda of Understanding with the Russian Federal Antimonopoly Service in November 2009, with the three Chinese antitrust agencies in July 2011, with the Indian competition authorities in September 2012, and with the Korea Fair Trade Commission in September 2015. See <http://www.ftc.gov/policy/international/international-cooperation-agreements> for the complete list.

Recommendation of the Organization for Economic Cooperation and Development (“OECD”) on international competition cooperation is also an important informal cooperation instrument that covers the FTC’s relations with OECD members as well as some non-member jurisdictions.<sup>4</sup> The OECD Recommendation, bilateral agreements, and related cooperation arrangements help promote practical enforcement cooperation through informal communications, underscore the importance of investigative assistance, including through the sharing of non-confidential information, and provide for confidentiality safeguards. While the early agreements were motivated primarily by a desire to reduce and manage conflicts that arose from extraterritorial enforcement of antitrust laws, modern agreements seek mainly to enhance enforcement cooperation. In addition to providing a legal framework for cooperation, the agreements have served as catalysts to facilitate closer working relationships.<sup>5</sup>

In 1994, Congress enacted the International Antitrust Enforcement Assistance Act, which authorizes the United States to enter into mutual assistance agreements that, among other things, permit agencies to share parties’ confidential information and to use compulsory process to obtain evidence for the other jurisdiction’s competition agency. The United States has entered into only one such agreement, with Australia,<sup>6</sup> but the FTC is pursuing other potential partners for such agreements.

Pursuant to these arrangements, or often without, FTC staff cooperates with foreign agencies on individual cases and on developing competition policy. In fiscal year 2018, the FTC cooperated on 43 merger and anticompetitive conduct cases of mutual concern with counterpart agencies from 19 jurisdictions.<sup>7</sup>

When the FTC and a foreign agency review a matter that raises competition concerns in one or both jurisdictions, the agencies frequently exchange investigative information. This may include public information, as well as information that the agency does not routinely disclose but on which there are no statutory disclosure prohibitions, known as “agency confidential” information; examples include that the FTC is investigating a particular party, staff views on market definition, competitive effects, and remedies.

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<sup>4</sup> OECD Recommendation concerning International Co-operation on Competition Investigations and Proceedings, <http://www.oecd.org/daf/competition/international-coop-competition-2014-recommendation.htm>. In addition, the ICN Framework for Merger Cooperation (2012) focuses on cooperation in merger review. [https://www.internationalcompetitionnetwork.org/wp-content/uploads/2018/05/MWG\\_FrameworkforMergerReviewCooperation.pdf](https://www.internationalcompetitionnetwork.org/wp-content/uploads/2018/05/MWG_FrameworkforMergerReviewCooperation.pdf).

<sup>5</sup> The United States also entered into enhanced positive comity agreements with the EC (1998) and Canada (2004) that include, *inter alia*, a presumption of deference to the other jurisdiction to take the lead on antitrust enforcement in certain circumstances. <http://www.ftc.gov/policy/international/international-cooperation-agreements>. These agreements have yet to be invoked, although some FTC matters have involved the use of “informal” positive comity.

<sup>6</sup> <https://www.ftc.gov/policy/cooperation-agreements/usaaustralia-mutual-antitrust-enforcement-assistance-agreement> (1999).

<sup>7</sup> See Fiscal Year 2018 Performance Report and Annual Performance Plan for Fiscal Years 2019 and 2020, at 47-52, <https://www.ftc.gov/system/files/documents/reports/fy-2019-20-performance-plan-fy-2018-performance-report/2020-app-apr.pdf>. For a more complete description of the U.S. agencies’ international case cooperation, see the International Antitrust Guidelines, *supra* n. 2, Chapter 5.

Parties to merger and conduct investigations routinely waive confidentiality protections to facilitate cooperation. Waivers are particularly valuable to the agencies, and can benefit parties by reducing information production burdens and avoiding incompatible remedies.<sup>8</sup> In 2013, the FTC and the Department of Justice’s Antitrust Division issued a joint model waiver of confidentiality for use in merger and civil non-merger matters involving concurrent review by the US and non-U.S. competition authorities.<sup>9</sup> The model waiver is designed to streamline the waiver process to reduce the burden on individuals and companies, as well as to reduce the agencies’ time and resources involved in negotiating waivers. The International Antitrust Guidelines include a chapter dedicated to international cooperation that elaborates on the agencies’ investigative tools, confidentiality safeguards, waivers of confidentiality, the types of information exchanged, and the legal basis for cooperation, among other things.<sup>10</sup>

The FTC’s review of the proposed Praxair/Linde merger illustrates the global reach of our cooperation. FTC staff worked with antitrust agencies of Argentina, Brazil, Canada, Chile, China, Colombia, the European Union, India, Korea, and Mexico to ensure consistent analyses, outcomes and remedies.<sup>11</sup> While most of our enforcement cooperation is in merger investigations, we cooperate on a significant number of non-merger enforcement matters, often aided by waivers provided by parties and third parties.

In addition to cooperating on specific matters, the FTC works with other agencies to promote policy convergence. In the past year, we engaged on policy issues of common interest through bilateral high-level meetings with the competition agencies of Australia, Brazil, Canada, Chile, China, Colombia, the European Union, France, Germany, India, Israel, Japan, Korea, Mexico, New Zealand, Nigeria, Taiwan, and the United Kingdom. We participated in annual informal workshops with the Canadian Competition Bureau and Mexico’s COFECE to share merger enforcement techniques and experience, and in working groups with other agencies. Prior working groups with the European Commission resulted in the issuance of Revised Best Practices for Coordinating Merger Reviews,<sup>12</sup> which provide a framework for US-EC cooperation when our agencies review the same merger. Similarly, the FTC, Department of Justice, and Competition Bureau Canada issued a set of “best practices” to make more transparent how they cooperate and coordinate merger reviews.<sup>13</sup> The U.S. agencies also have participated in working groups with the competition agencies of

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<sup>8</sup> See ICN Recommended Practice on Interagency Coordination, [https://www.internationalcompetitionnetwork.org/wp-content/uploads/2018/09/MWG\\_NPRecPractices2018.pdf](https://www.internationalcompetitionnetwork.org/wp-content/uploads/2018/09/MWG_NPRecPractices2018.pdf) at §D, and ICN Model Waiver and accompanying report on waivers, at [https://www.internationalcompetitionnetwork.org/wp-content/uploads/2018/05/MWG\\_ModelWaiver.pdf](https://www.internationalcompetitionnetwork.org/wp-content/uploads/2018/05/MWG_ModelWaiver.pdf).

<sup>9</sup> The joint model waiver and accompanying FAQ are available at <http://www.ftc.gov/policy/international/international-competition/international-waivers-confidentiality-ftc-antitrust>.

<sup>10</sup> International Antitrust Guidelines, *supra* n. 4, Chapter 5.

<sup>11</sup> <https://www.ftc.gov/news-events/press-releases/2018/10/ftc-requires-international-industrial-gas-suppliers-praxair-inc>.

<https://www.ftc.gov/news-events/press-releases/2017/04/ftc-requires-china-national-chemical-corporation-syngenta-ag>.

<sup>13</sup> <http://www.ftc.gov/news-events/press-releases/2014/03/us-canadian-antitrust-agencies-issue-best-practices-coordinating>.

Canada, Japan, Korea, and Mexico on issues including intellectual property and conduct by dominant firms.

The FTC has placed a high priority on working with the Chinese and Indian competition agencies. We share experience and learning with officials who are involved in developing the law, regulations, and enforcement institutions and practices, with the aim of encouraging legal frameworks and practices based on sound competition principles and international good practice.<sup>14</sup> In 2019, the FTC engaged with counterparts in China on procedural fairness, enforcement of monopolization laws, and the antitrust treatment of the exercise of intellectual property rights. We also work through the United States government's interagency processes to ensure that competition-related issues that arise in connection with China's Anti-Monopoly Law that implicate broader U.S. policy interests are addressed in a coordinated and effective manner.<sup>15</sup>

#### **IV. Activities in Multilateral Competition Fora**

With competition laws and agencies in approximately 130 jurisdictions, it is particularly important that agencies work to ensure that the global system of competition law and policy functions coherently. The U.S. agencies have played a lead role in promoting convergence towards best practices in competition policy and enforcement. Given differences in histories, cultures, legal systems, and levels of economic development, it is inevitable that differences in the wording and application of competition laws and policies will persist. We believe, however, that learning from the experience of others in handling similar issues, including those involving institutional arrangements, procedures, and the substance of antitrust enforcement, can promote convergence toward better practices.

Several multilateral organizations facilitate dialogue and convergence toward sound competition policy and enforcement, particularly the International Competition Network (ICN) and the OECD, and also the United Nations Conference on Trade and Development (UNCTAD), and regional organizations such as the Asia-Pacific Economic Cooperation (APEC). The FTC helped found the Inter-American Competition Alliance, which fosters enforcement cooperation in the Americas through regular conference calls on matters of mutual interest.

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<sup>14</sup> *E.g.*, Maureen K. Ohlhausen, China's Fair Competition Review: Insights from the U.S. Experience, 2016 China Competition Policy Annual Forum on Competition Policy and Supply-Side Structural Reform, Beijing, China (Oct. 27, 2016), [https://www.ftc.gov/system/files/documents/public\\_statements/993533/ohlhausen\\_-\\_faircomp\\_speech\\_10-27-16.pdf](https://www.ftc.gov/system/files/documents/public_statements/993533/ohlhausen_-_faircomp_speech_10-27-16.pdf); Edith Ramirez, Procedural Fairness, the Use of Non-Competition Factors in Competition Analysis, and the Application of Antitrust Law to Intellectual Property Rights, ABA Section of Antitrust Law Antitrust in Asia: China, Beijing, China (May 22, 2014), [http://www.ftc.gov/system/files/documents/public\\_statements/314151/140522abachinakeynote.pdf](http://www.ftc.gov/system/files/documents/public_statements/314151/140522abachinakeynote.pdf).

<sup>15</sup> For example, this work resulted in competition "Outcomes" in the Strategic & Economic Dialogue aimed at ensuring that China implements its competition law in a transparent and non-discriminatory manner, and in the U.S.-China Joint Commission on Commerce and Trade, which resulted "Outcomes" on independence in decision-making, non-discrimination, transparency, confidentiality, and coherence of Anti-Monopoly Law and intellectual property rules. *See, e.g.*, joint U.S.-China fact sheet on the economic track of the 2015 U.S.-China Strategic and Economic Dialogue, <https://www.treasury.gov/press-center/press-releases/Pages/jl0092.aspx>.

ICN. In October 2001, the FTC and 14 other antitrust agencies founded the ICN to provide a venue for competition agencies worldwide to work on competition issues of mutual interest. The ICN is unique in that it: has a broad membership – 139 agencies from 126 jurisdictions, *i.e.*, almost all of the world’s competition agencies;<sup>16</sup> works exclusively on competition issues; focuses on discrete projects aimed at procedural and substantive convergence through the development of consensual, non-binding recommendations and reports; and provides a significant role for non-governmental advisors from the business, legal, economic, consumer, and academic communities, as well as experts from other international organizations. Unlike in most international organizations, competition agency members organize and conduct the work directly rather than through a permanent Secretariat.

The ICN is organized into working groups comprised of agencies and non-governmental advisors. The current substantive working groups address agency effectiveness, cartels, competition advocacy, mergers, and unilateral conduct.<sup>17</sup> The FTC co-chaired the ICN’s Merger Working Group (2016-2019) and previously co-chaired the ICN’s Agency Effectiveness Working Group (2012-2016), Unilateral Conduct Working Group (2006-2011), and Merger Notification and Procedures Subgroup (2001-2006). The FTC continues to participate in these and other ICN working group, and is an active member of the ICN’s Steering Group, which sets the ICN’s strategic direction. The FTC looks forward to co-hosting, with the DOJ Antitrust Division, the ICN’s 2020 annual conference in Los Angeles.

The Merger Working Group promotes the adoption of best practices to enhance the effectiveness of merger review processes, facilitate procedural and substantive convergence, and reduce the public and private time and cost of multi-jurisdictional merger reviews. The FTC led a multi-year initiative to update and expand the ICN’s Recommended Practices on Merger Notification and Review Procedures and Recommended Practices on Merger Analysis, and also led a project resulting in practical guidance for merger enforcement cooperation. The Recommended Practices are ICN’s highest profile and most influential work product, providing sound benchmarks for merger rules and procedures.

Under the FTC’s leadership, the Agency Effectiveness Working Group developed two pioneering initiatives to improve due process in competition investigations: the Guiding Principles for Procedural Fairness in Competition Agency Enforcement,<sup>18</sup> and Recommended Practices for Investigative Process.<sup>19</sup> The Recommended Practices are the most comprehensive consensus best practices for competition agencies on providing due process in antitrust investigations. The FTC continues to promote their implementation through ICN initiatives and our technical assistance program. The FTC also was a key contributor to the related ICN Framework on Competition Agency Procedures, an opt-in

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<sup>16</sup> But not including the Chinese Anti-Monopoly enforcement agency, SAMR, which has not applied for membership.

<sup>17</sup> See <https://www.internationalcompetitionnetwork.org/>.

<sup>18</sup> <https://www.internationalcompetitionnetwork.org/portfolio/guiding-principles-for-procedural-fairness/>.

<sup>19</sup> <https://www.internationalcompetitionnetwork.org/wp-content/uploads/2019/05/RPs-Investigative-Process.pdf>. See Paul O’Brien, *Procedural Fairness: Convergence in Process*, <https://www.competitionpolicyinternational.com/wp-content/uploads/2018/11/CPI-OBrien.pdf> (Nov. 2018).

framework with over 70 adherents to date, that is intended to advance basic procedural fairness principles.<sup>20</sup>

The FTC also co-chairs the ICN's Advocacy and Implementation Network, which leads the ICN's efforts to promote implementation of ICN work product, especially its Recommended Practices such as on the assessment of dominance/substantial market power and on the application of unilateral conduct rules to state-created monopolies.<sup>21</sup> The adoption by numerous ICN members of key aspects of the Recommended Practices, such as merger thresholds that incorporate an appreciable nexus between the transaction and the jurisdiction, and objectively quantifiable notification thresholds, is widely viewed as a major accomplishment of the ICN that has improved the merger review process for merging parties and competition agencies.

Implementation and the promotion of learning on competition law and practice also motivates the ICN's Training on Demand Project, which the FTC founded and leads. This multi-year project resulted in a comprehensive and growing online curriculum of training materials on competition law and practice, featuring multimedia presentations by leading competition officials, scholars, and practitioners.<sup>22</sup>

OECD. The FTC and DOJ represent the United States in the OECD's Competition Committee. The OECD consists of thirty-six economically developed countries, with participation by non-member observers. It aims to promote sound economic policies and economic growth. Its Competition Committee provides a forum for senior representatives of members' competition agencies to exchange ideas and discuss policies of mutual interest.<sup>23</sup> It includes working parties that focus on competition issues in regulated sectors and on international cooperation and enforcement.

The Competition Committee's primary goals are to: (i) discuss developments and identify best practices in competition law, policy, and enforcement; (ii) foster convergence among national antitrust policies; and (iii) encourage increased cooperation among antitrust agencies. The Committee has developed non-binding but important Recommendations, including on antitrust enforcement cooperation, combating hard-core cartels, merger review procedures, and competition assessment.<sup>24</sup> The Committee holds "roundtable" discussions to which the FTC contributes through United States submissions prepared with the Antitrust

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<sup>20</sup> [https://www.internationalcompetitionnetwork.org/wp-content/uploads/2019/04/ICN\\_CAP.pdf](https://www.internationalcompetitionnetwork.org/wp-content/uploads/2019/04/ICN_CAP.pdf); <https://www.internationalcompetitionnetwork.org/wp-content/uploads/2019/08/CAPparticipants.pdf>. For background on the CAP, see Paul O'Brien, "What does the CAP mean for the ICN today?," <https://www.competitionpolicyinternational.com/icns-framework-for-competition-agency-procedures-part-1-what-does-the-cap-mean-for-the-icn-today/> (April 2019); Paul O'Brien, "What does the CAP mean for the ICN tomorrow?," <https://www.competitionpolicyinternational.com/icns-framework-for-competition-agency-procedures-part-2-what-does-the-cap-mean-for-the-icn-tomorrow/> (May 2019).

<sup>21</sup> [https://www.internationalcompetitionnetwork.org/wp-content/uploads/2018/07/UCWG\\_RP\\_DomMarPower.pdf](https://www.internationalcompetitionnetwork.org/wp-content/uploads/2018/07/UCWG_RP_DomMarPower.pdf).

<sup>22</sup> <https://www.internationalcompetitionnetwork.org/training/>. The modules cover a range of topics and are available in interactive, downloadable, and YouTube formats.

<sup>23</sup> Information on the OECD's competition policy work is available at <http://www.oecd.org/competition/>.

<sup>24</sup> Recommendations are available at [http://www.oecd.org/document/59/0,2340,en\\_2649\\_37463\\_4599739\\_1\\_1\\_1\\_37463,00.html](http://www.oecd.org/document/59/0,2340,en_2649_37463_4599739_1_1_1_37463,00.html).

Division – for example, recently, on the antitrust analysis of intellectual property licensing, vertical mergers in the technology, media and telecom sectors, quality considerations in the zero-price economy, the treatment of legally privileged information in competition proceedings, and the standard of review by courts in competition cases.<sup>25</sup> It also conducted multi-year projects, in which the FTC played a lead role, on international cooperation, competition in the digital economy, and market studies. The Committee’s current themes include procedural fairness in antitrust investigations and the application of competition law to intellectual property rights. The Committee holds competition peer reviews, high-level examinations that culminate in OECD recommendations for reforms to laws and policies in the jurisdiction reviewed. The Competition Committee also holds an annual Global Forum on Competition, at which members and some 80 non-members and outside experts discuss competition issues relevant to developing countries and young agencies, and hosts regional programs through the Hungary and Korea competition centers and the annual Latin American and Caribbean Competition Forum. The business community is represented at OECD through the Business Industry Advisory Council, which submits papers and is invited to participate in most sessions.

## **V. Competition Expertise Within the U.S. Government**

The FTC works with agencies across the U.S. government to address, in a coordinated manner, competition issues that implicate broader U.S. policy interests, such as the protection of intellectual property and procedural fairness for U.S. firms. Recently, the FTC worked with the Departments of Treasury, Justice, State, and others, to develop G7 and G20 statements on competition in the digital economy. We have also worked within the interagency group to address due process concerns raised by the enforcement of competition laws internationally. The Commission is engaged in issues at the intersection of trade and competition policies, including in trade agreements. The FTC plays an active role in U.S. delegations that negotiate competition chapters in proposed free trade agreements, such as the US-Mexico-Canada Agreement.<sup>26</sup> We also work with other U.S. government agencies to respond to issues at the intersection of these policies, such as inappropriate or discriminatory use by other countries of competition laws to promote industrial policy.<sup>27</sup>

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<sup>25</sup> Electronic versions of U.S. submissions to Committee roundtables are available at <https://www.ftc.gov/policy/reports/us-submissions-oecd-2010-present>. Additional information the roundtables is available at <http://www.oecd.org/daf/competition/roundtables.htm>.

<sup>26</sup> The chapters typically include provisions on maintaining a competition law and agency, cooperation between the parties, and more recently, due process in antitrust investigations. These provisions are subject to consultation mechanisms rather than binding dispute settlement. The agreements also include disciplines that are subject to dispute settlement on certain state enterprises and designated monopolies.

<sup>27</sup> The FTC co-chaired with the Office of the United States Trade Representative the U.S. delegation to the WTO Working Group on the Interaction between Trade and Competition Policy.

## **VI. Technical Assistance**

The FTC is a leading provider of technical assistance to countries establishing new competition regimes and to young agencies.<sup>28</sup> The program began in Central and Eastern Europe in the early 1990s and has expanded around the world.

In the past year, the FTC conducted 29 training programs in 19 jurisdictions including Brazil, Colombia, India, Nigeria, Pakistan, Peru, Trinidad, and Vietnam, along with regional programs for Africa, Southeast Asia, and Southeast Europe. The program is implemented through experienced antitrust lawyers and economists who provide training in analytical and investigational skills using hypothetical cases to conduct simulated investigations involving issues that developing agencies typically encounter. It also integrates materials developed in the multilateral fora in which we participate. For example, the FTC recently promoted the use of the OECD's Competition Assessment Toolkit in APEC's Competition Policy and Law Group as part of a program aimed at removing unnecessary regulatory obstacles to competition.

Many successful programs are based on placing resident advisors with young competition agencies for several months. This allows our experts to provide on-the-job training in the context of the recipient agency's current cases. During the past year, our advisors have served in the competition agencies of the Philippines and Ukraine, where we also engaged in competition advocacy and education with supporting ministries and the judiciary. We continually assess where to concentrate our efforts and whether they have been successful.

The FTC conducts an International Fellows program under which we host foreign competition, consumer protection, and data privacy agency officials for periods of several months to work alongside FTC staff. Through this program, foreign agency staff gain valuable experience that they can apply to their work when they return, share their learning with colleagues, and facilitate cooperation with the FTC.<sup>29</sup> We have hosted over 120 competition, consumer protection, and privacy lawyers, economists, investigators, and technical experts from 40 jurisdictions, and continue to expand the program. The FTC has also seconded attorneys and economists to the competition agencies of Canada, the EU, Mexico, and the UK.

## **VII. Facing Future Challenges**

The FTC's international antitrust policy will continue to face new issues and challenges. The FTC's Office of International Affairs continually seeks to evaluate and improve its operations based on best practices at home and abroad, as demonstrated by our recent hearing initiative.

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<sup>28</sup> The FTC also provides technical assistance to consumer protection and data privacy agencies. <https://www.ftc.gov/system/files/attachments/international-technical-assistance-program/ftctechnicalcoop0716.pdf>.

<sup>29</sup> For further information on the program, see <http://www.ftc.gov/oia/safeweb.shtm>.

As part of the FTC’s series of hearings, “Competition and Consumer Protection in the 21<sup>st</sup> Century,”<sup>30</sup> OIA organized two days of hearings comprised of eight panels featuring 44 speakers from 17 jurisdictions on “The FTC’s Role in a Changing World.”<sup>31</sup> The panels explored the FTC’s international role in light of globalization, technological change, and the increasing number of competition, consumer protection, and privacy laws and enforcement around the world. The competition-related panels focused on building enforcement cooperation for the 21<sup>st</sup> century, international engagement and emerging technologies, implications of different legal traditions and regimes for international cooperation, promoting sound policies for the next decade, and the FTC’s role in a changing world. Panelists and commentators addressed: the effectiveness of the FTC’s enforcement cooperation tools and approaches in light of new challenges; the effectiveness of the FTC’s approaches to promoting international policy coordination and best practice development; and strategies for international enforcement and policy engagement the global marketplace. The testimony and discussions at the hearing supported staff recommendations that the FTC:

- Pursue additional mechanisms for enhanced antitrust information sharing and investigative assistance and work to overcome foreign barriers to FTC enforcement;
- Continue to exercise international leadership, including in international policy organizations and enforcement networks, and leverage its expertise and cross-disciplinary synergies to address emerging issues;
- Expand its initiatives to build strong relations with counterparts, including through its International Technical Assistance and International Fellows programs; and
- Use its experience and expertise to inform U.S. government policies involving international issues that fall within the FTC’s mandate.<sup>32</sup>

We expect that OIA’s report of the hearing will be issued shortly. OIA welcomes input from stakeholders on these and all issues within its mandate so that we can better advance the FTC’s missions and the interests of American consumers.

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<sup>30</sup> The Hearings on Competition and Consumer Protection in the 21<sup>st</sup> Century sought input through 14 hearing sessions spanning 23-days on whether broad-based changes in the economy, evolving business practices, new technologies, and international developments warrant adjustments to competition and consumer protection law and enforcement priorities. All transcripts, presentations questions, and comments are available at <https://www.ftc.gov/policy/hearings-competition-consumer-protection>.

<sup>31</sup> All materials from the international hearing, organized by the Office of International Affairs and co-sponsored by the George Washington University Law School’s Competition Law Center, are available at <https://www.ftc.gov/news-events/events-calendar/ftc-hearing-11-competition-consumer-protection-21st-century>.

<sup>32</sup> See Prepared Remarks of Joseph Simons, Fordham Speech on Hearing Output, Sept. 13, 2019, [https://www.ftc.gov/system/files/documents/public\\_statements/1544082/simons\\_-\\_fordham\\_speech\\_on\\_hearings\\_output\\_9-13-19.pdf](https://www.ftc.gov/system/files/documents/public_statements/1544082/simons_-_fordham_speech_on_hearings_output_9-13-19.pdf).