



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:

- Serves as an expert resource to support the FTC’s competition enforcement program by assisting with international aspects of investigations and litigation;
- Builds cooperative relations with foreign competition agencies;
- Promotes understanding and convergence of international antitrust policies toward best practice; and
- Contributes to formulating and implementing United States policy on international antitrust issues.

Its international work has taken on increasing significance during the COVID-19 crisis and enhanced prominence as competition agencies around the world grapple with issues such as the application of antitrust laws to the digital economy. 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, in multilateral fora, and within the United States government.¹

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) and a Deputy Director for International Antitrust, Elizabeth Kraus (202-326-2649; 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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¹ 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 often 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, for example, when confronted with “blocking statutes” and data privacy constraints, 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 principles of competition law, economics, policy, and procedure.

The Office regularly engages and welcomes interaction with businesses and practitioners concerning foreign implementation of antitrust law and policy, and provides information on the FTC’s international approaches and activities. Guidance to business and practitioners on the agencies’ international enforcement policies and investigative tools and cooperation with foreign agencies can also be found in the revised Antitrust Guidelines for International Enforcement and Cooperation, co-authored by the FTC.²

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, and parallel review with other agencies, effective cooperation with other agencies is a necessity. Cooperation enables the agencies to identify issues of common interest, streamline investigations, improve our analyses, and avoid inconsistent outcomes.

² Antitrust Guidelines for International Enforcement and Cooperation (International Antitrust Guidelines), 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.

The FTC cooperates with foreign competition agencies through formal and informal agreements and arrangements, though cooperation also takes place without such agreements.³ The 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.⁴ 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 with our partners.⁵

In 1994, Congress enacted the International Antitrust Enforcement Assistance Act, which authorizes the United States, or the FTC and the Department of Justice in their own names, to enter into mutual assistance agreements that, among other things, permit the agencies to share parties’ confidential information and to use compulsory process to obtain evidence for the other jurisdiction’s competition agency. Due to various legal and practical obstacles, the United States has entered into only one such agreement, with Australia.⁶ In September 2020, the FTC entered into the Multilateral Mutual Assistance and Cooperation Framework (MMAC) to promote enhanced case cooperation among the U.S. competition agencies and those of Australia, Canada, New Zealand, and the United Kingdom.⁷ The framework provides the basis for additional agreements that would permit sharing confidential information and investigative assistance between the parties. We hope that this will invigorate opportunities to enter into such

³ The United States has bilateral cooperation agreements with eleven jurisdictions: Germany (1976); Australia (1982 and a mutual assistance agreement in 1999); 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 (now consolidated) 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.

⁴ 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. The OECD and ICN recently published a joint report on International Co-Operation in Competition Enforcement, which identifies the current state of cooperation and recommendations to overcome current limitations, including for OECD and ICN initiatives - <http://www.oecd.org/daf/competition/OECD-ICN-Report-on-International-Co-operation-in-Competition-Enforcement.pdf>.

⁵ 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.

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

⁷ <https://www.ftc.gov/news-events/press-releases/2020/09/ftc-chairman-simons-signs-antitrust-cooperation-framework>.

agreements with key partners and to use the powers provided in the International Antitrust Enforcement Assistance Act to their full potential.

Pursuant to these arrangements, or often without, FTC staff cooperates with foreign agencies on individual cases and on developing competition policy. In fiscal year 2019, the FTC cooperated on 29 merger and anticompetitive conduct cases of mutual concern with counterpart agencies from 13 jurisdictions.⁸ This included 21 merger matters and 8 conduct investigations, the highest number of conduct investigations on which we have engaged in substantial cooperation since the FTC began compiling these statistics. Several of these matters involved cooperation with several agencies to achieve effective, sound, and consistent outcomes. For example, during its review of the AbbVie/Allergan merger, Commission staff cooperated with antitrust agencies of Canada, the European Union, Mexico, and South Africa, and worked closely with the staff of the European Commission to analyze proposed remedies.⁹

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 “agency confidential” information – information that the agency does not routinely disclose but on which there are no statutory disclosure prohibitions, for example, the identity of the investigation and investigated party, and staff’s views on market definition, competitive effects, and remedies.

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.¹⁰ 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.¹¹ 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. While most of our enforcement cooperation occurs in merger investigations, we cooperate on a significant number of non-merger enforcement matters, often aided by waivers provided by parties and third parties. 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.¹²

⁸ See e.g., Federal Trade Commission Annual Performance Report For Fiscal Year 2020, https://www.ftc.gov/system/files/documents/reports/fy-2020-performance-report/fy20_annual_perf_report.pdf, at discussion of Objective 2.3. For a more complete description of the U.S. agencies’ international case cooperation, see the International Antitrust Guidelines, *supra* n. 2, Chapter 5.

⁹ <https://www.ftc.gov/news-events/press-releases/2020/05/ftc-imposes-conditions-abbvie-incs-acquisition-allergan-plc>.

¹⁰ See ICN Recommended Practice on Interagency Coordination, 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.

¹¹ The joint model waiver and accompanying FAQ are available at <http://www.ftc.gov/policy/international/international-competition/international-waivers-confidentiality-ftc-antitrust>.

¹² International Antitrust Guidelines, *supra* n. 2, Chapter 5.

The FTC also works with counterpart agencies to promote policy convergence. For example, the FTC has a long history of working with the Chinese and Indian competition agencies to share experience and learning, including on procedural fairness and investigative techniques, enforcement of monopolization laws, and the antitrust treatment of the exercise of intellectual property rights.¹³ 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, the European Union, India, Japan, Mexico, New Zealand, Nigeria, South Korea, Taiwan, and the United Kingdom. We hold annual informal workshops with the Canadian Competition Bureau and Mexico's competition agency, COFECE, to share merger and unilateral conduct enforcement techniques and experience. Prior working groups with the European Commission resulted in the issuance of Revised Best Practices for Coordinating Merger Reviews,¹⁴ which provide a framework for US-EC cooperation when our agencies review the same merger. Similarly, the FTC, DOJ, and Competition Bureau Canada issued a set of best practices to make more transparent how they cooperate and coordinate merger reviews.¹⁵ The U.S. agencies also have participated in working groups with the competition agencies of Canada, Japan, Korea, and Mexico on issues including intellectual property and conduct by dominant firms.

IV. Activities in Multilateral Competition Fora

With competition laws and agencies in over 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.

¹³ *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; 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, Beijing, China (May 22, 2014), http://www.ftc.gov/system/files/documents/public_statements/314151/140522abachinakeynote.pdf. 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. 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 produced "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/j10092.aspx>.

¹⁴ <https://www.ftc.gov/sites/default/files/attachments/international-antitrust-and-consumer-protection-cooperation-agreements/111014eumerger.pdf>.

¹⁵ <http://www.ftc.gov/news-events/press-releases/2014/03/us-canadian-antitrust-agencies-issue-best-practices-coordinating>.

Several multilateral organizations facilitate dialogue and convergence toward sound competition policy and enforcement, particularly the International Competition Network (ICN) and the OECD, addressed in more detail below, as well as the United Nations Conference on Trade and Development (UNCTAD) and regional organizations such as the Asia-Pacific Economic Cooperation (APEC). Ten years ago, 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.

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 – 140 agencies from 129 jurisdictions, *i.e.*, almost all of the world’s competition agencies;¹⁶ 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; advocates for procompetitive policies across government; 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.¹⁷ 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 groups, co-chairs the ICN’s team of working group leaders who coordinate the network’s substantive work, and is an active member of the Steering Group, which sets the ICN’s strategic direction.

Based on an FTC proposal, the ICN launched an important new project on the interface between competition, data privacy, and consumer protection enforcement and policies in light of emerging digital economy issues. The Commission also led the drafting of the ICN’s advice to competition agencies on the challenges of the COVID-19 pandemic and its economic consequences.¹⁸ In September 2020, the FTC co-hosted, with the DOJ’s Antitrust Division, the ICN’s annual conference, a four-day event broadcast on the internet with over 2,500 attendees.¹⁹

The ICN’s 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. Since the

¹⁶ But not including the Chinese Anti-Monopoly enforcement agency, SAMR, which, like its predecessor agencies, has not applied for membership.

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

¹⁸ <https://www.internationalcompetitionnetwork.org/wp-content/uploads/2020/04/SG-Covid19Statement-April2020.pdf>.

¹⁹ The 2020 annual conference videos and materials are available at: <https://www.internationalcompetitionnetwork.org/2020vac/>.

ICN's inception, the FTC has been a leader in drafting, updating, and promoting the implementation of the ICN's Recommended Practices on Merger Notification and Review Procedures and Recommended Practices on Merger Analysis. The FTC also helped lead projects 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,²⁰ and Recommended Practices for Investigative Process.²¹ 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 and other initiatives, including our technical assistance program.²² The FTC also was a key contributor to the related ICN Framework on Competition Agency Procedures, an opt-in framework with over 70 adherents that seeks to advance procedural fairness principles in antitrust investigations.²³

The FTC also co-chairs the ICN's Promotion and Implementation Network, which leads the ICN's efforts to promote awareness and implementation of ICN work product, especially its Recommended Practices.²⁴ The adoption by many 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 has resulted in a comprehensive and growing online curriculum of training materials

²⁰ <https://www.internationalcompetitionnetwork.org/portfolio/guiding-principles-for-procedural-fairness/>.

²¹ <https://www.internationalcompetitionnetwork.org/wp-content/uploads/2019/05/RPs-Investigative-Process.pdf>. See Paul O'Brien, *Procedural Fairness: Convergence in Process*, https://www.ftc.gov/system/files/attachments/key-speeches-presentations/obrien_-_procedural_fairness_convergence_in_process_cpi_11-18.pdf (Nov. 2018).

²² See, e.g., "Attorney-Client Privilege in Competition Law Proceedings: Primed for Convergence? An Example from Mexico," Russell Damtoft and Paul O'Brien, Competition Policy International (May 2020), <https://www.ftc.gov/system/files/attachments/key-speeches-presentations/damtoft-obrien-cpilatinamericacolumn-december2019.pdf>.

²³ https://www.internationalcompetitionnetwork.org/wp-content/uploads/2019/04/ICN_CAP.pdf; <https://www.internationalcompetitionnetwork.org/frameworks/competition-agency-procedures/>. 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).

²⁴ ICN Recommendations can be found at <https://www.internationalcompetitionnetwork.org/working-groups/icn-operations/icn-recs/> and address a broad range of competition issues, from those discussed above to the assessment of dominance/substantial market power, to the application of unilateral conduct rules to state-created monopolies, which were developed under the FTC's leadership of the Unilateral Conduct Working Group.

on competition law and practice, featuring multimedia presentations by leading competition officials, scholars, and practitioners.²⁵

Looking to the future, the FTC is co-leading the ICN’s Third Decade review, a comprehensive review of the ICN’s substantive coverage and working methods in order to prepare recommendations for the network’s operations and work over the next ten years.²⁶

OECD. The FTC and DOJ represent the United States in the OECD’s Competition Committee. The OECD consists of thirty-seven 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.²⁷ 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.²⁸ The Committee holds “roundtable” discussions to which the FTC contributes through United States submissions prepared with the Antitrust Division – for example, recently, on consumer data rights and competition, conglomerate effects of mergers, start-ups, so-called “killer acquisitions,” the relationship between independent sector regulators and competition agencies, merger control in dynamic markets, and competition for the market.²⁹ 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 reviewed jurisdiction. The Competition Committee also holds an annual Global Forum on Competition, at which members and some 90 non-members and outside experts discuss competition issues relevant to developing countries and young agencies, and hosts regional programs through competition centers in Hungary, Korea, and Peru and the annual Latin American and Caribbean Competition Forum. The business community is represented at OECD through Business at OECD (formerly the Business and Industry Advisory Council – BIAC), which submits papers and is invited to participate in most sessions.

²⁵ <https://www.internationalcompetitionnetwork.org/training/>. The modules – over 25 and counting – cover a range of topics; they are available in interactive, downloadable, and YouTube formats.

²⁶ For more on the history and development of the ICN, see “(Nearly) a Century with the ICN,” Maria Coppola, Elizabeth Kraus, Cynthia Lagdameo, Paul O’Brien & Randolph Tritell, Competition Policy International (May 2020), <https://www.ftc.gov/system/files/attachments/key-speeches-presentations/icn-column-may-2020-full.pdf>.

²⁷ Information on the OECD’s competition policy work is available at <http://www.oecd.org/competition/>.

²⁸ See http://www.oecd.org/document/59/0,2340,en_2649_37463_4599739_1_1_1_37463,00.html.

²⁹ 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 on the roundtables is available at <http://www.oecd.org/daf/competition/roundtables.htm>.

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, the application of competition law to the digital economy, and procedural fairness in antitrust investigations of 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.³⁰ We have also worked within the interagency group to address due process concerns raised by the enforcement of competition laws. The Commission is also engaged in issues at the intersection of trade and competition policies. 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 Agreement³¹ and the proposed U.S.-UK Trade Agreement. 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 “national champions” and industrial policy.³²

VI. Technical Assistance

The FTC is a leading provider of technical assistance to countries establishing new competition regimes and to young agencies.³³ The program began in Central and Eastern Europe in the early 1990s, supporting the transition to market economies, and has expanded around the world.

In the most recently completed fiscal year, until international travel was restricted, the FTC conducted 13 competition technical assistance programs on site in 12 jurisdictions, including participating in two regional programs for the Association of Southeast Asian Nations (ASEAN) member states. The FTC continued its program virtually throughout the pandemic, including training staff of the competition agencies of Mexico, Nigeria, Peru, the Philippines, and Ukraine, as well as regional programs for agencies of CARICOM (Caribbean Community) and Eastern Europe. The program is implemented through experienced antitrust lawyers and economists who provide training in analytical and investigational skills, relying on actual and 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.

³⁰ See e.g., https://www.ftc.gov/system/files/attachments/press-releases/ftc-chairman-supports-common-understanding-g7-competition-authorities-competition-digital-economy/g7_common_understanding_7-5-19.pdf.

³¹ 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 issues involving state enterprises and designated monopolies.

³² The FTC’s involvement in U.S. government initiatives addressing such issues is longstanding. For example, 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, which was active from 1997 through 2003.

³³ 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>.

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 served in the Antimonopoly Committee of 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.³⁴ We have hosted over 130 competition, consumer protection, and privacy lawyers, economists, investigators, and technical experts from over 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.

As part of the FTC's series of hearings, "Competition and Consumer Protection in the 21st Century,"³⁵ 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."³⁶ 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 21st 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 recommendations that the FTC:

³⁴ For further information on the program, see <http://www.ftc.gov/oia/safeweb.shtm>.

³⁵ The Hearings on Competition and Consumer Protection in the 21st 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>.

³⁶ 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>.

- 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.³⁷

The hearing also evidenced strong support for a recommendation that Congress reauthorize the US SAFE WEB Act (which was extended for an additional seven years in September 2020), and to make its provisions a permanent part of the FTC Act.

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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.

³⁷ 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.