

Report to Steering Group

Horizontal Coordinator Review of Work Plans

June 2016

Purpose

The purpose of this report is to review the final versions of the 2016/17 annual work plans for nominated ICN working groups.

The working group work plans reviewed were the Advocacy Working Group (AWG), Agency Effectiveness Working Group (AEWG), Cartel Working Group (CWG), Merger Working Group (MWG) and Unilateral Conduct Working Group (UCWG).

The review:

- Identifies the timeline for the work plan approval process
- considers whether draft work plans meet the agreed criteria for ICN planning documents
- identifies potential duplication, overlap or conflict between draft work plans
- considers the overall balance of work between the working groups
- determines whether the draft work plans facilitate implementation and cooperation across working groups and work products, and
- considers whether the draft work plans are consistent with, and help to further, the ICN's goals and objectives.

Background

The Horizontal Coordinator considered each work plan against the criteria of the 'work plan checklist'. The criteria considered in this report are:

- Mission
- Organisation
- Goals
- Project description
- Implementation
- Evaluation
- Past work.

In March 2016 the Steering Group considered an interim report of the proposed work plans for 2016/17 (the short form plans). The purpose of the interim report was to enable early consideration of whether the proposed work program for 2016/17 struck the right balance between focusing the ICN's work on existing projects and new proposals.

Outcomes of review

There are no immediately apparent conflicts between the plans provided.

Three workshops have been scheduled for 2016/17, including a workshop for Chief Economists (convened outside of the working group structure), while a further workshop is under consideration. In 2015, the Horizontal Coordinator identified a potential risk of ‘travel fatigue’ where countries involved in multiple work groups may not have the budget or time available to attend multiple ICN events. Co-Chairs have been encouraged to discuss proposed workshop dates and locations with the Horizontal Coordinator to assist in the management of this risk.

Below is a table setting out the Horizontal Coordinator’s understanding of the current status of the workshops.

Table 1 – A summary on status and timing of ICN Working Group Workshops

Status of proposed Workshops			
Working Group	Date	Location	Status
AWG	2 – 4 November 2016	Mexico	Confirmed
AEWG	None scheduled (last held March 2016)		
CWG	2 – 5 October 2016	Spain	Confirmed
MWG	TBA	TBA	Anticipated
UCWG	None scheduled (last held November 2015)		
Other – Chief Economists	11 – 13 September 2016	Canada	Confirmed

Changes since the Interim Report (March 2016)

The Horizontal Coordinator has not identified any significant changes to the work plans since the Interim Report was considered in March 2016.

Some further clarification has been provided by the long form work plans:

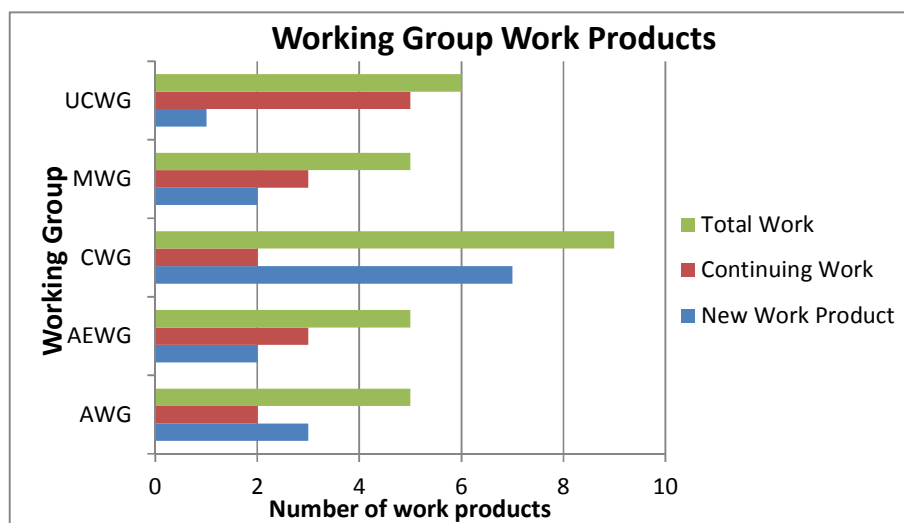
- the AWG has confirmed that it will work jointly with the World Bank to deliver the third edition of the Competition Advocacy Contest (previously identified as a proposed project).
- the MWG is exploring opportunities to convene a workshop in 2016/17 (previously identified for the period 2016-18) and has identified that it will examine the benefits of an institutionalised annual ICN merger workshop.
- the UCWG has revised its proposal for the vertical restraints project to provide for consideration of an issues paper in 2016 (to assist in identifying future areas of focus for the ICN). The previously proposed member survey will not be conducted.

Workload and outcomes sought

Table 2 - A summary of the number of work products since 2009 has been included for your reference.

Comparison - Number of work products	
Year	No.
2016-2017	30
2015-2016	27
2014-2015	33/29 ¹
2013-2014	33
2012-2013	27
2011-2012	30
2010-2011	20
2009-2010	15

Table 3 – A summary of the number of work products proposed by each working group, 2016/17.



The work plans all outline similar broad goals and aims of each work group. Appendix B summarises the work products for each working group for the next year. Common themes between each of the work groups include the need to provide learning

¹ This number includes a vertical restraint project for each working group. If it is more appropriate to count the Steering Group's vertical restraint project as a single project the total number of work products for 2014-2015 is 29.

opportunities for newer and existing members, provide a means to share information and best practice and to facilitate cooperation between members. These goals are in accordance with the mission and activities outlined under the ICN Operational Framework.

Cooperation and Implementation

Each working group has a broad goal of facilitating cooperation and information sharing between members.

The following work products for the 2016-17 year focus specifically on implementing existing work product or incorporate a clear plan detailing how they will implement new work product:

- AWG - the AWG will focus on the Implementation of the recommended practices on competition assessment adopted at the ICN Marrakech Annual Conference and its framework on competition assessment regimes to be adopted at the ICN Sydney Annual Conference through various awareness initiatives, including at its workshop.
- AEWG – the promotion of the AEWG-developed investigative process guidance, a work product that addresses how enforcement tools and procedures can contribute to enhancing the effectiveness of agencies' investigative processes.
- CWG – promotion of work product through member calls and teleseminars, including Asia Pacific friendly calls and at its workshop, promote and implement ICN Framework for the promotion of the sharing of non-confidential information.
- MWG - Dissemination and Implementation Project: assessing the use of the RPs and possible need for updates; scoping of potential new project: updating of Investigative Techniques Handbook.
- UCWG – promotion of work product to members during calls, teleseminars/webinars; long term development of an online case log; hosting Asia-Pacific friendly calls; exploring hosting calls or teleseminars in languages other than English.

Future work

Appendix A sets out the work products proposed by working groups that fall outside of the 2016 -17 work period.

Appendix A – Future work (work not scheduled to be completed in 2016-17)

AWG	Project 3: Building an Effective Advocacy Strategy (potential for further work following the 2016/17 year).
AEWG	Project 3: New IT and digital tools in case management call series (potential for future written work to be developed following the 2016/17 year).
AEWG	Project 5: Promotion of AEWG work product (including guidance on agency investigative process and topics from the Agency Practice Manual).
CWG	SG2 Project 1: Scoping study for new content for the Anti-Cartel Enforcement Manual (drafting program to be undertaken in 2017/18)
MWG	Project 1: Assessment of use and update of RPs for Merger Notification and Review Procedures and PRs for Merger Analysis (multiyear project, deliverables identified in 2016/17).
MWG	Project 2: New work on Investigative Techniques (possible two year project, deliverables identified in 2016/17)
MWG	Project 5: Continue to promote MWG work through cooperation.
UCWG	Project 2: Vertical restraints (identified as a possible multiyear project with deliverables in 2016/17).
UCWG	Enhanced communication among Members (identifies a long-term aim of starting an online case log of unilateral conduct cases).

Appendix B - Summary of proposed work products

AWG	<p><i>New products</i></p> <ul style="list-style-type: none"> • Market Studies Project: elaborate high-level guiding principles in selecting and conducting market studies (based on the <i>Market Studies Good Practice Handbook</i>). • Fourth advocacy workshop (Mexico City, 2 – 3 November 2016) • Building an Effective Advocacy Strategy: encourage experience sharing among agencies and NGAs and determine whether general principles can be elaborated and shared within the ICN. • Work with the World Bank to deliver the Competition Advocacy Contest. 	<p><i>Continued products</i></p> <ul style="list-style-type: none"> • Benefits Project (3rd phase): Create new section(s) explaining the benefits of competition to the media and general public. • Implementation Project: continue to carry out initiatives to develop the awareness of the AWG product expand the Market Studies Information Store. 	<p><i>Potential products</i></p>
AEWG	<p><i>New products</i></p> <ul style="list-style-type: none"> • Comparative work: <ul style="list-style-type: none"> ○ Agency communication: web and social media strategy and use: gain a comparative overview of how competition agencies communicate externally via online (social media and agency website). Includes a survey and written work product. ○ Competition agency staff training programs: examine and develop a comparative overview of how agencies train investigative staff (training tools, exercises used; inter-agency training material sharing). 	<p><i>Continued products</i></p> <ul style="list-style-type: none"> • Experience sharing and new topic development: <ul style="list-style-type: none"> ○ Continue call series for experience sharing and scoping new topics for WG work including: <ul style="list-style-type: none"> ▪ New IT and digital tools in case management call series. May involve collaboration with CWG or MWG; may lead to written tips/compilation of agency policies/practices • Oversight of ITOD (led by USFTC and project group): develop, approve and guide 3-4 module topics; evaluate existing modules and consider potential improvements. • Promotion and implementation of AEWG work – in particular, promotion of the AEWG-developed Investigative Process guidance (seek feedback on use; consider translation or adaptation; develop explanatory or complementary work such as an ITOD module) 	<p><i>Potential products</i></p> <ul style="list-style-type: none"> • Collaborative work with other Working Groups or forums to promote AEWG body of work (eg at workshops hosted by other WGs; APEC's international best practices training series)

<p>CWG</p>	<p><i>New products</i></p> <p><i>Sub Group 1</i></p> <ul style="list-style-type: none"> • Checklist for an efficient and effective leniency programme • Update of <i>Setting of Fines for Cartels in ICN jurisdictions (2008)</i> • Webinar/call series on investigative tools and detection methods, including Asia Pacific friendly calls • Webinar/call series on disclosure and discovery, including Asia Pacific friendly calls <p><i>Sub Group 2</i></p> <ul style="list-style-type: none"> • Scoping study for new content for the <i>Anti-Cartel Enforcement Manual</i>. • Annual ICN Cartel Workshop (Madrid, Spain, October 2016) • Update <i>Compilation of Good Practices</i> 	<p><i>Continued products</i></p> <p><i>Sub Group 2</i></p> <ul style="list-style-type: none"> • Update <i>Anti-Cartel Enforcement Templates</i> • Grow and implement <i>ICN Framework for the promotion of the sharing of non-confidential information</i> 	
<p>MWG</p>	<p><i>New products</i></p> <ul style="list-style-type: none"> • Assessment of use and update of the RPs for Merger Notification and Review Procedures and RPs for Merger Analysis: examine use and level of implementation of RPs. Outcome of review could lead to updating the MWG implementation process and/or revising content of the RPs. • Investigative techniques: examine interest in updating Chapter 3 of the <i>Investigative Techniques Handbook (Developing Reliable Evidence)</i>; could include teleseminars/webinars, written work, including a revision of the 	<p><i>Continued products</i></p> <ul style="list-style-type: none"> • Remedies Project: Road-testing <i>Remedies in Merger Review</i> (year three of the three year project). Implementation, road-testing, and dissemination of the 2015-16 work product (Report on Remedies in Merger Review). May include teleseminars to promote the final work product. • Dissemination and Implementation Project: to promote familiarity, use and implementation of MWG products. Focus will be given to: <ul style="list-style-type: none"> ○ Promotion and implementation of the <i>Practical Guide to International Merger and Enforcement Cooperation</i> ○ Promotion of the <i>ICN Framework for Merger Review Cooperation</i> 	<p><i>Potential products</i></p> <ul style="list-style-type: none"> • Merger Workshop: MWG intends to organise workshops in the period 2016-19 and will examine the benefits of an institutionalised annual ICN merger workshop.

	Handbook.	<ul style="list-style-type: none"> ○ Continued promotion of the MWG self-assessment tools to assess the level of use and implementation of RPs • Outreach project: identify opportunities to promote broader member and NGA involvement in Working Group projects 	
UCWG	<p><i>New products</i></p> <ul style="list-style-type: none"> • Vertical restraints project: explore with members and NGAs areas for future work (issues paper, teleseminar and/or interactive webinar). A report detailing the outcome of this work and recommending possible future work will be provided to the Steering Group. 	<p><i>Continued products</i></p> <ul style="list-style-type: none"> • Unilateral Conduct Workbook: continue to develop chapter on <i>Analytic Framework for Evaluating Unilateral Conduct</i> • Teleseminars on issues arising in unilateral conduct (drawn from areas of mutual interest for members). Purpose is to increase understanding of the different standards in relation to unilateral conduct and their advantages and drawbacks. • Presentations to members and NGAs (during member calls) to promote shared experience of unilateral conduct cases. • Continued work to promote UCWG product (promotion of written product; long-term aim of developing an online case log; hosting Asia-Pacific friendly calls; exploring hosting calls or teleseminars in languages other than English). 	<p><i>Potential products</i></p> <ul style="list-style-type: none"> • Potential project - work with ITOD on modules involving unilateral conduct

Appendix C - Overview of the number of proposed work products¹

Implementation (I) / Cooperation (C)	Workshop	Report, handbook, RP, toolkit ²	Web-related	Teleseminar/webinar series	Surveys/ info gathering	Total products ³
Advocacy	<ul style="list-style-type: none"> • One workshop (I) 	<ul style="list-style-type: none"> • Market Studies Project: elaborate high level guidance 	<ul style="list-style-type: none"> • Development of online platform - The Benefits Project – phase 3 	<ul style="list-style-type: none"> • Teleseminar – Building an Effective Advocacy Strategy • Dissemination, implementation and outreach, (I) 	<ul style="list-style-type: none"> • Competition Advocacy Contest 	6
Agency Effectiveness		<ul style="list-style-type: none"> • Agency communication: web & social media strategy and use (survey and report) • Competition agency staff training programs (survey/provision of samples by agencies leading to a written product) 	<ul style="list-style-type: none"> • Oversight of the ICN training on Demand Project, including Investigative Process Guideline (I) 	<ul style="list-style-type: none"> • Calls to discuss new IT and Digital Tools in case management • Calls to discuss emerging issues • Implementation of AEWG work (teleseminars with potential for written work) (I); <i>potential for this project to include collaborative work with other WG or organisations.</i> 		6
Cartel	<ul style="list-style-type: none"> • One workshop (I) and (C) 	<ul style="list-style-type: none"> • Checklist for efficient and effective leniency programme • Update on the setting of Fines for Cartels in ICN jurisdictions (2008) • Good Practices Compilation update 		<ul style="list-style-type: none"> • Webinar series (investigative tools and detection methods), including continuation of Asia-Pacific calls • Webinar series (on disclosure and discovery), including continuation of Asia-Pacific calls 	<ul style="list-style-type: none"> • Scoping study for new Anti-Cartel Enforcement Manual chapter • Promoting participation in the ICN framework for the promotion of the sharing of non-confidential information (C) • Promoting completion by members of the Anti-Cartel Enforcement Template 	9

² Work products may have been started in a previous year and may not necessarily be completed in the 2016-17 year.

³ Includes some potential products which are not yet confirmed.

Implementation (I) / Cooperation (C)	Workshop	Report, handbook, RP, toolkit ⁴	Web-related	Teleseminar/webinar series	Surveys/ info gathering	Total products ⁵
Merger	<ul style="list-style-type: none"> • <i>Potential project</i> - workshop (I) and (C) 	<ul style="list-style-type: none"> • Review of existing work (Chapter 3 Developing Reliable Evidence) 		<ul style="list-style-type: none"> • Teleseminar(s) to discuss Remedies in Merger Review work product (road-testing) • Teleseminar(s) to promote dissemination and implementation and to share member experiences (2-3 calls) (I) • Outreach project (new and recently joined members) 	<ul style="list-style-type: none"> • Assessment of work product (RPs for Merger Notification and RPs for Merger Analysis) 	6
Unilateral Conduct		<ul style="list-style-type: none"> • One chapter for Unilateral Conduct Workbook • One report to Steering Group on future work (Vertical Restraints Project), including consideration of issues paper and teleseminar or webinar 	<ul style="list-style-type: none"> • <i>Potential</i> ICN Training on demand modules 	<ul style="list-style-type: none"> • One teleseminar series on issues of mutual interest • One teleseminar series to enable members to share experiences (this may be supported by written work product, including an online case log, in the longer term) • Continued work to promote UCWG product (promotion of written product; long-term aim of developing an online case log; hosting Asia-Pacific friendly calls; exploring hosting calls or teleseminars in languages other than English). 		6
Total by product type	3	9	3	12	6	33⁶

⁴ Work products may have been started in a previous year and may not necessarily be completed in the 2016-17 year.

⁵ Includes some potential products which are not yet confirmed.

⁶ Includes potential projects.

