Competition in Latin America and the Caribbean
10 years of the OECD-IDB Latin American Competition Forum
### Latin American Competition Forum Participants 2003-2012

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### International Organisations

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### Host Countries 2003-2012

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<td>2003</td>
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<td>2009</td>
<td>Santiago, Chile</td>
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<td>2010</td>
<td>San Jose, Costa Rica</td>
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<td>2011</td>
<td>Bogota, Colombia</td>
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<td>2012</td>
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Competition: the engine of economic development

The Latin American and Caribbean region has undergone an unprecedented social and economic transformation in the past two decades. In the process, competition policy has taken root as countries have engaged in reforms in favour of open market economies.

Protecting and promoting competitive markets will increase consumer welfare, productivity and growth across the region. Vigorous competition law enforcement will also put a stop to anti-competitive conduct that can eliminate or undermine the benefits of market reform and trade liberalisation.

Ten years ago the OECD and the IDB identified the importance of competition policy for achieving the potential of markets in this region and for promoting strong and sustainable economic development. Establishing the Latin American Competition Forum combined the OECD’s competition expertise with the IDB’s deep-rooted understanding of economies in Latin America and the Caribbean.

The Forum facilitates dialogue and co-operation among competition officials across the region and helps them to influence governments. Making the voice of competition heard is central to the development and maintenance of open market economies.

The OECD is proud to be a partner in this regional initiative. Our successes over the last 10 years will set the course for the future. Together, we will ensure that competition law and policy remain an essential part of the toolkit to ensure a stronger, fairer, cleaner world economy.

Angel Gurría
Secretary-General, Organisation for Economic Co-operation and Development

Over the last 10 years, as part of our partnership with the OECD and the Latin American Competition Forum, the IDB has contributed to the development of competition policy and legislation throughout Latin America and the Caribbean, in the firm belief that economic development requires markets that operate efficiently.

The results of multilateral and regional trade liberalisation efforts show us that removing tariff and non-tariff barriers is necessary but insufficient to ensure functioning markets and competitive prices.

A competitive market, free from cartels or other unfair practices, is a key condition for economies to be able to grow on a sustained basis, and for the benefits of that growth to reach all segments of the population, especially the poorest. As is well known, mass consumption goods are particularly vulnerable to unfair competition and, as such, warrant special attention from regulatory agencies.

We, at the IDB, are pleased to be part of this regional effort, promoting the exchange of technical and operational experiences that lead to practical recommendations for enhancing the implementation of this valuable economic policy tool. For all of these reasons, we are optimistic about what we can achieve together in the coming 10 years.

Luis Alberto Moreno
President, Inter-American Development Bank
The Latin American Competition Forum

The Latin American Competition Forum was launched in 2003 by the OECD and the IDB as a joint effort to foster competition law and policy in the region. Each year, it brings together senior Latin American competition officials and competition experts to share best practices and identify potential policy reforms in a regional context. The participation of practitioners from OECD member governments and input from other international organisations promotes an exchange of views and experiences from different perspectives.

After many years of work in the region, the Forum was a concrete means for the OECD and IDB to promote dialogue, consensus building and networking between policy makers and competition law enforcers. The partnership has helped both institutions to advance their shared objectives of supporting pro-competitive policy and regulatory reforms. The organisations’ commitment to this process was underpinned by the signing of an OECD-IDB Joint Statement of Priorities on the first day of the first Latin American Competition Forum in 2003. Competition policy was first in this list.

Through the Forum, the competition institutions of Latin America and the Caribbean have become more effective law enforcers and stronger advocates for pro-competitive reform, promoting economic growth, poverty reduction and enhanced competitiveness in the region.
The OECD-IDB Latin American Competition Forum is a unique, innovative and highly successful example of long-term co-operation between an international organisation and a regional bank.

To this day, there are few active regional competition fora. It is assumed that because the economic analysis underpinning competition law is of universal applicability, competition does not require a regional approach. Ten years ago the OECD and the IDB challenged this conventional view. Their intuition was that effective competition law and policy requires consideration of the legal system, the level of economic development and the specificities of the country concerned. Many Latin American countries share the same language and have similar legal systems. There are also institutional and market problems unique to Latin America and the Caribbean in the context of their various stages of economic development. Markets are often characterised by highly concentrated industrial sectors, large informal economies and historically close links between business and the political community. All of which suggested there was scope for a forum dedicated to addressing the competition challenges these countries face in promoting growth through the development of well-functioning market economies.

Ten years later, the enthusiasm of participants for the Latin American Competition Forum has not abated. It is clear from their exchanges and the interaction with the OECD Competition Committee and its Secretariat on topics they identify as relevant to their economies, that participants consider the discussions to be both enlightening and significant. I am particularly proud as Chairman of the OECD Competition Committee to have been able to participate in this initiative and I am equally grateful to the IDB for its support.

Frédéric Jenny
Chairman of the OECD Competition Committee and the Latin American Competition Forum
There has been a positive evolution of competition policy and competition institutions in Latin America and the Caribbean over the last twenty years. Previously, many Latin American economies were characterised by protectionist economic policies, notably import substitution, price controls and substantial government involvement in the economy. These monopolistic practices restricted the potential of Latin American trade and economic growth at both the national and regional levels.

The majority of Latin American countries began the transition towards a more open economy in the 1980s as a reaction to the debt crisis. By the beginning of the 1990s, most countries were implementing structural reforms and privatising state-owned enterprises, deregulating the economy and introducing competition laws.

Despite the diverse political, economic and cultural backgrounds across Latin American and Caribbean countries, some common patterns emerged at different stages of competition law development in the region. The political and economic contexts in which the first competition laws were adopted were not favourable to competition law enforcement. The subsequent shift away from state interventionism was accompanied by a proliferation of competition laws in the 1990s and early part of this century. Now, ten years after the inauguration of the Latin American Competition Forum, the region is experiencing a phase of consolidation and increasing convergence of competition law.

Recent developments include the adoption of tools to make law enforcement more effective, including strengthened investigation powers in Mexico and Chile; and there is greater reliance on economic analysis in a number of countries ranging from Chile to Honduras.

The Latin American Competition Forum has motivated the enactment of new and revised laws by fostering the exchange of experiences between competition authorities in the region on a wide variety of competition-related issues.

The transformation of Latin American competition law and policy reflects how the concepts and institutions have matured and generated interest from increasingly supportive governments and civil society groups. These national and regional developments can inspire others still debating whether to introduce competition laws or revise existing laws to make them more relevant and effective.

The OECD Latin American Competition Forum has lived up to its objective of fostering effective competition law and policy in Latin America, creating a platform for dialogue and consensus-building in the region. The member agencies of the LACF, as well as the founding and participating organisations, have worked to create a reference of excellence at the regional level for good practice and high-level sharing of experience. Its work has certainly contributed to economic development, innovation and growth in the region.

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Manuel Sebastião
President, Portuguese Competition Authority
### The development of competition law in Latin America and the Caribbean

**Preliminary stage:** a few countries with basic laws but weak enforcement records
- Brazil: 1962
- Chile: 1959, 1973
- Colombia: 1959
- Mexico: 1934

**Intermediary stage:** of modernising existing laws...
- Argentina: 1999
- Brazil: 1991, 1994
- Chile: 1999
- Colombia: 1992
- Mexico: 1992

...or introducing modern laws
- Andean Community: 1991, 2005
- Barbados: 2002
- Bolivia: 2008
- CARICOM: 2001
- Costa Rica: 1994
- Dominican Republic: 2008
- Ecuador: 2011
- Guyana: 2006
- Honduras: 2006
- Mercosur: 1996
- Nicaragua: 2006
- Panama: 1995
- Trinidad and Tobago: 2006
- Uruguay: 2007
- Venezuela: 1991

**Consolidation of existing regimes based on national experience and international best practices**
- Brazil: 2011
- Chile: 2003, 2009
- Colombia: 2009
- Panama: 2006

*The Latin American Competition Forum: an instrument of change*
Regional integration: building capacity and consensus

The Latin American Competition Forum supports the technical development of competition law and policy, alongside the dissemination and increased understanding of competition principles to strengthen the regional integration process. Most countries in the region are now consolidating and reinforcing their existing regimes.

Nevertheless, differences and challenges remain. Despite countries belonging to the same continent, there are significant differences in their antitrust systems which can hamper co-operation among national competition authorities in the region. Coupled with the relative youth of Latin American competition authorities and the institutional and political environment in which they operate, these challenges can limit the ability of national authorities to address anti-competitive conduct and unleash the potential of regional markets.

In the first ten years of its existence, the OECD-IDB Latin American Competition Forum has become the most important platform for representatives of Latin American competition agencies to discuss and reflect on issues of common interest. The Forum has also been a very useful vehicle for the dissemination of international best practices on competition policy and, consequently, to a growing convergence in the field between the jurisdictions that participate in it. On behalf of the Federal Competition Commission and Mexican consumers, I therefore only have words of thanks for the OECD and the IDB for their continuing efforts to make this forum a reality.
The Latin American Competition Forum is a unique venue for competition authorities in the region to share best practices and policies as they seek to make the promise of free competition translate into real improvements in consumer welfare for their citizens. Not only are the discussions carried out at a high level, but the Forum creates an exceptional opportunity for building the kind of cross-border connections that we need if our systems are to operate interdependently. The Inter-American Competition Alliance, for example, which is an exemplary informal network of enforcers in the region, got its start on the margins of the LACF in 2010.

Russell W. Damtoft
Associate Director
Office of International Affairs
United States Federal Trade Commission

When the Latin American Competition Forum was created 10 years ago, many Latin American countries were peripheral to competition law enforcement. Most were isolated, both from the rest of the OECD and from each other. The Forum was an instrument of change. Round table discussions, peer reviews and expert debates allowed countries to learn from each other and highlighted how the laws and practices of individual countries could be improved. It made the rest of the OECD aware of the rich (but largely unknown) Latin American experiences. As a result of the process of convergence promoted by the Forum, many Latin American countries have become examples to the world of best practices, good institutions and modern laws. In the course of these ten years some countries have become members of the OECD, many have become active observers, and all have converged towards best practices.

Alberto Heimler
Chairman
OECD Working Party on Competition and Regulation

Marcos Paulo Veríssimo
Commissioner, Administrative Council for Economic Defense of Brazil (CADE)
Strengthening international co-operation in a globalised marketplace

International co-operation is key to strengthening competition in a globalised world. It addresses the gap between the international nature of business activities and the territorially limited areas of national jurisdictions.

The proliferation of competition regimes in Latin America and around the world highlights the potential for co-operative relationships based on a shared commitment to fight anti-competitive practices and realise the benefits of trade liberalisation. Together, countries can reduce inconsistencies and duplication of effort among governments enforcing competition laws, and help multinational businesses comply cost effectively with the competition regimes of multiple jurisdictions.

The Latin American Competition Forum represented a new form of international co-operation between countries in the region, and between the region and the rest of the world, for addressing common competition problems. The emergence of competition policy in Latin America and the Caribbean has been matched by an increasing presence of these countries in international fora. Mexico and Chile are now members of the OECD; Brazil is a long standing Observer to the OECD Competition Committee; while Colombia and Peru became Observers in 2012.

In an increasingly globalised economy, the need for competition agencies to cooperate not only bilaterally but also multilaterally is nowadays non-disputed. The Forum, with its focus on important emerging economies, many of which adopted competition policies in recent years, has anticipated these developments very well and provides an excellent response to very concrete and pressing needs. The European Commission has participated in the discussions at the Forum on a regular basis and was impressed by the high level of the exchanges, the commitment of the participants and the excellent choice of topics. Together these factors have turned this initiative into a long-lasting success.

A shared commitment to fight anti-competitive practices

Since its creation in 2003, the Latin American Competition Forum has been driving an open and collaborative dialogue on competition law and policy issues in the Americas. This type of exchange is critical for the spread of competition principles and the consistent application of our national laws in an increasingly globalised marketplace.

The Latin American Competition Forum, together with the complementary Ibero-American Forum on Competition, enables organisations and countries on both sides of the Atlantic to cooperate with a common goal, i.e. the institutional reinforcement of competition policy. Participating countries are both primarily responsible for and the main beneficiaries of its outcomes, as shown by the progress made in competition protection and their increasing participation in the OECD’s Competition Committee.

Carles Esteve Mosso
Director of the Policy and Strategy Directorate
Directorate General for Competition
of the European Commission

John Pecman
Senior Deputy Commissioner of Competition
Criminal Matters Branch, Competition Bureau Canada

Joaquín García Bernaldo de Quirós
President
National Competition Commission of Spain (CNC)
Putting competition on the map

The creation and success of the Latin American Competition Forum reflects widespread recognition that competition law and policy is producing important benefits across the region. There is potential to leverage even greater benefits as more countries adopt and refine both their competition laws and other framework policies.

The process is not without its challenges. New legal and institutional frameworks have to demonstrate their value and credibility in the context of wider political-economy influences. In Latin America, a legacy of state intervention and protectionism limited the effectiveness of competition policy to address anti-competitive conduct at the start of many regimes. Communicating the benefits of competition and the need for vigorous competition law enforcement is vital to allow it to flourish.

The Latin American Competition Forum promotes this dialogue through exchanges of experiences between competition officials and policy makers. The recent evolution and consolidation of different regimes based on the experiences of Latin American authorities, highlights increasing commitment and explicit support from government. These new laws have also had growing support from business, the media, civil society and academia.

Hosting the Forum in 2011 was fundamental in establishing closer cooperation between authorities in the region and establishing the role of the Superintendency of Industry and Commerce (SIC) at the regional and international levels. The Forum also gave Colombia the opportunity to show the progress made in the protection of competition, as well as serving as a platform for its efforts to become an observer to the OECD’s Competition Committee.

Ana Victoria Velázquez
Director
Commission to Promote Competition of Costa Rica (COPROCOM)

It was an honour for El Salvador to be the first Latin American country to host such a distinguished event in the region. The Superintendency of Competition had been in operation only for a few months. It was a challenge that was highly beneficial for the agency as the Forum promoted dialogue, examples of best practices in the field were given, and experience was shared by countries with a track record in the field, all of which contributed to the institutional development and capacity building of El Salvador’s competition agency.

Regina Vargas
Commissary for Competition Advocacy
Superintendence of Competition of El Salvador

El Salvador 2006

Costa Rica 2010

Costa Rica 2010

Homing the eighth Latin American Competition Forum held in Costa Rica in 2010 in collaboration with COPROCOM within the framework of its fifteenth anniversary, was a milestone in the promotion of competition in the country.

José Miguel De La Calle
Superintendent of Industry and Commerce of Colombia

Competiton has the ability to do a variety of great things – if it is allowed to flourish

Regina Vargas
Commissary for Competition Advocacy
Superintendence of Competition of El Salvador
Making markets work

Competition in the marketplace drives economic growth and rewards innovation by providing strong incentives for firms to be more efficient than their rivals and to reduce costs. Effective competition also provides significant benefits for consumers through greater choice, lower prices, and better quality goods and services. Vigorous enforcement of competition law can therefore prevent inefficiency and favouritism, helping keep business and government clean.

Across Latin America and the Caribbean, anti-cartel enforcement is now a priority, reflecting global norms on increased cartel prosecution. Most of the cartels uncovered in the region are local or national in scope, despite increasingly active international cartels. Improved detection is necessary because the same multinationals that have been sanctioned for competition law violations outside the region operate in many Latin American countries. Brazil’s significant successes in detecting and prosecuting cartels highlight the benefits of active and effective anti-cartel enforcement for the region.

The rapid growth of Latin American markets has also increased pressure on ensuring efficient and timely review of merger transactions. While there are differences in the way merger control is administered in countries across the region, this is an area where national regulations are being revised in light of experience and in line with international norms.

Monopolisation is another priority for competition enforcement in Latin America and the Caribbean. In many cases this has been in response to abuses of dominance by privatised former monopolies following the liberalisation of key sectors, notably energy, telecommunications and aviation. In other cases, it is a hangover from the days of price regulation, when many competition authorities were expected to look at the commercial behaviour of large firms.

Government restrictions on competition remain a core component of restraints on market competition in Latin America and the Caribbean. Importantly, competition authorities in the region are engaged in competition advocacy to promote sound competition principles in government policy-making. Some countries, such as Mexico, are using the OECD’s competition assessment methodology to help streamline existing regulations and identify anti-competitive effects of new regulations.
The objective of promoting competition in markets should also influence government behaviour in ensuring competitive neutrality, so that state-owned and private businesses compete on a level playing field. This is essential for the effective use of resources within Latin American economies to deliver growth and development.

Governments face many challenges in driving competition in the marketplace. This is not least because the benefits from competition emerge only over time and there is often resistance from incumbent interest groups that benefit from restrictions on competition. Such challenges can be mitigated by a strong and effective competition regime.

The Forum has been an invaluable source of knowledge and training for Peruvian officials and for sharing experiences and discussing ideas regarding the design and implementation of competition policy from a Latin American standpoint. Never before have the promotion and advocacy of competition been so essential for growth and economic development in the region. We are confident that the LACF will provide continuing support for competition agencies in Latin America in decades to come, as it has done so over the last ten years.

Hebert Tassano Velaochaga
Chairman
National Institute for the Defense of Competition and the Protection of Intellectual Property of Peru (INDECOPI)

In 2006 the FNE (National Economic Prosecutor’s Office) turned its efforts towards effective action against hard-core cartels. These efforts resulted in major legislative reforms adopted in 2009, as well as significant changes in law enforcement against hard-core cartels. These efforts by the FNE, together with the results, were motivated largely by the work started in the region by the OECD together with the LACF in 2003. Chile was the first country to undergo a peer review examination, which took place in 2003. The review helped to identify areas in which improvements to the system were necessary. The opportunity to host the LACF in 2009, during the actual implementation of anti-cartel law reforms, provided significant support for competition policy in Chile.

Felipe Irarrázabal
National Economic Prosecutor of Chile
Fighting collusion in public procurement

Public procurement is an essential government activity that accounts for at least 17% of GDP in OECD countries, and in most developing countries this can be substantially higher. However, collusion, or bid rigging, by groups of firms conspiring to raise prices or lower the quality of the goods or services offered in public tenders is a problem that plagues government procurement around the world. Although illegal, the anti-competitive practice is widely applied and continues to cost governments and taxpayers billions of dollars every year. It results in public funds being siphoned off from important government programmes, such as health, education and construction, which are often essential for the poorest in society.

In line with the OECD Recommendation for Fighting Bid Rigging in Public Procurement and its Guidelines, a number of jurisdictions in Latin America are reviewing their procurement framework and practices to achieve more competitive procurement.

A project initiated at the Latin American Competition Forum in 2007, designed to build capacity to detect and prevent bid rigging in the region, inspired subsequent OECD work on this important topic.

Bid rigging costs governments and taxpayers billions of dollars

The OECD has been a continuous source of guidance and materials for the Brazilian competition authorities in the past 15 years, the LACF in particular has played a pivotal role in the consolidation of Brazil’s anti-cartel programme and the country’s competition law and policy overall. Lessons learned resulted in the training of government officials and police officers, the enhancing of investigative techniques and that provided the means to detect bid-rigging and other conspiracies and, with that, to prevent Brazilian consumers from being harmed in several markets.

Mariana Tavares de Araujo
Former Head of the Secretariat of Economic Law (SDE)
Brazilian Ministry of Justice

www.oecd.org/competition/bidrigging
Brazil and Chile

The OECD Project to Reduce Bid Rigging in Latin America was launched in 2007 with projects in Brazil and Chile. It was designed to assist competition authorities to detect and prevent bid rigging in public procurement.

Both the Brazilian and Chilean competition authorities established numerous cross-agency partnerships with key government agencies and public prosecutors to help build awareness of bid rigging, the importance of tackling it, how to detect it and steps agencies can take to prevent bid rigging. Other initiatives included the development of guidelines based on OECD materials and the incorporation of bid rigging detection criteria into auditor manuals.

There was also significant emphasis on outreach to frontline public procurement officials. A “bid rigging road show” took place in five regional capitals around Brazil, with over 600 public prosecutors and procurement officials.

The OECD project also identified gaps in Chile’s cartel regime and worked with officials to build their internal enforcement capacity and support their push for strengthened enforcement powers. In Brazil, OECD reports examined proposed amendments to the procurement law and explained the usefulness of Certificates of Independent Bid Determination, which are now mandatory for federal and state procurement.

Tips from procurement agents in both countries resulted in solid leads and have led to numerous investigations. In Brazil several bid rigging cartels were recently uncovered potentially affecting more than USD 500 million in public resources.

Mexico

The Mexican Institute for Social Security (IMSS) is the third largest public buyer of goods and services in Mexico and the single largest purchaser of pharmaceutical products and other medical supplies. Buying effectively and avoiding bid rigging are therefore key to generating savings for IMSS users and Mexican taxpayers.

In 2011, after making significant efforts to improve the effectiveness of its procurement strategy, Mexico decided to step up its fight against bid rigging by signing an agreement with the OECD to work together on implementing tighter public procurement processes.

The OECD and the Mexican competition authority, Comisión Federal de Competencia, worked with the IMSS to improve rules and procedures, and to train procurement officers. In 2012, the OECD published a report on IMSS’s procurement regulations and practices. The report also includes policy recommendations in key procurement areas such as market studies, coordination with other parts of government and training activities.
Country reviews to strengthen laws and institutions

Detailed reviews of national competition laws and policies are an important tool in helping to strengthen competition institutions and improve economic performance. The process provides valuable insights into the country under study, getting to the heart of ways in which each country deals with competition and regulatory issues, from the soundness of its competition laws to the structure and effectiveness of its competition institutions. Moreover, these reviews incorporate recommendations for changes in government policy.

Peer reviews play an important signalling role for competition authorities, as the recommendations encourage them to go to national legislatures and push for change. Peer Reviews quickly become part of national public debate as they are closely analysed by governments, the media and other influential commentators.

The OECD and IDB therefore include peer reviews as a regular part of the Latin American Competition Forum. In 2007, the Forum assessed the impact of the first four peer reviews conducted in the LACF (Brazil, Chile, Peru and Argentina) and the peer review of Mexico, conducted in the OECD’s Competition Committee. The Forum reviewed El Salvador in 2008, Colombia in 2009, Panama in 2010 and Honduras in 2011. A follow-up review of these nine countries is planned for the 10th meeting of the Latin American Competition Forum in 2012.

I have been privileged to participate in the Latin American Competition Forum almost since its inception, first as Deputy and National Economic Prosecutor for Chile’s FNE, and then as a consultant to the OECD and the IDB, which has enabled me first hand to see the benefits of the Forum and its growing importance over time. The main outcome of the Forum is undoubtedly the peer reviews, which have proved highly successful. As of 2012, nine countries have been peer reviewed, which has enabled them to carry out a self-evaluation and discuss, correct and rethink their competition policy.

Enrique Vergara
OECD-IDB Consultant
Former National Economic Prosecutor of Chile

O ne of the Forum’s most stimulating programmes is undoubtedly the peer review of competition policy. In the case of Honduras in 2011, it was an unforgettable and highly beneficial exercise in that we were able to identify the strengths and weaknesses of the agency, as well as the challenges that it faces and that need to be overcome in the future in order to fulfill the mission entrusted to the Honduran competition authority.

Oscar Lanza Rosales
President
Commission for the Defense and Promotion of Competition of Honduras

The 2009 Peer Review was crucial in the preparation and discussion of the current Colombian competition law. It served not only to nourish the agency’s working plans based on the identification of good practices in the enforcement of competition regulations, but it was also an opportunity for creating bonds of cooperation and support among the competition agencies.

Gustavo Valbuena Quiñones
Former Superintendent of Industry and Commerce of Colombia

Brazil was first peer reviewed in 2005. The report and examiners and public debate provided a fruitful discussion of the main flaws and possible improvements to Brazilian competition law enforcement. Most of the changes brought in by the 2012 competition law were discussed and proposed at the 2005 meeting. This is a very clear example of the important contribution of LACF for developing countries and young antitrust jurisdictions.

Elizabeth Farina
Former President
Administrative Council for Economic Defense of Brazil (CADE)
Supporting new and young law enforcement institutions

The introduction of competition into economies in Latin America and the Caribbean represented a move towards open market economies and away from formal centralised economic planning. Changing the pattern is never easy, and presents challenges for new competition authorities.

Many of these challenges have their origin in a fundamental condition that exists in a country new to competition policy: the lack of a competition culture. Beyond that, institutional strengthening has been a particular challenge in Latin America and the Caribbean, alongside inadequate investigative tools and insufficient sanctioning powers.

The Latin American Competition Forum articulates that good institutions emerge from gradual, incremental and steady improvements. Success in beginning to enforce a competition law requires: a good law, setting priorities, establishing credibility and reputation, building technical capacity, independence in decision-making, developing efficient and transparent internal procedures, obtaining an adequate budget, focusing early on competition advocacy, acquiring expertise in case investigation, and developing a programme for interacting with judges on competition policy.

Institutional strengthening is a major challenge in Latin America and the Caribbean

The CARICOM Competition Commission is particularly gratified with the selection of issues addressed at the forums, and especially with their relevance to the needs and circumstances of small developing economies. As a young agency trying to promote a culture of competition in the Caribbean region, we have benefited from the deliberations on strategies for advocacy, and as a regional institution, we were delighted to be involved in the discussions on the interface between competition issues and RTAs. The forum provides a valuable context for moderating the perspectives emanating from the experiences of the developed world. And as the trade relations between the Caribbean and the countries of Latin America expand and deepen, the forum is certain to grow in significance and relevance.

Kusha Haraksingh
Chairman
CARICOM Competition Commission

The Latin American Competition Forum is an invaluable platform for the sharing of knowledge for small and newly founded agencies. It provides an opportunity to learn from the experience of well-established agencies and make personal contact with experts in the field, as well as providing an opportunity for dialogue and discussion of the latest important issues in competition. As such, participation in the forum is indispensable for small and newly founded agencies like PROCOMPETENCIA in Nicaragua.

Luis Humberto Guzmán
President
National Institute for the Promotion of Competition of Nicaragua (PROCOMPETENCIA)
Creating a competition culture

Generating support for competitive markets and building a competition culture in society means persuading business and the public that they will benefit from greater efficiencies generated through competition and regulatory reform, and that this is a better option than a controlled economy.

Developing a competition culture in Latin America and the Caribbean is key given the lack of historical commitment to and confidence in the benefits of competition.

Many competition authorities in the region organise annual competition or consumer days, which focus public attention on these issues. Jamaica holds an annual Consumer Day, and there is an annual Competition Week in Honduras. Chile introduced an annual Competition Day geared towards competition law practitioners. In Brazil, the 8th October has been designated Anti-Cartel Enforcement Day by Presidential Decree.

Other tools to promote competition culture include a TV campaign in Colombia aimed at switching the country on to the dangers of anti-competitive behaviour, and comic books for children on the subject in Brazil.

Given the lack of a robust competition culture in Panama, the 2010 Peer Review suggested that ACODECO’s measures to promote advocacy and effective implementation of competition law would have a positive impact on the economic development of Panama, which led, among other things, to the establishment of the National Day of Competition on 1 February each year.

The National Commission for the Protection of Competition is a new competition authority at the start-up phase, so the country has no experience with a competition regime. Its mandate provides for work to be carried out to develop a competition culture in the country. Given the importance of this mandate for a newly-established authority, the Commission has, as part of its corporate plan, an aggressive and proactive promotion and dissemination strategy as the first step in conveying the purpose and importance of competition policy to economic actors. This recognises that creating a competition culture is vital for the economy and essential for consumer welfare. The celebration in Santo Domingo of the 2012 OECD-IDB Latin American Competition Forum and the Dominican Republic’s Competition Day provide an excellent opportunity to promote the international relevance of competition law.

Pedro Meilán
General Administrator
Competition and Consumer Protection Agency of Panama (ACODECO)

Antonio Rodriguez Mansfield
Board Member
National Commission for the Protection of Competition of the Dominican Republic (PRO-COMPETENCIA)
A successful experiment

The Latin American Competition Forum successfully brought countries across the region together with the experience of the OECD’s Competition Committee and the IDB’s regional expertise. Over the last ten years, the Forum has facilitated understanding of how best to further competition in Latin America and the Caribbean and has supported countries in finding solutions tailored to their national and regional contexts. As a result of the evolution and convergence promoted by the Forum, many Latin American competition regimes are now examples of best practices, strong institutions and modern laws.

The Latin American and the Caribbean perspectives have enriched the development of OECD competition tools to promote sound competition principles around the world.

The Forum has provided a vehicle for the OECD, the IDB and the governments of Latin America and the Caribbean to strengthen international support for competitive markets to respond to global challenges shaped by the rapid internationalisation of economic activity and the pressing need for economic growth.

The Latin American Competition Forum has been a source of great pride for those of us who represented the OECD Secretariat at these gatherings. We were pleased to contribute to this institution, which we knew would enhance competition and competition policy throughout the region.

Joe Phillips
Former Head of Competition, OECD

When we started the LACF ten years ago, the vision was to help the Latin American authorities share their knowledge and experience and to bring to those discussions the body of practical knowledge being built by the OECD Competition Committee. We hoped that the result would be a strengthening of the authorities, greater impact for competition law and policy and, ultimately, greater growth and prosperity throughout the region. It’s deeply gratifying to see this vision being realised: better laws have been adopted, advocacy has been improved, competition assessment is beginning to be used and the fight against cartels and bid-rigging is really taking off. My thanks and appreciation to all of you who have worked so hard to make this happen and my hope that this good work will continue for many years to come.

Joe Phillips
Former Head of Competition, OECD

The LACF is a genuine success story in modern competition law – an example of public policy innovation at its best. LACF initiatives such as country peer reviews have enhanced the sharing of experience among Latin American competition agencies and accelerated the absorption of superior practices at the national level. The LACF also has helped strengthen cross-border relationships that enhance the performance of individual Latin American systems. The importance of this experiment extends beyond Latin America. The LACF experience demonstrates the value of regional cooperation as a complement to bilateral agreements or broader multinational competition policy networks.

William Kovacic
Former Chairman, United States Federal Trade Commission

The Latin American Competition Forum has been a source of great pride for those of us who represented the OECD Secretariat at these gatherings. We were pleased to contribute to this institution, which we knew would enhance competition and competition policy throughout the region.

John Clark
Former Staff Member, OECD
Future directions

Competition has become an integral component of the development policy of Latin America and the Caribbean as a result of growing recognition of its role in facilitating economic growth.

Over the next ten years, the Latin American Competition Forum will continue to combine cutting-edge technical analysis and expertise with a focus on the practical problems faced by competition authorities and policy makers in the region.

Building on the strong partnership between the OECD and the IDB, the Forum can make significant progress on convergence and improving regional and international co-operation. Discussions and exchanges will enhance mutual understanding and better governance of international markets.

In this way, the Latin American Competition Forum can ensure governments are better placed to guarantee the role of competition policy in realising the potential of Latin American and Caribbean markets in promoting sustained economic development and in the fight against poverty.

The LACF has had a good start, but this has just been the beginning. Countries need to work together to ensure that businesses have opportunities to compete in increasingly integrated international markets. Helping them do so is one of the OECD’s strategic priorities, and the LACF provides a unique forum in which competition authorities from the rapidly developing Latin American economies can co-operate and exchange ideas. It is a privilege for me to work with colleagues from Latin America in the Forum. I am grateful to our co-organisers, the IDB, and I very much look forward to the LACF’s work over the next ten years and beyond.

John Davies
Head of Competition, OECD

10 years of experience is a good window of time to reflect on the way forward for the OECD-IDB Latin American Competition Forum. While most jurisdictions in the region have enacted competition laws and have created competition authorities, competition policy is still not a major tool of economic policy in Latin America and the Caribbean. Agencies are often understaffed and underfinanced. Special interest groups manage to maintain anti-competitive barriers and privileges and the culture of competition is still fragile. Some of the major developments in competition law are still not applied in the region. The strategic partnership between the OECD and the IDB has proven to be an invaluable effort to promote the development of competition culture and to enhance the ability of authorities in the region to enforce the legal and policy framework. For the next 10 years, the LACF should be the platform for a second generation of reforms in competition law and policy that can level the region with those at the vanguard of development.

Mario Umaña
Senior Trade and Competition Specialist, IDB
Organisation for Economic Co-operation and Development

Competition Division
2, rue André Pascal, 75775
Paris Cedex 16, France

www.oecd.org/competition
www.oecd.org/competition/latinamerica

Inter-American Development Bank

Integration and Trade Sector
1300 New York Avenue
Washington DC 20577, United States

www.iadb.org/trade
LATIN AMERICAN COMPETITION FORUM

Content: Hilary Jennings, Head of Competition Global Relations, OECD

Design: Jessica Escaip, LACF Project Assistant, OECD