



**INTER-AMERICAN DEVELOPMENT BANK**



**LATIN AMERICAN COMPETITION FORUM  
-- 10-11 September, Panama City--**

**Session I: Competition Provisions in Regional Trade Agreements**

**CALL FOR COUNTRY CONTRIBUTIONS**

This paper is circulated in preparation for the roundtable discussion to be held in Session I of the Latin American Forum on Competition (10-11 September 2008 in Panama).

During this session participants will discuss the purpose, design, negotiation, and subsequent use of competition-related provisions in Regional Trade Agreements (RTAs). There will be a particular focus on Latin American and Caribbean experience and on the ways in which current and future negotiations of RTAs can be used to advance the region's interests. Those interests include not just enhanced international cooperation on competition law and its enforcement but also the strengthening of both competition authorities and pro-competition principles within Latin America and the Caribbean.

This session's discussion will not be confined to the competition chapters of RTAs but also to those other provisions in such agreements that promote adherence to competition principles in the design of government regulation and in the behavior of the private sector, in particular, formerly state-owned enterprises, utilities, and monopolies. Presenters will be selected on the basis of the written contributions submitted to the Secretariat in response to this call. All participating countries are invited to prepare such contribution. The papers should be submitted **by 20 August 2008 at the latest** in electronic versions (5 pages maximum in Spanish or English to [lydia.anthenor@oecd.org](mailto:lydia.anthenor@oecd.org) with a copy to [helene.chadzynska@oecd.org](mailto:helene.chadzynska@oecd.org)). They will be circulated to other participants through the OECD and Panama's websites (respectively: <http://www.oecd.org/competition/latinamerica> and <http://www.autoridaddelconsumidor.gob.pa/>).

Participants in the session are invited to respond to the questions below:

I. For those participants whose governments have signed RTAs that include competition provisions:

1. What types of competition provisions were included in the RTAs that your country has signed?
2. Which negotiating party or parties have sought the inclusion of these provisions and why?
3. What position, if any, did your country's competition authority take as to the merits of different types of competition provisions? What process, if any, was used to determine this position? Has this position changed over time?
4. What process, if any, was used by your government to consider the merits of including competition principles in RTAs? Did that process change over time? Such a process could, but need not, have involved consultation with a national competition authority.
5. Did officials from the competition authority negotiate directly the text on competition-related matters in RTAs? If not, to what extent was the competition authority kept informed of these particular negotiations? Did the level of consultation and cooperation between the competition authority and national trade negotiators deepen over time? If so, to what effect?
6. Once the RTAs with competition provisions that your country is a party to have come into force, in what ways (if at all) were those provisions used subsequently by competition authorities or by national governments? What costs and benefits were associated with the use of such provisions? If these provisions were not used, what factors accounted for their non-use?
7. Given the experience of your country what advantages, if any, do competition provisions in RTAs have over other international instruments to promote cooperation on competition law and its enforcement? What are the disadvantages of the former compared to the latter?
8. On the basis of your country's and others' experience what, if any, types of competition provision in RTAs should be sought in future RTA negotiations?

II. For those participants whose governments have not signed RTAs that include competition provisions, the following questions seek to understand the factors behind the decision not to include these provisions in RTAs.

1. Has your country's government negotiated a RTA in the last 10 years?
2. Was any consideration given to the inclusion of competition provisions in a RTA negotiation? If not, why not? If so, what process was used? Was the competition authority consulted? What arguments were considered important and influential during that process? Ultimately what, if any, priority was attached to the negotiation of these provisions?
3. Did a trading partner reject your country's proposals for the inclusion of competition provisions in a RTA? If so, what reasons (if any) were given for the rejection?
4. To what extent, if at all, has the failure to include competition provisions in RTAs adversely affected the influence of the competition authority within government (for example, in the design of pro-competitive regulation) and the ability of that authority to effectively pursue its enforcement and other functions? (It being borne in mind here that there may be other instruments available to a competition authority than competition provisions in RTAs.)
5. On the basis of your country's and others' experience what, if any, types of competition provision in RTAs should be sought in future RTA negotiations?