# DEPARTMENT OF JUSTICE

# International Cooperation: Taking a Broader View

**RACHEL BRANDENBURGER**
**Special Advisor, International**
**Antitrust Division**
**U.S. Department of Justice**

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## I. Introduction

It is an honor and a delight to be back here in Brussels to address the AmCham EU Competition Policy Conference this afternoon. I should like also to congratulate our hosts on this year's commemoration of the 50th anniversary of the Common Market Panel of AmCham Belgium, the forerunner of today's AmCham EU, which has done so much to foster understanding between the United States and the European Commission in the economic sphere.

As many of you know, over the past three years, I have delivered a series of remarks and written articles on different aspects of international cooperation in competition law enforcement.[1] That is my theme again today. This afternoon, though, I will not talk so much about what the Antitrust Division of the U.S. Department of Justice (Antitrust Division) thinks and does about international enforcement cooperation, though there will be some of that. Rather, as the title of my speech suggests, I want to focus on a broader view of cooperation: experiences that I, and other Antitrust Division officials, have been hearing about from other competition agencies and private practitioners around the world, especially including in the context of the important new international cooperation projects at the Organization for Economic Cooperation and Development (OECD) and the International Competition Network (ICN).

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[1] *See, e.g.* Rachel Brandenburger, *The Many Facets of International Cooperation at the Antitrust Division* (June 15, 2012), *available at* http://www.justice.gov/atr/public/speeches/284239.pdf; Rachel Brandenburger, *Intensification of International Cooperation: The Antitrust Division's Recent Efforts* (Feb. 17, 2012), *available at* http://www.justice.gov/atr/public/speeches/281609.pdf;.
Special Advisor, International Rachel Brandenburger, *Twenty Years of Transatlantic Antitrust Cooperation: the Past and the Future* (Oct. 14, 2011), *available at* http://www.justice.gov/atr/articles/279068.pdf; Rachel Brandenburger, *International Competition Policy and Practice: New Perspectives?* (Oct. 29, 2010), *available at* http://www.justice.gov/atr/public/speeches/270980.pdf.

Before I embark on that discussion, however, I would like to provide you with a brief summary of what the Antitrust Division has been doing this fall in competition enforcement and competition policy, in order to provide some real-life background for the international cooperation conversation that will follow.

**A. The Recent Work of the Antitrust Division**

The work of most antitrust agencies – including both the Antitrust Division and DG COMP, to take two examples – includes both enforcement work and competition policy work, which mutually reinforce one another. An agency that does no significant enforcement work may find that its competition policy views are not given great weight in the wider community, as being divorced from practical experience. Similarly, an enforcement-focused agency that provides no competition policy guidance or leadership may find itself characterized as wedded to interpretations of the law that ignore evolving legal or economic theories or the practical competition interests of consumers or businesses. Accordingly, we at the Antitrust Division take care to mix vigorous and sound enforcement of U.S. antitrust laws with substantive public conversations about antitrust and competition policy issues affecting the U.S. economy. Importantly, this combination of actions also provides transparency concerning our enforcement activities.

Over the past several months, we have achieved many important successes in our enforcement efforts. As you may know, the Antitrust Division is a law enforcement or prosecutorial agency, not an administrative one, as is more common in the world. As a prosecutor, if we conclude that violations of U.S. antitrust laws have occurred, we must file lawsuits in federal district court and convince a judge or jury to agree with us, in order to obtain

relief. In such lawsuits, the division has the burden of proof, by a "preponderance of the evidence" in civil matters, and "beyond a reasonable doubt" in criminal ones, in the public hearings and trials that may be required to resolve those matters. While we often resolve our cases short of litigation, including through consent judgments that our federal courts must approve, we are prepared to litigate if necessary to vindicate the public's interest in competitive markets. As our then-Acting Assistant Attorney General Joseph Wayland explained in September, "it is our willingness and outstanding track record in both criminal and civil litigation that helps secure our other enforcement successes."[2]

Turning to our recent successes on the merger side, I will mention the *3M/Avery-Dennison* matter as an example. In September, the 3M Company abandoned its plan to acquire Avery-Dennison Corporation's Office and Consumer Products Group, 3M's closest competitor in the sale of adhesive-backed labels and sticky notes – obvious necessities in contemporary office culture – after the Antitrust Division informed the parties that the deal raised serious competitive concerns and that it would file a civil antitrust lawsuit to block the deal.[3]

On the civil non-merger front, the Antitrust Division is the plaintiff in three significant, ongoing civil lawsuits: a challenge to Blue Cross Blue Shield of Michigan's use of contractual provisions called most favored nation (MFN) and MFN-Plus agreements that force hospitals to charge higher prices to Blue Cross's competitors;[4] litigation against American Express over

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[2] *See* Acting Assistant Attorney General Joseph F. Wayland, *Litigation in the Antitrust Division* (Sept. 19, 2012), *available at* http://www.justice.gov/atr/public/speeches/287117.pdf.

[3] *See* Press Release, U.S. Dep't of Justice, *3M Company Abandons its Proposed Acquisition of Avery Dennison's Office and Consumer Products Group After Justice Department Threatens Lawsuit* (Sept. 4, 2012), *available at* http://www.justice.gov/opa/pr/2012/September/12-at-1076.html.

[4] *See* Complaint, *United States v. Blue Cross Blue Shield of Michigan*, No. 2:10-cv-14155 (E.D. Mich. filed Oct. 18, 2012), *available at* http://www.justice.gov/atr/cases/f263200/263235.pdf.

rules that limit merchants' abilities to promote competition among credit card networks (MasterCard and Visa agreed to settle our similar cases against them);[5] and most recently, a challenge to anticompetitive conduct by Apple Inc. and two major U.S. and European book publishers – Holtzbrinck Publishers LLC, which does business as Macmillan, and Penguin Group, a Division of Pearson PLC/Penguin Group (USA) Inc. – with respect to sales of eBooks (three other U.S. and European publishers – Hachette Book Group Inc., HarperCollins Publishers L.L.C. and Simon & Schuster Inc. – have entered into consent decrees with the department, which the federal district court approved in September).[6]

On the criminal side, we have long devoted substantial resources to identifying and prosecuting criminal cartel agreements to fix prices, rig bids and/or allocate markets. In the past few months, we have secured jury verdicts of "guilty" in two hard-fought municipal bond bid-rigging cases in New York; thus far, a total of 20 individuals have been charged in this investigation, of whom 19 have been convicted after trial or pleaded guilty; one still awaits trial.[7] In another criminal investigation, involving a conspiracy to fix the prices of liquid crystal display (LCD) panels –such as computer or television screens—the division obtained jury

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[5] *See* Press Release, U.S. Dep't of Justice, *Justice Department Sues American Express, MasterCard And Visa To Eliminate Rules Restricting Price Competition; Reaches Settlement With Visa And MasterCard* (Oct. 4, 2010), *available at* http://www.justice.gov/opa/pr/2010/October/10-at-1115.html; s*ee also* Final Judgment, *United States v. Am. Express Co.,* No. 1:10-cv-04496 (E.D. N.Y. filed July 20, 2011), *available at* http://www.justice.gov/atr/cases/f273100/273170.pdf.

[6] *See* Press Release, U.S. Dep't of Justice, *Justice Department Reaches Settlement With Three Of The Largest Book Publishers And Continues To Litigate Against Apple Inc. And Two Other Publishers To Restore Price Competition And Reduce E-Book Prices* (April 11, 2012), *available at* http://www.justice.gov/opa/pr/2012/April/12-at-457.html; s*ee also* Final Judgment, *United States v. Apple, Inc., et al.*, No. 1:12-cv-02826 ( S.D.N.Y. filed Sept. 6, 2012), *available at* http://ia601206.us.archive.org/6/items/gov.uscourts.nysd.394628/gov.uscourts.nysd.394628.113.0.pdf.

[7] *See* Press Release, U.S. Dep't of Justice, *Three Former Financial Services Executives Sentenced to Serve Time in Prison for Roles in Conspiracies Involving Investment Contracts for the Proceeds of Municipal Bonds* (Oct. 18, 2012), *available at* http://www.justice.gov/opa/pr/2012/October/12-at-1258.html.

verdicts of "guilty" last Spring against a Taiwanese firm, AU Optronics Corporation (AUO), and two former senior AUO executives. In September, these verdicts resulted in sentences of a $500 million for AUO and three-year jail terms for each of the executives.[8] Finally, our ongoing major investigation into the worldwide price-fixing/bid-rigging of auto parts has continued to yield substantial results. With the most recent guilty pleas in November, nine international companies and 12 executives have pleaded guilty or agreed to plead guilty in the Antitrust Division's investigation; those firms have paid a total of nearly $800 million in criminal fines, while executives thus far have been sentenced to pay criminal fines and to serve jail sentences of from one to two years each. The investigation continues.[9]

Along with our recent enforcement successes, the Antitrust Division is also deeply committed to intellectual leadership on cutting-edge competition policy issues. For example, in September, we and the Federal Trade Commission (FTC) co-hosted a workshop in Washington on MFN clauses. This workshop provided an opportunity to bring together policy makers in the U.S. antitrust agencies, academic experts, industry experts and the private bar to consider the competitive effects of MFN clauses.[10]

In recent months, the Antitrust Division also has actively discussed some important issues at the intersection of competition policy and intellectual property (IP) policy, particularly

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[8] *See* Press Release, U.S. Dep't of Justice, *Taiwan-Based AU Optronics corporation Sentenced to Pay $500 Million Criminal Fine for Role in LCD Price-Fixing Conspiracy* (Sept. 20, 2012), *available at* http://www.justice.gov/opa/pr/2012/September/12-at-1140.html.

[9] *See* Press Release, U.S. Dep't of Justice, *Ohio Automobile Parts Supplier Executive Pleads Guilty in a Price Fixing and Bid Rigging Conspiracy* (Nov. 16, 2012), *available at* http://www.justice.gov/opa/pr/2012/288661.htm.

[10] *See* Press Release, U.S. Dep't of Justice, *Department of Justice, Federal Trade Commission to Hold Workshop on "Most-Favored-Nation Clauses* (Aug. 17, 2012), *available at* http://www.justice.gov/opa/pr/2012/August/12-at-1021.html*; see also* Antitrust Division Public Workshops, *Most-Favored-Nation Clauses and Antitrust Enforcement and Policy* (Sept. 10, 2012), *available at* http://www.justice.gov/atr/public/workshops/mfn/index.html.

the interface between standard-setting and competition policy. These, of course, are issues also of interest to many other competition agencies, including the European Commission.

For example, in July, then-Acting Assistant Attorney General Joseph Wayland testified before the Senate Judiciary Committee on the relationship among patents, competition and collaboratively set standards, and discussed policy options available to the U.S. International Trade Commission with respect to possible exclusion orders in administrative cases involving infringement of standard-essential patents (SEPs).[11] In September, then-Acting Assistant Attorney General Wayland again spoke about the intersection of antitrust and IP; in particular, he emphasized the Antitrust Division's view that "it is critical that antitrust agencies ensure that standard setting and transfers of patent ownership [as to which the division has had some recent merger investigations] stimulate innovation and protect competition."[12]

In the same way, our new Acting Assistant Attorney General, Renata Hesse, spoke publicly last month on antitrust issues involving standard-setting organizations (SSOs), and summarized recent Antitrust Division recommendations that SSOs consider procompetitive changes to their IP policies, such as identifying proposed technology that involves patents which the patent holder has *not* agreed to license on F/RAND terms in advance.[13]

To conclude this summary of the Antitrust Division's intellectual leadership on competition/IP issues, I note that the Antitrust Division and the FTC are holding a joint

[11] *See* Statement of Joseph F. Wayland before the Committee on the Judiciary of the United States Senate, *Oversight of the Impact on Competition of Exclusion Orders to Enforce Standards-Essential Patents* (July 11, 2012), *available at* http://www.justice.gov/atr/public/testimony/284982.pdf.

[12] *See* Joseph F. Wayland, *Antitrust Policy in the Information Age: Protecting Innovation and Competition* (Sept. 21, 2012), *available at* http://www.justice.gov/atr/public/speeches/287215.pdf.

[13] *See* Renata B. Hesse, *The Antitrust Division and SSOs: Continuing the Dialogue* (Nov. 8, 2012), *available at* http://www.justice.gov/atr/public/speeches/288580.pdf.

workshop in Washington next week on competition and IP to discuss the impact of patent assertion entity activities on innovation and competition.[14]

**B. The U.S. Antitrust Agencies and the Chinese and Indian Competition Agencies**.

The other recent Antitrust Division policy initiatives that I will mention this afternoon are two formal but practical initiatives that have strengthened our bilateral relationships with the competition agencies in China and India.

In July 2011, the Antitrust Division and FTC signed a Memorandum of Understanding (MOU) on Antitrust and Antimonopoly Cooperation with the three Chinese antimonopoly agencies: the National Development and Reform Commission (NDRC), the Ministry of Commerce (MOFCOM), and the State Administration for Industry and Commerce (SAIC), respectively.[15] The MOU provides that the U.S. and Chinese agencies will meet each year for a high-level dialogue on competition issues of mutual interest. The first of these meetings was held in Washington over two days this past September. Each Chinese agency was represented by a Vice-Minister – Vice-Ministers Hu, Gao, and Teng, respectively – while the U.S. antitrust a agencies were represented by then-Acting Assistant Attorney General for the Antitrust Division Joseph Wayland, and FTC Chairman Jon Leibowitz.[16] At the meetings, we discussed promoting competition in a global economy, as well as various aspects of civil and criminal antitrust

[14] Press Release, US. Dep't of Justice, *Department of Justice, Federal Trade Commission to Hold Workshop on Patent Assertion Entity Activities*, *available at* . http://www.justice.gov/atr/public/press_releases/2012/288932.htm.

[15] *See* Press Release, U.S. Dep't of Justice, *Department of Justice and Federal Trade Commission Sign Memorandum of Understanding with Chinese Antitrust Authorities* (July 27, 2011), *available at* http://www.justice.gov/opa/pr/2011/July/11-at-975.html.

[16] *See* Justice Blog, *Justice Department and Federal Trade Commission Officials Meet with Chinese Antitrust Agencies Officials* (Sept. 25, 2012), *available at* http://blogs.justice.gov/main/archives/2486.

enforcement. This high-level dialogue was an important step in cementing working relationships between the U.S. and Chinese agencies.

Later that same week in September, the U.S. antitrust agencies signed an MOU on antitrust cooperation with the Indian competition agencies, the Ministry of Corporate Affairs and the Competition Commission of India.[17] Indicative of the importance that the parties place on our relationship, the MOU was signed in the ceremonial Treaty Room of the U.S. Department of State. The MOU contains provisions on communication and cooperation among the agencies, and the parties acknowledged at the signing ceremony that the MOU will enhance the relationships between the U.S. and Indian agencies, including in the area of competition case cooperation.

Taken together, these recent cooperative events involving the U.S. antitrust agencies and the Chinese and Indian competition agencies, respectively, augur well for enhancing the quality of international cooperation among agencies that are likely to work more closely together on case cooperation in the future, as China and India play their very significant new roles in the world economy.

I now turn from these demonstrations of how important and diverse enforcement cooperation has become in the competition world, to identifying successful techniques for international cooperation more broadly.

[17] *See* Press Release, U.S. Dep't of Justice, *Department of Justice and Federal Trade Commission Sign Memorandum of Understanding with Indian Competition Authorities* (Sept. 27, 2012), *available at* http://www.justice.gov/opa/pr/2012/September/12-at-1164.html.

## C. Cooperation Policy and Practice at the Antitrust Division

As you know, the Antitrust Division has made cooperation in competition matters, and particularly in enforcement matters, a priority. Antitrust Division officials have spoken frequently about cooperation in many venues, including my remarks here last February.[18] This afternoon, I will briefly summarize our cooperation *ethos* and experience at the Antitrust Division, and provide a single recent case example that epitomizes successful, sustained cooperation.

Many of you will be familiar, I believe, with our seven guiding principles for effective, long-term international cooperation: increased *transparency* and accountability of government actions; expanded and deeper *cooperation* between U.S. and non-U.S. competition enforcement agencies; greater *convergence* of competition regimes; *mindfulness* of other jurisdictions' interests; *respect* for other jurisdictions' legal, political and economic cultures; *trust* in each other's actions; and ongoing *dialogue* on all aspects of international competition and enforcement.[19] We practice these guiding principles in all of our international case cooperation matters, both civil and criminal.

These principles do not exist in a theoretical vacuum. Indeed, the Antitrust Division has clear purposes in mind as we develop and implement mechanisms of international cooperation. Based on our experience, we have identified three principal purposes of international cooperation: to increase our understanding of the competitive process, both in particular

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[18] See, e.g., Christine A. Varney, *International Cooperation: Preparing for the Future* (Sept. 21, 2010), *available at* http://www.justice.gov/atr/public/speeches/262606.htm; Sharis, Pozen, *Developments at the Antitrust Division and the 2010 Horizontal Merger Guidelines – One Year Later* (Nov. 17, 2011), *available at* http://www.justice.gov/atr/public/speeches/255515.htm; Rachel Brandenburger, *International Competition Policy and Practice, supra at n.1.*

[19] *See id*.

cases and more generally; to increase the effectiveness of all aspects of the Antitrust Division's enforcement activities; and to increase the efficiency of the overall global enforcement effort by competition agencies around the globe, in order to facilitate and promote economic activity to the benefit of consumers.[20]

In our international cooperation efforts, we have seen that competition agencies generally share a strong interest in ensuring that investigations, and, where appropriate, remedies, in enforcement actions are consistent, predictable and efficient. The Antitrust Division has found that the best way to do that is through the consistent practice of cooperation and communication between and among enforcement agencies. [21]

Lest that sounds a little too idealistic, let me discuss one recent example of valuable and effective cooperation: the deep cooperative relationship between the Antitrust Division and the European Commission in the *e-books* case. In April 2012, as noted above, the Antitrust Division filed a civil lawsuit against Apple and five of the largest book publishers in the United States, which are also based in Europe, alleging that they had conspired to increase the prices that consumers pay for e-books. Three of the publishers agreed to settle with the Antitrust Division, subject to court approval, which was subsequently granted in September.[22] We are continuing to litigate against Apple and the two remaining publishers.

Throughout the investigation, we worked collaboratively with the European Commission. U.S. Attorney General Eric Holder recognized this valuable cooperative effort

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[20] *See* Joseph F. Wayland, *International Cooperation at the Antitrust Division* (Sept. 14, 2012), *available at* http://www.justice.gov/atr/public/speeches/286979.pdf.

[21] *See* Id.

[22] *See* Press Release, U.S. Dep't of Justice, *Justice Department Reaches Settlement With Three Of The Largest Book Publishers And Continues To Litigate Against Apple Inc. And Two Other Publishers To Restore Price Competition And Reduce E-Book Prices* (April 11, 2012), *available at* http://www.justice.gov/opa/pr/2012/April/12-at-457.html; Final Judgment, United States v. Apple, Inc., supra at n. 6.

when he thanked "our partners at the European Commission . . . for their hard work and close cooperation."[23] Then-Acting Assistant Attorney General Sharis Pozen also emphasized the depth of our cooperation with the European Commission on the investigation, noting that this was "a global enforcement" matter and that "[n]ever before have we seen this kind of cooperation on a civil antitrust enforcement matter."[24]

While we have long cooperated with other competition agencies in merger and cartel enforcement matters, *e-books* demonstrates that case cooperation can be effective across the entire range of competition enforcement, given the right tools and the right attitude.

**D. The New Multilateral Enforcement Cooperation Projects**

This brief review of the Antitrust Division's own international cooperation policy and practice brings me next to two new, coordinated projects on international enforcement cooperation, one in the OECD, and the other in the ICN. The Antitrust Division is devoting significant resources to both of these projects. I believe these projects will offer the "broader view" I have promised for today's remarks.

Last April, after nearly a year of preparation as part of the ICN's Second Decade Project, the ICN annual conference approved a project on international enforcement cooperation, on behalf of its 120-plus member agencies, and under the aegis of the ICN Steering Group.[25] Similarly, the OECD Competition Committee, composed of the 34 OECD member jurisdictions, the European Commission, and 15 observer jurisdictions, has agreed to adopt a work program

[23] *See* Id.
[24] *See* Id.
[25] The Steering Group project report, led by the Antitrust Division and the Turkish Competition Authority, can be found at: http://www.internationalcompetitionnetwork.org/uploads/library/doc794.pdf.

to improve international competition enforcement cooperation.[26] While OECD and ICN products and processes differ, there is significant overlap in membership between the two organizations – the competition agencies of all OECD members are also ICN members – so it made sense for OECD and ICN to agree – for the first time – to collaborate closely on their respective projects, in order to ensure that the projects are complementary.

The first step in each project was the drafting and dissemination of a comprehensive joint survey of OECD and ICN members' experiences and views on international cooperation, and their views about what work OECD and ICN, respectively, should do in this area. Over this past summer, the two organizations and some of their members, including the Antitrust Division, worked closely together on drafting the survey, and are currently collaborating on analyzing the results received this fall, based on the responses of scores of member jurisdictions/agencies. It is anticipated that the OECD and ICN will, in the New Year, use the survey results to mold their respective plans for complementary future work.

In taking a broader view of the international cooperation landscape, the OECD and ICN cooperation projects have been designed to ascertain what a diverse range of competition agencies, large and small, new and well-established, perceive about the value of cooperation to the broader competition enforcement community, *and* the need, if it exists, to enhance the current cooperation framework. These projects, when completed, will teach us a great deal about the pattern and practice of enforcement cooperation on a broad – indeed, a global – scale. That takes me to the Antitrust Division's own experience with international case cooperation, and our frequent conversations with other competition agencies.

[26] *See* http://www.oecd.org/competition/globalforum/programmeanddocuments.htm.

## E. Perceptions of the Value of International Enforcement Cooperation

As a starting point, our experience strongly suggests that most agencies view cooperation, broadly defined, as a significant policy priority. This broad definition includes enforcement cooperation, but it also includes many other types of cooperative work, from sharing views on competition subjects at OECD Competition Committee meetings or in teleseminars organized by one of the ICN working groups, to staff training programs for newer agencies in which attorneys or economists from more experienced agencies participate, to talking informally with other agencies on the phone about particular markets or market developments – anything from commodities to high-tech products.

As one might expect, and as the Antitrust Division's experience suggests, many of the agencies that have engaged in case cooperation have found, as the Antitrust Division has, that cooperation is very useful to their enforcement efforts, including avoiding conflicting outcomes, coordinating timing and generally facilitating investigations. Accordingly, many agencies seem to believe that their enforcement programs would benefit from more extensive cooperation opportunities.

At the same time, however, while many agencies have cooperated with others in the broader sense of that term, our experience suggests that, outside the European Competition Network (ECN), only a relatively small core of one dozen or so agencies has much in the way of actual case cooperation experience, in merger cases, cartel cases or otherwise.

Moreover, for various reasons, case cooperation is more common in merger cases than in unilateral conduct cases. And enforcement cooperation in cartel cases, while not uncommon

for those agencies, such as the Antitrust Division that consistently engage in it, has so far been limited to a somewhat smaller group of agencies than is the case for mergers.

We have found that most cooperating agencies can rely on bilateral, multilateral or regional agreements to provide legal foundations for case cooperation. As examples, these agreements include the 1995 OECD Council Recommendation on cooperation, the many bilateral agreements and MOUs on cooperation and the competition policy chapters of many bilateral and regional trade agreements.[27] Indeed – and this is extremely important for the future of international case cooperation – many agencies, including the Antitrust Division, find the exchange of statutorily-protected, case-specific information to be very beneficial.

Agencies also face constraints in case cooperation. Common constraints appear to include: legal limitations on their ability to share confidential information and the absence of waivers from parties or third parties to share such information.

That said, many agencies can rely on confidentiality waivers by parties or third parties as a legal basis for exchanging statutorily-protected information. The use of such waivers has become commonplace in merger cases, at least for some agencies, but it is less so in cartel and unilateral conduct cases. Also, not all parties to investigations have supported a cooperative

[27] *See* Organization for Economic Co-operation and Development Competition Committee, *Recommendation Concerning Co-operation Between Member Countries on Anticompetitive Practices Affecting International Trade* (July 1995), *available at* http://www.oecd.org/daf/competition/liberalisationandcompetitioninterventioninregulatedsectors/21570317.pdf. The U.S. antitrust agencies' various bilateral cooperation agreements and MOUs can be found on our website at: http://www.justice.gov/atr/public/international/int-arrangements.html.

agency approach, and some parties have tried to leverage one agency's investigation against another's.[28]

**F. Looking to Developments in International Cooperation in the Near Term.**

In the context of our experience and our conversations over time with other competition agencies, I would like to suggest that, generally speaking, four factors are likely to shape international cooperation in the near term:

- The work of the OECD Competition Committee and the ICN strongly suggest that a collaborative approach to policy-making and enforcement will continue and likely intensify.
- Future competition and cooperation approaches will necessarily reflect the impact of newer competition agencies, including those of Brazil, China, India, Russia and South Africa – the BRICS countries.
- Government austerity plans will likely make cooperation and collaboration with other agencies more attractive to a wider range of agencies.
- The increasing interconnection of economies and markets will enhance the importance of the first three factors and the recognition of mutual advantage in collaboration.

This brings us to the question of whether current cooperation frameworks will suffice for future needs. The existence – outside the ECN – of a core group of only a dozen or so agencies worldwide that regularly participate in case cooperation suggests that there is potential for generating broader participation in international case cooperation efforts within

[28] *See* Sharis A. Pozen, *Developments at the Antitrust Division and the 2010 Horizontal Merger Guidelines – One Year Later* (Nov. 17, 2011), *available at* http://www.justice.gov/atr/public/speeches/255515.htm; Rachel Brandenburger, *The Many Facets of International Cooperation at the Antitrust Division, supra.*

the current framework. In addition, newer or smaller agencies may, because of limited resources, the character of their national economies, or their enforcement books of business, only periodically find it useful to cooperate in cases. However, when those agencies do wish to cooperate, they will want to have access to cooperation mechanisms that accommodate their needs, as well as those of the larger and more established agencies.

**G. Conclusion**

International cooperation in competition cases is becoming more important and widespread, but is in some ways still at a formative stage. The varying agency experiences and attitudes that I have discussed this afternoon will provide crucial inputs into the ongoing OECD and ICN cooperation projects, which themselves will provide important venues for competition agencies to discuss and improve the ways in which they cooperate, with each other and with the parties to their investigations.

Thank you.